

**Report to
Rapport au:**

**Ottawa Board of Health
Conseil de santé d'Ottawa
3 November 2016 / 3 novembre 2016**

**and Council
et au Conseil
23 November 2016 / 23 novembre 2016**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2016-OPH-EHP-0002

SUBJECT: REGULATING PERSONAL SERVICES SETTINGS

**OBJET: ENREGISTREMENT DES ÉTABLISSEMENTS DE SERVICES
PERSONNELS**

REPORT RECOMMENDATIONS

That the Board of Health for the City of Ottawa Health Unit:

- 1. Receive the results of the 2015 public consultation survey with respect to**

Personal Services Settings, as outlined at Document 1; and

- 2. Recommend that Council direct relevant City Departments work with Ottawa Public Health staff to bring forward a by-law to register and regulate Personal Services Settings, for consideration by the appropriate Standing Committee and Council.**

RECOMMANDATIONS DU RAPPORT

Que le Conseil de santé de la circonscription sanitaire de la ville d'Ottawa :

- 1. reçoive les résultats de la consultation publique de 2015 sur les établissements de services personnels, tels qu'ils figurent au document 1;**
- 2. recommande au Conseil municipal de demander au personnel des services municipaux pertinents de travailler avec Santé publique Ottawa à l'élaboration d'un cadre d'enregistrement pour les établissements de services personnels, aux fins d'examen par le comité permanent concerné et le Conseil municipal.**

EXECUTIVE SUMMARY

The Ontario Public Health Standards (OPHS), published under the authority of the *Health Protection and Promotion Act* (HPPA), requires that the Board ensure that the requirements of the *Infection Prevention and Control in Personal Service Settings Protocol, 2016* are met. A key requirement is that the Board must ensure routine inspections for all Personal Service Settings (PSS) are performed, with a view to ensuring adherence to infection prevention and control practices (IPAC practices). PSS are defined as any location where people receive services where there is a risk of exposure to blood and/or body fluids.

There are approximately 1,000 known PSS businesses in Ottawa. In inspecting them, Public Health Inspectors (PHIs) follow the "Infection Prevention and Control Best Practices for Personal Services Settings" guidelines that are published by the Ministry of Health and Long-Term Care and seek to educate operators and consumers about infection prevention and control (IPAC) best practices in order to prevent the spread of infectious diseases.

The delivery of personal services has been associated with the transmission of infections including hepatitis B and C, mild to serious skin infections and infective endocarditis – a life-threatening infection of the lining of the heart. In many cases, these infections have been directly linked to poor IPAC practices, including lapses in hand

hygiene, improper disinfection of instruments, the use of contaminated products and inadequate cleaning of equipment.

In 2013, the Board of Health directed Ottawa Public Health (OPH) to explore strategies to improve IPAC in PSS. OPH has since made progress in the areas of inspection, education, disclosure of information to the public, health promotion and quality assurance.

The percentage of PSS inspected has risen since the board invested in PSS and increased education activity has been carried out. However, in 2015, 29% (240) of PSS inspections found at least one deficiency with 3% (29) having at least one repeat deficiency, that is the exact same deficiency found in consecutive inspections (see Document 2 for details of deficiencies).

In its work to date, OPH has found two enduring limitations in carrying out its responsibilities related to PSS: difficulty in finding in a timely manner PSS of which OPH is not already aware; and a lack of a functional spectrum of compliance tools, such as being able to fine PSS for deficiencies.

In 2015, the Board of Health directed staff to consult with operators and clients regarding a proposed by-law applicable to all PSS businesses in Ottawa. These consultations focused on enhanced regulatory options designed to increase inspection effectiveness and protect members of the public.

OPH is recommending that Council adopt a by-law to regulate PSS that includes a requirement that the operator of a PSS register with the City of Ottawa as this is the preferred response to ongoing challenges with protecting the health of consumers of the services. PSS operators would be required to notify the City prior to commencing or continuing the provision of services. Public Health Inspectors would have graduated enforcement options that allow for the establishment of set fines that accompany the issuance of Provincial Offences Notices (PONs/"tickets"). Registering PSS through the City Client Service Centres has the benefit of making use of existing City infrastructure.

Financial Implications

The standard administrative processing fee of fifty-five (\$55.00) per business registering would allow the City to recover administrative costs of registering PSS. Costs associated with inspection and enforcement will continue to be supported by the existing OPH budget.

Public Consultation

OPH-led consultations have taken place with PSS owners, operators and the general public with regards to enhanced regulatory options of PSS. OPH will continue to consult with relevant City Departments with respect to Board direction.

The results of OPH surveys conducted 2015 (see document 1 for details) demonstrate that both PSS operators and the public are in favour of a form of regulation that would enhance the existing ability of OPH to carry out its mandate. The consultation primarily examined a registration system and the option of licensing of PSS establishments. During the 2015 consultations, PSS owners were more likely to support a no-cost registration option and less likely to support a licensing by-law with an associated licensing fee.

SOMMAIRE

Les Normes de santé publique de l'Ontario (NSPO), publiées sous le régime de la *Loi sur la protection et la promotion de la santé* (LPPS), exigent que le Conseil de santé s'assure du respect des exigences du Protocole de prévention et de contrôle des infections dans les établissements de services personnels 2016, l'une des principales étant que le Conseil s'assure que des inspections de routine sont effectuées dans tous les établissements de services personnels (ESP) afin de garantir la conformité aux pratiques de prévention et de contrôle des infections. Les ESP regroupent tous les endroits offrant des services qui comportent des risques d'exposition au sang ou aux liquides organiques pour les clients.

On dénombre environ 1 000 ESP connus à Ottawa. Lors de leurs inspections, les inspecteurs en santé publique (ISP) suivent les lignes directrices énoncées dans les pratiques exemplaires de prévention et de contrôle des infections dans les établissements de services personnels et tentent de sensibiliser les exploitants et les clients aux pratiques exemplaires publiées par le ministère de la santé et des soins de longue durée en la matière afin de prévenir la propagation de maladies infectieuses.

La prestation de services personnels a été associée à la transmission d'infections, notamment l'hépatite B et C, des infections cutanées allant de bénignes à graves ainsi que l'endocardite infectieuse, une infection de la paroi interne du cœur pouvant être mortelle. Dans de nombreux cas, ces infections sont directement liées aux mauvaises pratiques de prévention et de contrôle des infections (négligence concernant l'hygiène des mains, désinfection inadéquate des instruments, utilisation de produits contaminés et nettoyage inadéquat de l'équipement).

En 2013, le Conseil de santé a demandé à Santé publique Ottawa (SPO) d'explorer des stratégies pour améliorer la prévention et le contrôle des infections dans les ESP.

Depuis, SPO a réalisé des progrès dans les domaines de l'inspection, de l'éducation, de la transmission d'information au public, de la promotion de la santé et de l'assurance de la qualité.

Le pourcentage d'ESP inspectés s'est accru depuis que le Conseil de santé s'y intéresse, et les activités de sensibilisation les visant se sont intensifiées. Toutefois, en 2015, 29 % (240) des inspections d'ESP ont permis de relever au moins un manquement; dans 3 % des cas (29), il s'agissait d'un manquement répété, c'est-à-dire du même manquement constaté lors d'inspections consécutives (voir document 2 pour le détail des manquements).

Dans ses travaux à ce jour, SPO a relevé deux contraintes persistantes dans l'exercice de ses responsabilités relatives aux ESP : difficulté de recensement, en temps opportun, des ESP dont SPO ne connaît pas déjà l'existence, et absence d'un ensemble fonctionnel d'outils d'application de la loi, par exemple, la possibilité d'imposer des amendes aux ESP contrevenantes.

En 2015, le Conseil de santé a demandé au personnel de consulter les exploitants et les clients concernant une proposition de règlement municipal applicable à tous les ESP d'Ottawa. Ces consultations portaient principalement sur l'amélioration du cadre réglementaire, dans le but d'accroître l'efficacité des inspections et de protéger la population.

SPO recommande que le Conseil municipal adopte un règlement pour les ESP, y compris une exigence que l'exploitant d'un PSC s'enregistre avec la Ville d'Ottawa puisque cela est la réponse préférée aux problèmes persistants pour protéger la santé des consommateurs de ces services. Les exploitants devront aviser la Ville avant de commencer à offrir des services ou d'en poursuivre la prestation. Les inspecteurs en santé publique auraient des outils d'application progressive de la loi, notamment une grille d'amendes fixe, laquelle est nécessaire à la délivrance d'avis d'infraction provinciale. L'enregistrement des ESP par l'intermédiaire des centres du service à la clientèle, présente l'avantage de tirer profit des ressources existantes de la Ville.

Répercussions financières

L'imposition de frais d'administration forfaitaires de 55 \$ pour l'enregistrement d'une entreprise permettrait à la Ville de couvrir les coûts d'administration découlant de l'enregistrement des ESP. Les coûts liés aux inspections et à l'application de la loi sont

et seront prévus au budget de SPO.

Consultation publique

Les consultations menées par SPO étaient auprès des propriétaires et des exploitants d'ESP et de la population. SPO poursuivra les consultations auprès des partenaires municipaux pertinents au sujet de l'orientation du Conseil.

Les résultats du sondage mené par SPO en 2015 (voir les détails au document 1) indiquent que les exploitants d'ESP et la population sont favorables à une forme de réglementation qui renforcerait la capacité de SPO à accomplir son mandat. Elles portaient principalement sur la création d'un système d'enregistrement et sur la possibilité de délivrer des permis aux ESP. Lors des consultations de 2015, les propriétaires de PSS étaient plus susceptibles d'appuyer une option d'enregistrement sans frais et moins portés à appuyer un règlement de permis avec frais.

BACKGROUND

The Ontario Public Health Standards (OPHS), published under the authority of the *Health Protection and Promotion Act* (HPPA), direct staff to carry out the *Infection Prevention and Control in Personal Service Settings Protocol*, which define Personal Services Setting (PSS) as any location where people receive services where there is a risk of exposure to blood and/or body fluids. Such exposures carry the risk of transmission of infectious diseases as the skin barrier is broken or mucous membranes are exposed (see the Discussion section of this report for examples of negative health outcomes associated with PSS). There are no limitations to which personal services can be included under this definition and the Ontario Public Health Standards' Infection Prevention and Control in Personal Services Settings Protocol, 2016, highlights that PSS include, but are not limited to: hairdressing and barbering; tattooing; body piercing; nail services; electrolysis; and various other aesthetic services, whether offered in a fixed or mobile site, regardless of who is delivering the services.¹

If personal services were solely provided by regulated health professionals, such as physicians, then the [Regulated Health Professions Act](#), 1991 (RHPA) would serve to protect the public from harm from exposure to blood or body fluids. Specifically, the RHPA sets out "controlled acts" that may only be carried out by designated health

¹ Ontario. Ministry of Health and Long-Term Care. *Infection Prevention and Control in Personal Services Settings Protocol*, 2016. Toronto, ON: Queen's Printer for Ontario; 2016 [cited 2016 Oct 3]. Available from: http://health.gov.on.ca/en/pro/programs/publichealth/oph_standards/docs/infection_prevention_personal_services.pdf

professionals. All other persons are prohibited from performing such acts unless they have been delegated by a designated health professional. Examples of controlled acts include “administering a substance by injection”, “performing a procedure on tissue below the dermis, below the surface of a mucous membrane”, and “putting an instrument...beyond the anal verge”.² Pursuant to Ontario Regulation 107/96 under the RHPA, the controlled act requirements do *not* apply to ear or body piercing for the purpose of accommodating a piece of jewellery, electrolysis, and tattooing for cosmetic purposes.

As PSS typically do not involve regulated health professionals (though there are many exceptions), the HPPA is usually the only tool available to improve PSS safety in Ontario, and local boards of health are responsible for its application locally. Boards of Health shall ensure that their Medical Officer of Health or designate, “receives reports of and responds to complaints regarding infection prevention and control practices in settings for which no regulatory bodies, including regulatory colleges, exist, particularly personal services settings.”³ As referenced above, PSS-specific protocols exist and they require certain processes for OPH’s annual and complaint-based investigation of, and reporting related to, PSS. Maintaining an inventory of all PSS within OPH’s jurisdiction is one of the required activities. However, there is no corresponding obligation for PSS operators to notify the Medical Officer of Health that they will be opening for business, nor that they are currently providing services. This is in contrast to Food Premises where, under section 16(2) of the HPPA, “Every person who intends to commence to operate a food premise shall give notice of the person’s intention to the medical officer of health of the health unit in which the food premise will be located.”

There are approximately 1,000 known PSS businesses in Ottawa. In conducting inspections of PSS, Public Health Inspectors (PHIs) with Ottawa Public Health (OPH) follow the “Infection Prevention and Control Best Practices for Personal Services Settings” guidelines⁴ and seek to educate operators and consumers about infection prevention and control (IPAC) best practices in order to prevent the spread of infectious diseases. While these provincial best practices and guidelines set out the deficiencies PHIs look for during inspections, the current legislative framework presents challenges

² Regulated Health Professionals Act, 1991, accessed at:

<https://www.ontario.ca/laws/statute/91r18?search=Regulated+health+professionals>

³ Infection Prevention and Control in Personal Services Settings Protocol, 2016, accessed at:

http://health.gov.on.ca/en/pro/programs/publichealth/oph_standards/docs/infection_prevention_personal_services.pdf

⁴ Ontario. Ministry of Health and Long-Term Care. Infection Prevention and Control Best Practices for Personal Services Settings. Toronto, ON: Queen's Printer for Ontario; 2009 [cited 2016 Oct 3]. Available from: <http://www.pdhu.on.ca/wp-content/uploads/2015/02/Infection-Prevention-and-Control-Best-Practices-for-Personal-Services-Settings.pdf>

with respect to appropriate enforcement options when persistent non-compliance with the best practices are observed.

OPH Enhancements to the Inspections of PSS (2013 to 2016)

In 2013, after reviewing the changing pattern of public use of PSS and considering significant public health risks, the Board of Health directed OPH to explore strategies to improve IPAC in PSS, as detailed in the “Infection Prevention and Control in Personal Service Settings” report ([ACS2013-OPH-EHP-0004](#)). OPH has since made progress in the areas of inspection, education, disclosure of information to the public, health promotion and quality assurance.

The percentage of known PSS inspected has increased since the board invested in PSS and increased education activity has been carried out. In 2013, only 481 PSS inspections were completed despite the requirement to inspect 100% of PSSs annually. By 2015, 1086 inspections were completed in that year. In 2015, 29% (240) of PSS inspections found at least one deficiency, compared to 20% (97) in 2013, with 3% (29) having at least one repeat deficiency in 2015, 3% (13) in 2013.⁵ Risk due to practices that are not meeting the standards set by the Best Practices continues: of the inspections that uncovered at least one deficiency (240) in 2015, 87.5% (210) were found to have at least one critical deficiency, as defined in the footnote below. (see Document 2 for details of deficiencies found by PHIs in Ottawa)

However, in its work to date, OPH has found two enduring limitations with the current approach to carrying out its responsibilities related to PSS: 1) difficulty in finding PSS unknown to OPH in a timely manner, as a result of having to rely on complaints, reports, advertisements, and accidental discovery (among other means), and 2) a lack of graduated compliance tools beyond the Public Health Inspector issuing a written order to the operator of the PSS under the authority of Section 13 of the HPPA (Section 13 Order) that requires the operator take corrective action and/or that the premises be closed until such time as the situation no longer presents a health hazard. Although failing to comply with a Section 13 Order is an offence under the HPPA, the Public Health Inspector would need to collect evidence that the Section 13 Order was subsequently breached and then initiate legal proceedings that require that the

⁵ The “Infection Prevention and Control Best Practices for Personal Services Settings” define critical equipment/devices as: Equipment/devices that enter sterile tissues, including the vascular system (e.g. needles, etc.). Critical equipment/devices present a high risk of infection if the equipment/device is contaminated with any microorganisms, including bacterial spores. Reprocessing critical equipment/devices involves meticulous cleaning followed by sterilization. As such, critical deficiencies, as they relate to PSS, are those that relate to these items.

Defendant be summoned to appear in court.

It should be noted that even with better enforcement tools and compliance with IPAC requirements at the time of inspection of a PSS by a PHI, compliance at one point in time is not a guarantee of safe practices in the PSS throughout the year. This is a limitation that applies to all monitoring that is not continuous.

By comparison, non-compliance in food premises, which may also be subject to Section 13 orders under the *HPPA*, can be enforced through two alternative methods:

- 1) Food premises can be issued Provincial Offence Notices (PONs), commonly known as “tickets”, with a requirement to pay a fine for a specific infraction as set out in a set fine schedule; and/or
- 2) OPH inspectors can issue a summons (under Part III of the *Provincial Offences Act*) for an operator to appear before a Justice of the Peace for contravention of a regulated requirement. If convicted, the guilty party may be subject to significant financial penalties – up to \$25,000 for an individual; and up to \$50,000 for a corporation.

The PON and summons options allow a more nuanced approach to enforcement, as the severity of a charge can be matched to the severity of an infraction(s). With these options, premises can face escalating financial consequences when non-compliance is ongoing.

In 2015, after OPH identified regulatory options to address challenges with respect to enforcement of best practices within PSS, the Board of Health directed staff to consult with operators and clients regarding a proposed “registration” by-law applicable to all PSS businesses in Ottawa, outlined in the [Consultation Plan for a Proposed Personal Service Setting By-law](#) (ACS2015-OPH-EHP-0001). The proposed regulatory framework required that all PSS in Ottawa register with OPH and imposed standards to implement IPAC best practices, with the effect of allowing PHIs the ability to issue tickets and/or summons to operators that consistently fail to meet the standards.

DISCUSSION

Examples of poor health outcomes associated with PSS

As referenced in the Background section of this report, the delivery of personal services has been associated with the transmission of infections, including hepatitis B and C, mild to serious skin infections and infective endocarditis – a life-threatening infection of

the lining of the heart. In many cases, these infections have been directly linked to poor IPAC practices, including lapses in hand hygiene, improper disinfection of instruments, the use of contaminated products and inadequate cleaning of equipment.

Tattooing

The risk of blood borne infections following tattooing is well documented. A 2010 meta-analysis of 83 studies concluded that individuals who had tattoos were up to six times more likely to be infected with hepatitis C compared to people without tattoos.⁶ Studies from Canada, the United States, Australia, Italy and Taiwan have confirmed this association.⁷ In a 34-case hepatitis B outbreak in the United Kingdom, it was determined that all of the individuals had visited the same tattooist and improper sterilization of needles was identified as the likely cause.⁸ Several studies have determined that the risk of hepatitis C increased with the number and size of tattoos received.⁹

Outbreaks of serious skin infections following tattooing have also been linked to improper IPAC practices. In the United States, an investigation of 44 cases of methicillin-resistant *Staphylococcus aureus* (MRSA) found that all patients had received tattoos from unlicensed tattoo artists.¹⁰ Outbreaks of *Mycobacterium spp.* (non-tuberculous mycobacteria or NTM) skin infections have been linked to poor IPAC practices, including the use of tap water to dilute ink.¹¹ NTM skin infections are difficult to treat and may require surgery and/or months of antibiotic therapy.

⁶ Siavash Jafari, Ray Copes, Souzan Baharlou, Mahyar Etminan and Jane Buxton, "Tattooing and the risk of transmission of hepatitis C: a systematic review and meta-analysis," *International Journal of Infectious Diseases* 14, no. 11 (2010): e928-e940.

⁷ Prabjit Barn and Tina Chen, "Infections associated with personal service establishments: piercing and tattooing," National Collaborating Centre for Environmental Health, May 2012
http://www.ncceh.ca/sites/default/files/PSE_Infections_Piercing_Tattooing_May_2012.pdf

⁸ A.E. Limentani, L.M. Elliot, N.D. Noah and J.K. Lamborn, "An outbreak of hepatitis B from tattooing," *Lancet* 14, no.2 (8133) (July 1979); 86-8.

⁹ Jafari, Copes, Baharlou, Etminan and Buxton, "Tattooing and the risk of transmission of hepatitis C: a systematic review and meta-analysis," 2010.

¹⁰ T. Long, D. Coleman, P. Dietsch, P. McGrath, D. Brady, D. Thomas, T. Corzatt, M. Ruta, R. Duffy, E. Koch, S. Trent, N. Thayer, J. Heath, S. Schoenfeld, C. Lohff, J. Hageman, D. Jernigan and M. LeMaile-Williams, "Methicillin resistant *Staphylococcus aureus* skin infections among tattoo recipients – Ohio, Kentucky and Vermont, 2004-2005," *Centres for Disease Control and Prevention – Morbidity and Mortality Weekly Report*, June 23, 2006, 55(24):677-679.

¹¹ Brenden Bedard, Byron Kennedy, Vincent Escuyer, Kara Mitchell, Jeffrey S. Duchin, Paul Pottinger, Stanley Hurst, Ken Sharp, Timothy Wickham, Sarah Jackson, Wendy Bamberg, Pamela LeBlanc, Linda M. Katz, Taranisia MacCannell, Judith Noble-Wang, Heather O'Connell, Alexander Kallen, Bette Jensen, Duc B. Nguyen, Michael H. Kinzer, Duc B. Nguyen and Michael H. Kinzer, "Tattoo-Associated Nontuberculous Mycobacterial Skin Infections — Multiple States, 2011–2012," *Centres for Disease Control and Prevention – Morbidity and Mortality Weekly Report*, August 24, 2012, 61(33):653-656.

Piercing

The most common infections following piercing are bacterial infections at the site of piercing. Various types of bacteria have been implicated and infection risk varies with the piercing site: several studies have shown that piercing cartilage poses a higher risk than the ear lobe. One study of infections following piercing at a mall kiosk found the same *Pseudomonas* bacteria in both the clients' skin lesions and in the disinfectant solution sprayed onto clients' ears and onto pre-sterilized jewelry.¹² In addition to localized skin infections, cases of infective endocarditis have been reported following piercing at various body sites.¹³

Aesthetics

The level of evidence for transmission of infection through aesthetic procedures varies with the type of procedure. A 2014 review of 36 studies of the risk of hepatitis B and hepatitis C transmission in nail salons and barbershops in the United States found an association between receipt of these services and hepatitis B or C, while other studies did not show an increased risk.¹⁴ In contrast, a clear link has been established between pedicures that include the use of re-circulating footbaths and mycobacterial infections of the lower legs. Outbreak investigations have found the same bacteria in the clients' skin lesions and the footbaths; suboptimal cleaning of the footbaths was a likely cause of transmission.¹⁵

Poor IPAC practice during waxing procedures has also been associated with outbreaks of skin infections: poor hand hygiene, reuse of wax between clients, double dipping and dilution of disinfectant solutions were observed in these outbreaks.¹⁶ Isolated case reports have linked other infections to aesthetic procedures, including warts following eyebrow threading¹⁷ and life threatening streptococcal infection following a Brazilian

¹² W.E. Keene, A.C. Markum and M.Samadpour, "Outbreak of *Pseudomonas aeruginosa* infections caused by commercial piercing of upper ear cartilage," *JAMA*, Feb 2004, 291(8): 981-5.

¹³ Barn and Chen, "Infections associated with personal service establishments: piercing and tattooing," 2010.

¹⁴ J. Yang, K. Hall, A. Nuriddin and D. Woolard, "Risk for hepatitis B and C virus transmission in nail salons and barbershops and state regulatory requirements to prevent such transmission in the United States," *Journal of Public Health Management and Practice*, Nov-Dec 2014, 20(6): E20-E30.

¹⁵ Prabjit Barn and Tina Chen, "A narrative review of infections associated with personal service establishments part 1: aesthetics," *Environmental Health Review*, 2012, 55(1): 19-26.

¹⁶ Barn and Chen, "A narrative review of infections associated with personal service establishments part 1: aesthetics," 2012

¹⁷ J. Litak, A. Krunik, S. Antonijevic S, P. Pouryazdanparast and P. Gerami, "Eyebrow epilation by threading: an increasingly popular procedure with some less-popular outcomes - a comprehensive review," *Dermatologic Surgery* 2011, 37(7):1051-1054.

wax procedure.¹⁸

Other PSS

As the popularity of PSS has grown, so too has the variety of services offered. In addition to the traditional services mentioned above, some PSS are performing “extreme body modification” procedures, including branding and tongue splitting, and other more invasive procedures which may lead to an increased risk of infection. OPH makes best efforts to locate new PSS and new lines of services within existing PSS as soon as possible, but new (unknown to OPH) PSS performing standard procedures in a risky fashion or new or old PSS performing new risky procedures without OPH knowledge present a risk to public health.

Overview of Regulatory Options

In responding to the 2015 Board direction, OPH completed consultations that focused on enhanced regulatory options that were designed to increase inspection effectiveness and protect members of the public (see attached Document 1). These consultations included discussions with internal City of Ottawa stakeholders and partners, an environmental scan looking at practices in other Ontario health units and municipalities, PSS operator focus groups and surveys targeting PSS operators.

In reviewing and collating all consultation results, OPH identified two options for municipal regulation of PSS.

- 1) An amendment of the City of Ottawa’s *Licensing By-law 2002-189, as amended*, to require PSS operators obtain a business license that is subject to suspension/revocation and hearings of the City’s License Committee.
- 2) A stand-alone regulatory by-law that requires all PSS to be registered with the City. The registration would be similar to the provincial *Skin Cancer Prevention Act (Tanning Beds), 2013*, which requires that persons providing tanning services or ultraviolet light treatments for tanning provide notice to the local Medical Officer of Health but may also require that the operator meet certain conditions prior to the registration being confirmed/renewed.

To strengthen adherence to IPAC principles at PSS to mitigate the risk of infectious disease transmission, other Boards of Health have advocated for provincial regulation of

¹⁸ Barn and Chen, “A narrative review of infections associated with personal service establishments part 1: aesthetics,” 2012

PSS.¹⁹ At the Association of Local Public Health Agencies (alPHa) 2016 conference, OPH staff and board members also supported a resolution seeking to implement provincial regulation at invasive PSS across the province. OPH supports the proposal to introduce provincial legislation as it would protect the health of all Ontarians and make all PSS in Ontario subject to the same consumer protection measures. If provincial regulation were to advance, it would not preclude municipalities from requiring PSS businesses within their jurisdiction obtain a municipal business license or to register their business prior to commencing operations. To date, health units and alPHa have not received a favourable response from the ministry.

Recommendation for a PSS Registration By-law

Given that the province is unlikely to, in the near term, introduce legislation that addresses the problems of identifying and effectively enforcing the IPAC standards in PSS, a regulatory by-law that requires PSS to be registered in Ottawa is the preferred option. Similar to a licensing regime, a regulatory by-law that includes a requirement that a PSS be registered with the City would:

- Establish a notification requirement for new and existing PSS thus allowing OPH to maintain a more comprehensive and current inventory of PSS that is required by the *Ontario Public Health Standards*;
- Introduce additional graduated enforcement options and financial penalties for PSS that are non-compliant with IPAC practices including allowing for the establishment of a set fines that are issued with Provincial Offences Notices (PONs/"tickets");

¹⁹Haliburton, Kawartha, Pine Ridge District Health Unit, "Enactment of Legislation to Enforce Infection Prevention and Control Practices Within Invasive Personal Services Settings (PSS) under the Health Protection and Promotion Act, alPHa 2016 Resolution A16-4, http://c.ymcdn.com/sites/www.alphaweb.org/resource/collection/2DCE845E-DDAF-4D6B-BD15-BBE8F3FF988C/A16-4_-_Infection_Control_in_Personal_Services_Settings.pdf ; H. Lynn, "Re: Enactment of Legislation to Enforce Infection Prevention and Control Practices within Invasive Personal Service Settings," Grey Bruce Public Health, March 24, 2016; P. Sutcliffe, "Re: Enactment of Legislation to Enforce Infection Prevention and Control Practices within Invasive Personal Service Settings," Sudbury & District Health Unit, March 7, 2016. http://c.ymcdn.com/sites/www.alphaweb.org/resource/collection/2B0398F2-6F73-4BB1-A5A8-16F572BF8E58/GBHU_IC_PSS_240316.pdf; S. McDonalds, "Legislation to Enforce Infection Prevention and Control Practices within Invasive Personal Service Settings (PSS) under the Health Protection and Promotion Act" Peterborough County-City Health Unit, March 15, 2016 http://c.ymcdn.com/sites/www.alphaweb.org/resource/collection/2B0398F2-6F73-4BB1-A5A8-16F572BF8E58/PCCHU_PSIC_150316.pdf; D.A. Wilcox, "Memorandum from Dr. Robert Kyle, Commissioner & Medical Officer of Health, dated April 7, 2016 re: Invasive Personal Services Settings (PSS)," The Regional Municipality of Durham, April 29, 2016.

- Make use of existing City infrastructure to manage/process the registry. PSS owners would be required to make an application to register and remit payment at one of the City's Client Service Centres, located across Ottawa.
- Allow the City to recover administrative costs. The standard fee administrative processing fee for businesses licensed by the City of Ottawa is fifty-five dollars (\$55.00) per year.

The by-law would complement work that is already mandated under the OPHS. PHIs are municipal law enforcement officers and will be both inspecting for compliance under the authority of the HPPA (Protocol) and under the proposed registration by-law.

Advantages of a PSS Registration By-law

A registration by-law offers the following advantages as compared to licensing PSS under the existing City *Licensing By-law*:

- Avoid additional assessments and inspections which may be a burden to business owners and add to administrative work that is required of the City. License applications typically require a zoning assessment, property standards inspection, fire inspection and, in some cases, a vulnerable sector police record check for which there is a fee.
- More likely to have reduced fees for businesses. Licensing fees are set on a cost-recovery basis, and may include the costs associated with administration, the assessments and inspections mentioned above as well as enforcement by By-law & Regulatory Services. Comparable businesses, such as food premises, have annual license fees of about \$200, in addition to the administrative processing fee of \$55. An environmental scan of Ontario health units found that PSS license fees ranged from \$55 to ~\$350 for the initial application and \$25 to ~\$230 for an annual renewal fee. In the case of registration of PSS, only the administrative fee associated with the use of Client Service Centres (\$55) would be required and enforcement costs would be supported by the OPH budget. Further, there would not be an annual renewal requirement and therefore, no recurring annual fee.
- Avoid challenges with licensing of home-based businesses. Currently, OPH is aware of approximately 45 PSS operating from private dwellings in Ottawa. Although anecdotal reports suggest there are others (e.g., hairdressers and barbers) that are not known to OPH; the actual number of home-based PSS is

not known.

The introduction of a business licensing model for PSS would effectively require that home-based PSS businesses close, as licensed businesses are not permitted to operate out of private dwellings. However, to address this unintended consequence of including PSS in the existing licensing by-law, the Planning, Infrastructure and Economic Development Department has indicated that Council would have to approve a zoning amendment that would include PSS in the home-based business exemption sections (Section 127, subsection 13) of the City of Ottawa [Zoning By-law 2008-250](#).

The advantage to adding a PSS licensing category to the existing Licensing By-law would provide the additional enforcement option of having a PSS premise license suspended/revoked, including in situations when continuation of the business poses an immediate danger to the health or safety of any person or to any property. However, similar to food premises, OPH PHIs could use a Section 13 Order under the HPPA to quickly and effectively close a premise in such a case.

OPH surveys have shown public expectations that PSS are already regulated and that they should be further regulated (see Document 1), with a preference for a registration by-law.

In a review of 18 other Ontario public health units, 15 were found to have some form of municipal licensing requirement for PSS to protect health and safety of PSS clients.²⁰

Discussions with OPH's City partners have highlighted the benefits of a registration model with respect to its simplicity, lower cost, capacity to identify businesses and promote compliance, and enabling a graduated enforcement action without adding new challenges related to home-based PSS businesses that are currently exempt from licensing requirements or increasing the burden on other City departments.

In considering the research and consultations on PSS regulation— including feedback from internal City departments, an environmental scan of Ontario jurisdictions, a PSS operator/public survey and PSS operator focus groups— OPH recommends that the Board of Health recommend a new regulatory by-law that requires a PSS premises to register with the City and meet specific requirements for compliance with IPAC standards.

²⁰ For example: Toronto Public Health. Regulation of personal service settings. Available at: <http://www.toronto.ca/legdocs/mmis/2013/ls/bgrd/backgroundfile-55764.pdf>

A phased-in implementation of the requirements will be considered as part of the next report to be brought forward on this topic, along with a communication plan to notify operators of the new requirements by mail and in person during routine inspections.

In terms of a phased-in approach, PSS deemed critical would be the priority.²¹ As a model, Toronto Public Health (TPH) introduced a two-year phased-in approach to licensing. The most invasive services, such as tattooing, micropigmentation, ear and body piercing, electrolysis, and invasive aesthetics (“critical”) establishments were required to meet all licensing requirements in year one with others such as manicure, pedicure, and aesthetics establishments needing to do so by year two.

Implications for the City of Ottawa’s Emergency and Protective Services Department

By-law & Regulatory Services Branch will assist OPH with requesting set fines for offences under the registration by-law, if approved. The fines would correspond to the deficiencies defined in the “Infection Prevention and Control Best Practices for Personal Services Settings” document, with escalating dollar value fines assigned to those deficiencies with a higher degree of severity. PSS premises could also be fined if they fail to register with OPH. The highest possible fine is \$1000.00 for a Provincial Offence Notice (PON/“ticket”).

Implications for OPH

OPH would, in consultation with relevant City Departments, prepare the draft registration by-law and associated report and conduct any further public consultations on the by-law, if appropriate

If approved, a registration by-law would complement work that is already mandated and will ensure that PHIs are municipal law enforcement officers so that they will be wearing two hats- inspecting for compliance with the HPPA (Protocol) and with the City By-law.

The by-law would also complement the existing process that discloses PSS inspection results on-line at Ottawa.ca/PSSinspections.

Next steps

²¹ Premises are classified as critical or semi-critical based on the invasiveness of the service provided. Critical PSS use equipment that breaks the skin i.e. tattoo, body piercing, ear piercing, micropigmentation, and electrolysis. Semi-critical PSS use equipment that comes in contact with non-intact skin or mucous membranes, but ordinarily does not penetrate them i.e. hair salons, barbershops, nail salons and aesthetics.

Following approval from the Board of Health, OPH will forward this report to Ottawa City Council for consideration.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

PSS owners, operators and the general public have been consulted with regards to enhanced regulatory options (see Document 1). OPH will continue to consult with relevant City Departments, including Emergency and Protective Services Department, Economic Development Department, Service Ottawa and City Clerk and Solicitor Department with respect to the direction at recommendation 1.

OPH surveys have indicated that both PSS operators and the public are in favour of additional regulation of PSS.

In a 2012 survey, 64% of operators in Ottawa indicated PSS should be licensed, with an additional 13% indicating PSS should be licensed, though they had some concerns related to the introduction of new fees. In a 2015 online survey, 89% of respondents (103 industry members and 147 clients) supported OPH to have the ability to issue fines to PSS owners/operators that repeatedly fail to meet proper health practices.

Respondents to the 2015 survey indicated support for a registration model without fees: supported by 86% of PSS owners/operators, 74% of employees, 86% of clients and 94% of health care professionals. Licensing was supported to a lesser extent, by the various respondent groups.

Any additional public consultations will be carried out by OPH, as necessary, as the registration by-law is developed.

LEGAL IMPLICATIONS

There are no legal impediments to receiving the information referred to in Recommendation 1 and no legal impediments to implementing recommendation 2 of this report. In respect of legal authority for Council to adopt the proposed by-law, Subsection 10(2) of the *Municipal Act, 2001*, grants authority to the City of Ottawa to pass by-laws for the health, safety, and well-being of persons and for consumer protection. Pursuant to Section 8(3) of the *Municipal Act, 2001*, Ontario Municipalities also have broad by-law making power that includes the power to regulate or prohibit, require persons to do things, and/or provide for a system of licences in respect of a

municipal matter. As a result of the applicability of the above stated statutory provisions, the City has the required authority to enact the proposed by-law.

RISK MANAGEMENT IMPLICATIONS

Risks have been considered in the writing of this report.

As indicated in the Background section of this report, the Ontario Public Health Standards (OPHS) require that Boards of Health ensure that the requirements of the *Infection Prevention and Control in Personal Service Settings Protocol, 2016* are met. A key requirement is that the Board must ensure routine inspections for all Personal Service Settings (PSS) are performed, with a view to ensuring adherence to infection prevention and control practices (IPAC practices). Enhancements to the ability of OPH to identify PSS that were previously unknown to OPH will necessarily enhance the ability of the BOH to fulfill this public health mandate.

FINANCIAL IMPLICATIONS

PSS will be required to pay fifty-five dollars (\$55.00) to register with OPH using the Client Service Centres. This administrative processing fee will remain within the City of Ottawa, not added to OPH's budget.

Inspection and enforcement costs related to inspecting additional PSS that become known following a requirement to register with OPH will be borne by OPH within its existing budget by re-prioritizing staffing. The current work of inspecting about 1000 PSS is completed by two (2) PHIs and this team is anticipated to have an additional PHI in 2017.

ACCESSIBILITY IMPACTS

Accessibility impacts were considered in the writing of this report.

SUPPORTING DOCUMENTATION

Document 1 – Results of Ottawa Public Health's Public Consultation on Enhanced Regulation of Personal Services Settings (PSS) in Ottawa

Document 2 - Highlights of deficiencies found during inspection of Personal Services Settings

DISPOSITION

If approved by the Ottawa Board of Health, OPH will forward this report to Ottawa City

Council for consideration. Upon Council approval, OPH and the City Clerk and Solicitor Department, in consultation with any other relevant Departments, will complete the actions outlined in the report recommendations.