DID YOU KNOW

Tattoos and Body Piercing

In West Virginia, there is law regulating tattoo studio business, found at West Virginia Code § 30-38-1 through 7. The law has definitions, addresses studio sanitation, operation standards, facilities and equipment, registration requirements with and inspections by local or regional boards of health, disposal of wastes, permit fees, and violations and penalties. The section on operation standards was amended and improved to provide additional consumer protections during the 2010 Legislative Session.

There is a law regulating body piercing studio business, found at West Virginia Code § 30-37-1 through 5. The law has definitions, addresses registration requirements with and inspections by local boards of health, requires the West Virginia Department of Health and Human Resources (WVDHHR) to promulgate a rule addressing safety and sterilization procedures, training and education, waste disposal, etc., which it has done at length, gives power to the local board of health to close the body piercing studio if it is not in compliance with the statute or the rule, and addresses violations and penalties.

In addition to responsibilities of local boards of health, regulation of tattooing and body piercing within WVDHHR is overseen within the Office of Environmental Health Services, Public Health Sanitation Division.

Tattoo removal by laser, ionizing radiation, pulsed light or radiofrequency device is the practice of medicine and surgery under the provisions of West Virginia Code § 30-3-4(3).

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For your information.

Brad has received confirmation from the attorney for the Board of Medicine that laser tattoo removal DOES CONSTITUTE THE PRACTICE OF MEDICINE and therefore, requires a physician. If you are asked by anyone in local health, or elsewhere – this is the answer.

Thank you, Brad.
Ann
Ann A. Goldberg
350 Capitol Street, Room 702
Charleston, WV 25301
304-356-4122
Ann.A.Goldberg@wv.gov

Dear Mr. Cochran,

Robert C. Knittle, Executive Director of the West Virginia Board of Medicine, has asked me to respond to your e-mail correspondence of earlier this morning regarding the use of lasers for the removal of tattoos. The West Virginia Board of Medicine has previously had occasion to address this question. At its meeting in January 2009, the Executive/Management Committee of the Board considered the specific question of whether the use of Q-switch lasers for tattoo removal constitutes the practice of medicine. It was the opinion of the Committee that Q-switch laser tattoo removal does constitute the practice of medicine and surgery. The Board expanded upon its position in its October-December 2010 Newsletter, asserting that “[t]attoo removal by laser, ionizing radiation, pulsed light or radiofrequency device is the practice of medicine and surgery under the provisions of West Virginia Code §30-3-4(3).” WVBOM Newsletter Vol. 14, Issue 4, Page 6. This edition of the Board’s newsletter is available on the West Virginia Board of Medicine website at http://www.wvbom.wv.gov/Newsletter/2010/Dec10newsletter.pdf.

Your interpretation of the West Virginia Medical Practice Act is in accord with the WVBOM’s interpretation. In West Virginia, laser tattoo removal is a medical procedure and should only be performed by a licensed physician, or possibly by an appropriate mid-level health care practitioner under the direction and supervision of a licensed physician.

Should you have any questions about the Board’s position, please do not hesitate to contact me.
Best regards,

Jamie S. Alley  
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West Virginia Board of Medicine  
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From: Cochran, Brad J  
Sent: Wednesday, June 12, 2013 8:17 AM  
To: Knittle, Robert C  
Cc: Alley, Jamie S; Swinker, Marian L; Goldberg, Ann A  
Subject: Laser Tattoo Removal

Mr. Knittle,

In 2011 the WV Board of Medicine was very helpful to the Office of Environmental Health Services in clearing up an issue related to Microdermal Piercing. I seek your assistance again.

Our office as well as Local Health Departments are receiving calls regarding the practice of removal of tattoos by laser. Most of the facilities we are hearing about are in medical care facilities or in a dermatologists office. However, there has been an increase in inquiries about this procedure being performed in tattoo studios. Evidently some states allow this type of procedure to occur in a tattoo shop.

Based on what I read in WV Code §30-3-4 which states: "Practice of medicine and surgery" means the diagnosis or treatment of, or operation or prescription for, any human disease, pain, injury, deformity or other physical or mental condition. "Surgery" includes the use on humans of lasers, ionizing radiation, pulsed light and radiofrequency devices, and §30-3-10 which states: Licenses to practice medicine and surgery or to practice podiatry to any individual who is qualified to do so in accordance with the provisions of this article, this procedure would need to be performed by a licensed physician.

Am I correct to assume that the removal of tattoos by laser in WV would not be allowed in a tattoo studio?

Thank you!

Thank you!
Brad Cochran, R.S., Director
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