

Auckland Council Health and Hygiene Code of Practice 2013

2024 Review Findings Report

October 2024

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Summary of Key Findings

Auckland Council's Health and Hygiene Bylaw and Code seek to promote and protect public health

- Health, appearance, wellbeing, cosmetic and beauty services (health and beauty services) have inherent risks that can cause physical harm (for example infections, injuries and disease). The range of health and beauty services offered to Aucklanders continues to grow.
- The Bylaw and Code seek to promote and protect public health by prescribing minimum standards for how health and beauty services should operate and requiring higher-risk services to be licensed.
- The Bylaw and Code form part of a wider regulatory framework that seeks to protect public health.

Health and beauty services in Auckland still cause problems

- The problem (similar to 2018) continues to be the risk of physical harm to both consumers and operators from poor practices associated with health and beauty services in Auckland.
- The impact of most problems appears to be at the lower end, where people harmed respond by seeking treatment from a pharmacy or GP, posting negative reviews, or complaining to the operator. However, data limitations mean there is uncertainty about the scale of the problem. For example, incidents may be unreported and ACC data does not capture HIV, skin cancer or legionnaires' disease.

The Bylaw and Code have helped minimize risk of harm from health and beauty services

- The Bylaw and Code have helped minimise the risk of physical harm in several ways, including council issuing 733 requisitions in 2023/24 and prosecuting two operators that did not comply with the Code, and by the Code providing an example of best practice that can be applied nationally.
- However, the effectiveness of the Bylaw and Code is challenged by issues with implementation and the wider regulatory framework. For example, it is difficult to maintain a Code and the expertise to administer it, consumers appear to have a low awareness of the Code, harms from unlicensed operators are unknown, and it is difficult to verify whether the qualifications held by operators are real and appropriate.
- The alternative to a Code, Bylaw or both for any particular health and beauty service, is to take a more reactive approach. This would rely on council's use of the Health Act 1956 and promoting the Code to operators and consumers. It also relies on existing general consumer responses (for example visiting a GP or pharmacy for minor burns or fungal infections), industry self-regulation (for example associations with their own Codes), other government agencies (for example WorkSafe) and primary health care. This approach could be appropriate for some services but the Health Act lacks relevant details about the practices that operators should use, which makes it more difficult for council to specify what is required or to enforce or prosecute unsafe or unhygienic practices.

The Bylaw and Code could be improved

- The Bylaw and Code while valid (for example authorised), are currently not fit for purpose.
- Council could investigate updating technical standards superseded since the Code was made, clarifying where the Code is recommending best practice as opposed to setting standards, and addressing issues related to qualifications and competency as it is extremely difficult to verify whether they are real and appropriate.
- Council could also investigate improvements to the Bylaw. For example, to regulate new services not currently covered (for example fat freezing) and to remove inappropriate regulations (for example there have been no ACC claims for colon hydrotherapy since 2008 and central government now regulate acupuncture).

1 Background to the Code and Bylaw review

Summary

- This report reviews the council's health and hygiene Code and suggests improvements to the Bylaw.
- The review started with the Code, but later expanded as issues relevant to the Bylaw were identified.
- The review findings will enable council to decide whether to initiate an early statutory Bylaw review and to consider options to improve the whole regulatory framework.
- Staff collected and analysed information in relation to six key questions to complete the review.

1.1 This report reviews the council's health and hygiene Code and includes suggested improvements to the Bylaw

This report presents findings from the review of the Auckland Council Tikanga ā-Mahi Whakamaru Hauora | Health and Hygiene Code of Practice 2013 (**Code**) and includes suggested improvements to the Auckland Council Te Ture ā-Rohe Whakamaru Hauora | Health and Hygiene Bylaw 2013 (**Bylaw**).

1.2 This is the first Code review; the Bylaw was last reviewed in 2018

The Code has not been reviewed since it was made in 2013. There is no statutory review requirement.

Auckland Council (**council**) completed the Bylaw's first statutory review in May 2018 (REG/2018/36).[1] The review resulted in the Governing Body amending the Bylaw in November 2018 (GB/2018/187). The next statutory bylaw review must be completed before 10 May 2028.

1.3 The review started with the Code, but was later expanded to include the Bylaw

The council's Regulatory and Community Safety Committee (**committee**) has the delegated authority to:

- review, make, amend, replace or revoke the Code (GB/2013/66)
- review the Bylaw and recommend to the Governing Body that it be confirmed, amended, replaced, or revoked (GB/2022/112).

The committee initiated the first review of the Code on 8 March 2022 (REG/2022/9) to implement the Governing Body's decisions in 2018 to review the Code.

The Code review identified issues that were also relevant to the Bylaw. Staff structured this report to include both the Bylaw and Code findings. This will enable the committee to decide whether to initiate an early statutory Bylaw review and to consider options to improve the whole regulatory framework.

1.4 The review enables compliance with Local Government Act 2002 requirements

This review is structured to enable compliance with statutory decision-making requirements in the Local Government Act 2002. This includes identifying suggested improvements to the Code and Bylaw to inform a statutory bylaw review and the consideration of options for both Code and Bylaw improvements.

[1] Sections 158 – 159 of the Local Government Act 2002 require council to review the Bylaw within five years of its adoption and within ten years of the last review.

1.5 Six key questions are analysed to complete the review

Staff asked the following key questions to complete the review.

- Is there still a problem and is the problem the same as in 2018?
- What are council's desired objectives and outcomes?
- How can the Code and Bylaw help achieve the desired objectives and outcomes?
- What are the alternatives to a code or bylaw?
- Are the Code and Bylaw 'fit for purpose' (no change required)?
- Do the Code and Bylaw comply with legislation?

1.6 Research and engagement methodology inform the analysis

Staff undertook research and engagement to answer the six key questions. The methods used included:

- 44 internal interviews with council's Licensing and Environmental Health Unit, health and beauty business operators, government agencies, non-governmental organisations, industry representative organisations and industry training providers (see Appendix 3)
- six surveys including to the Auckland Council's People's Panel, licensed health and beauty operators, NZ Hair and Beauty Expo ticket holders, non-governmental organisations, industry representative bodies and industry training operators
- analysis of selected council complaints and licensing data, Accident Compensation Corporation (ACC) claims data, incident data from WorkSafe and Health and Disability Commissioner, comparisons of other councils' regulations, observations from Auckland public health officials, and media / literature scans and medical opinions
- clause-by-clause analysis of the Code.

1.7 There are limitations to the information collected

There are limitations on the data available to reassess and update the risk levels for services the Code regulates (see Table 1 below for limitations).[2]

These limitations mean there is **a degree of uncertainty** about the frequency and impact of problems the Code regulates and, consequently, about the effectiveness of the Bylaw and Code.

Table 1: List of known data limitations in the 2024 Code review

Limitation	Examples

Central government agencies do not collect some relevant data	• No central government agency holds data on the number of infections caused by health and beauty services.
	• ACC claims data is not useful for determining levels of very high level impact physical harms from sun-beds, public swimming pools, tattooing or body piercing services.
	  ○ People do not make ACC claims for these harms, which include notifiable diseases, skin cancers and serious infections.
	  ○ Public health officials provided general assessments of a low frequency of very high level impact harms from swimming pools and sun-beds.
	  ○ No information was obtained for tattooing or body piercing services.
	• Low level physical harms (for example minor injuries such as burns or fungal infections) are generally not reported as consumers treat themselves or go to a GP or pharmacy.

[2] Staff compared Auckland to three cities without an equivalent bylaw or code of practice: Christchurch, Hamilton, Wellington.

Limitation	Examples
Central government agency data cannot be directly compared to the Code	• Central government agencies do not use the Code's service types and harms to categorise and record their data. • Each agency categorises types of health and beauty services differently. This means data from different central government agencies cannot be directly compared. • Health and Disability Commissioner data only describes the general category of complaints. Each complaint might apply to one of several specific services.
Data may include incidents the Code does not regulate	• ACC claims data does not give specific details about each claim. • Most requests for service to council about health and beauty operators relate to a specific service. They do not necessarily demonstrate Bylaw and Code problems.
Data may have gaps	• Some incidents may not be reported. For example there appear to be more ACC claims and incidences of physical harm than are reported to council. • ACC claims data may not contain all incidents from services the Code regulates (for example a person making a claim may not include keywords). • ACC claims data may not capture incidents from new or emerging services (for example vampire facials). • Minor issues may be resolved by Environmental Health officers through verbal warnings, advice and education, or action taken by operators at the time. In such cases requisitions may not be issued.
Data may be outdated	• ACC claims data covers the period from 1 January 2014 to 31 December 2023. • Covid lockdowns significantly reduced the ability of operators to offer services in Auckland between 2020 to 2022. • The most recent WorkSafe and Health and Disability Commissioner data held by staff covered a period up to 31 December 2022.

Current ACC claims data cannot be directly compared to the 2018 review	• The analysis in this report used different criteria from the 2018 review when deciding which ACC claims to include. The 2024 review only includes ACC claims:
	  ○ the Code could have prevented
	  ○ that are in locations the Code likely regulated. For example some services will only be performed at commercial locations, while other services can also be performed 'at home'. **Note**: Some harms from services performed at home may have been omitted as it was assumed they were not regulated by the Code.

2 The Bylaw and Code

Summary

- The Bylaw and Code seek to promote and protect public health by regulating business operators who offer health, appearance, wellbeing, cosmetic and beauty services (health and beauty services) that could transfer disease, or could infect or injure people.
- The Bylaw's main functions are to require operators of certain services to be licensed and to enable the council to make a separate Code of Practice.
- The Code sets minimum standards for specific health and beauty services that could break, pierce or burn skin or tissue, or that contact the skin.
- The Code includes specific rules for each service and general rules that apply to all premises and operators regardless of what service they offer. These general rules include requiring operators to conduct health and beauty services safely and cleanly, in premises that are fit-for-purpose.
- The Code refers to external technical standards for products and services.

2.1 The Bylaw and Code seek to protect public health

The Bylaw and Code seek to promote and protect public health by regulating business operators who offer health, appearance, wellbeing, cosmetic and beauty services (**health and beauty services**) that could infect people, injure people or transfer disease.

The Governing Body made the Bylaw under the Local Government Act 2002 and Health Act 1956, and adopted the Code, on 27 June 2013 (GB/2013/66) with effect from 1 July 2014. The Bylaw and Code replaced 11 legacy council bylaws related to protecting public health from similar services. The Bylaw was reviewed in 2018 and amended in 2019 to provide an exemption for pharmacists performing commercial ear-piercing. The Code has not been reviewed to date.

2.2 The Bylaw protects health through licensing and a code of practice

The Bylaw promotes and protects the public health of Aucklanders who receive and provide health and beauty services by:

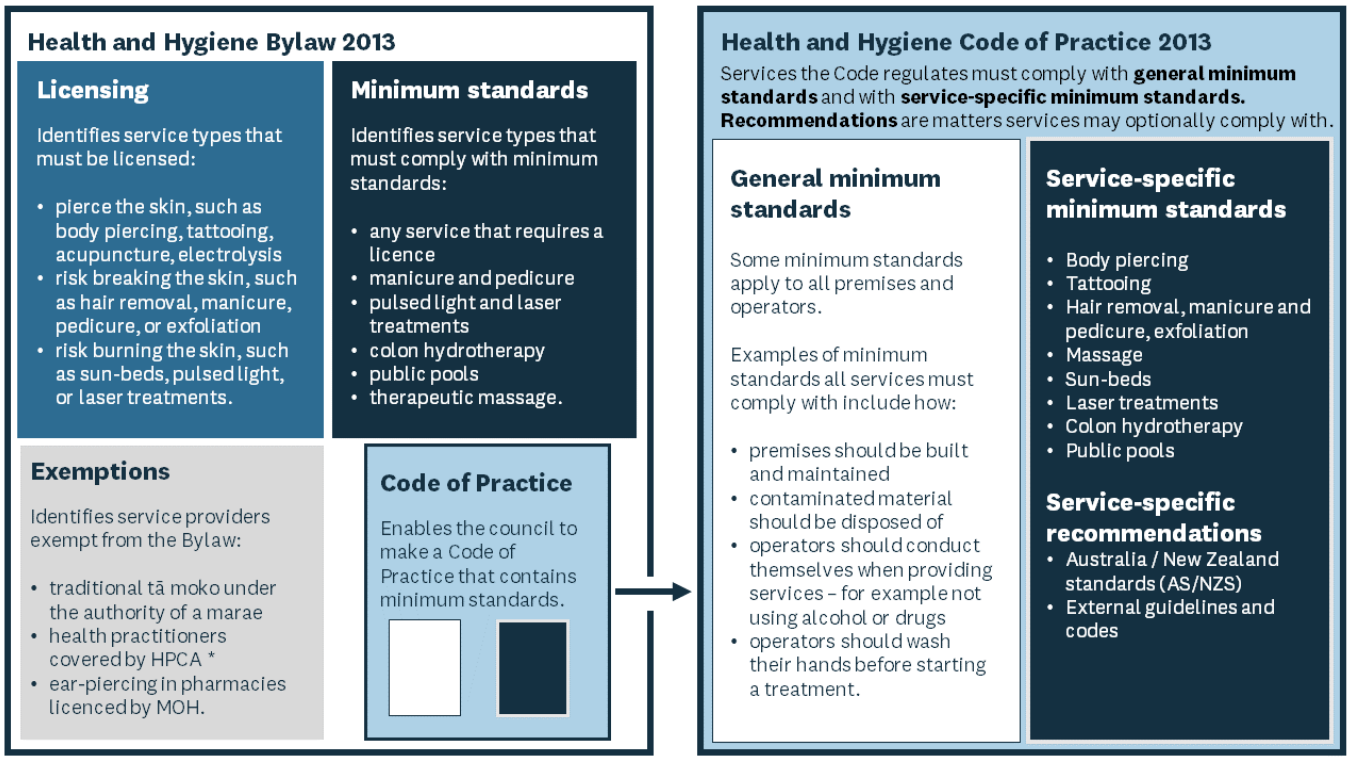
- identifying and classifying four types of services: services that pierce the skin, risk breaking the skin, risk burning the skin, and other specified services (see examples in Figure 1 below)
- requiring operators performing health and beauty services that pierce the skin, or risk breaking or burning the skin to be licensed by Auckland Council
- providing exemptions for some operators from needing to be licensed
- enabling the council to make a code of practice that sets general minimum standards all health and beauty operators must comply with, and specific minimum health and hygiene standards and best practices for services identified in clause 6 of the Bylaw
- requiring people who provide these services to meet the Code's minimum standards.

A code is a type of bylaw **control** (a rule that council determines under – but separately from – the bylaw, often at a later date). Controls can be an effective and efficient way to maintain and update rules between bylaw reviews. They have greater potential to respond to change than a bylaw (for example, updating technical or prescriptive matters with a more limited consultation).[3]

The Code requires health and beauty services to be provided in premises that are safe, hygienic and fit-for-purpose, and for operators to conduct services safely and cleanly.

Figure 1 illustrates the components of the Bylaw and the Code and how they relate to each other. Specific standards and best practices are listed in Figure 2 in Chapter 3 below.

Figure 1: Functions of the Health and Hygiene Bylaw and Code of Practice



[3] General Local Government Act 2002 consultation and decision-making requirements apply rather than the special consultative procedure.

* Health Practitioners Competence Assurance Act 2003 (HPCA).

3 Wider regulatory and strategic framework

Summary

- The Bylaw and Code form part of a wider regulatory and strategic framework. This includes legislation, industry standards, council strategies and bylaws, and operational guidelines.
- Many agencies monitor and regulate aspects of the health and beauty industry, for example:
  - Auckland Council is required to improve, promote and protect public health in Auckland
  - the National Public Health Service – Northern Region investigates individual cases and outbreaks of notifiable diseases, including Hepatitis B and C, legionellosis and HIV
  - the Environmental Protection Agency regulates the import and sale of hazardous substances
  - Medsafe regulates medicines and medical devices
  - WorkSafe is responsible for workplace safety and hazardous substance use.
- Other organisations support people who are injured or infected by health and beauty services, including primary healthcare services such as GPs, hospitals and pharmacies, and ACC who provides for the costs of recovery from injuries resulting from accidental harm.

3.1 The Bylaw and Code form part of a wider regulatory and strategic framework

The Bylaw and Code form part of a wider regulatory and strategic framework. This includes legislation, council strategies and bylaws, and non-governmental standards and best practices.

- The Bylaw is **empowered by legislation** that requires council to improve, promote and protect the public health of people in Auckland and promote social, economic, and cultural well-being.[4]
- Other **government legislation** relevant to the Bylaw ensures buildings, workplaces and equipment are safe and healthy for people. There are almost no specific central government regulations for the health and beauty industry. The exception is that some services with the potential to cause higher levels of public health harms are regulated at a national level (for example it is illegal for sun-bed operators to allow under-18s to use a sun-bed).
- The Bylaw seeks to support **strategic goals** in the **Auckland Plan** 2050 and the **Māori Plan** for Tāmaki Makaurau (see Appendix 5)
- **Non-governmental standards** and **best practices** support safe and hygienic service provision.

Figure 2 (see next page) shows the components of this wider framework.

3.2 Central government agencies protect and support public health in workplaces, including the health and beauty industry

There is no single central government organisation in this framework that specifically regulates the health and beauty industry. Instead, there are central government organisations that regulate all workplaces and that contribute to protecting public health in general (see Table 2 on the next page).

[4] S 23 of the Health Act 1956 and s 10(1)(b) of the Local Government Act 2002.

Figure 2: New Zealand's regulatory framework for health and beauty services

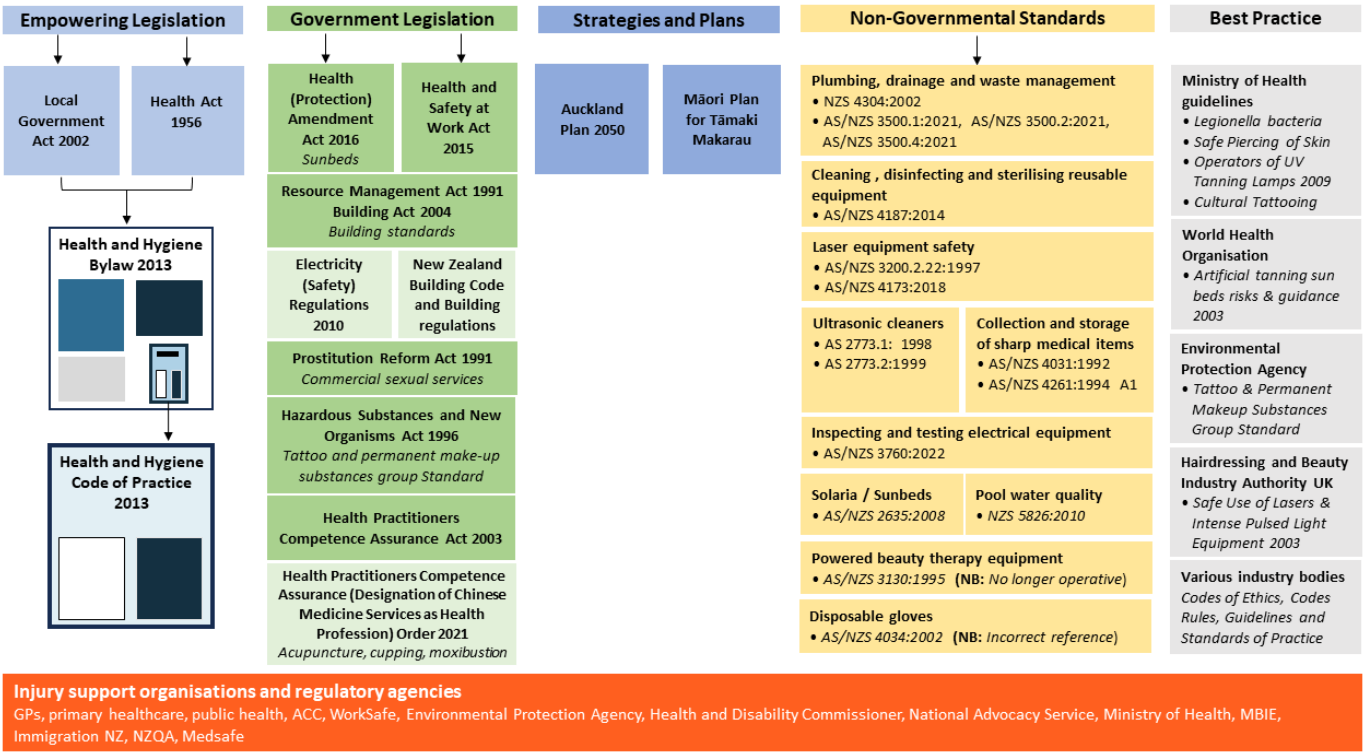


Table 2: Central government agencies that protect and support public health in workplaces

Agencies that can protect public health in all workplaces	
Agency	**Role and responsibilities**
WorkSafe	Responsible for workplace safety and regulating hazardous substance use in the workplace. WorkSafe can investigate and prosecute employers or a person in control of a business, and issue recommendations and reports.
Health and Disability Commissioner	Investigates complaints for people who have been harmed by or experienced unsafe practices from a health or disability service. Promotes consumer rights and can refer people to a national advocacy service. Can refer complaints to an independent Director of Proceedings who decides whether to initiate proceedings before the Human Rights Review Tribunal or disciplinary charges before the Health Practitioners Disciplinary Tribunal.
Accident Compensation Corporation (ACC)	Can initiate education campaigns in specific sectors or services to reduce significant amounts of harm. **Note**: ACC has prioritised harm reduction in other sectors (for example forestry and sports) over the health and beauty sector.
National Public Health Service – Northern Region[5]	Investigates individual cases and outbreaks of notifiable diseases in the community (for example Hepatitis B and C, legionellosis and HIV). Annually surveys the practices of sun-bed operators across New Zealand.
Environmental Protection Agency	Identifies hazardous substances and regulates their import and sale.
Medsafe	Regulates medicines and medical devices.
Agencies that support people who are injured or infected by health and beauty services	
Agency	**Role and responsibilities**
ACC	Provides recovery costs from injuries resulting from accidental harm.
Primary healthcare services (such as GPs, hospitals and pharmacies)	Provides accessible treatments for a range of low to very high impact physical harms from health and beauty services.

[5] Formerly known as the Auckland Regional Public Health Service (ARPHS).

4 Implementation of the Bylaw and Code

Summary

- Council's Regulatory and Community Safety Committee make the Code and Council's Licensing and Environmental Health Unit (LEH) administers and enforces the Bylaw and Code. LEH:
  - issue Health Protection Licences, conduct inspections and respond to complaints
  - does not proactively identify unlicensed operators and does not inspect operators who are not required to be licensed
  - use Local Government Act 2002 and Health Act 1956 powers to enforce the Bylaw and Code.
- As at 30 August 2024, there were 1,216 licensed health and beauty operators in Auckland. LEH responds to an average of 68 requests for service each year and since 2014 has prosecuted two operators.

4.1 Bylaw and Code administration is delegated to elected members and staff

The Auckland Council Governing Body has delegated administration of the Bylaw to the Auckland Council Regulatory and Community Safety Committee to make the Code and to the Auckland Council Licensing and Environmental Health Unit (**LEH**) to administer and enforce the Bylaw and Code (see Table 3 below).

Analysis has identified outdated and duplicate delegations between the Governing Body decisions from 2013 that continue to apply, council committees in 2022, and updated staff delegations in 2023 (see Table 3 below). This issue should be addressed in any Options Report.

Table 3: Bylaw delegations from 2010 onwards

Who (authority)	What (summary of delegated Policy and Bylaw responsibilities)
Regulatory and Community Safety Committee	• Committee's authority to "Make, amend, revoke codes of practice" in GB/2013/66 is an outdated duplicate of the authority to "Deciding regulatory policies, standards and controls associated with bylaws" in GB/2022/112.
Auckland Council staff	• Staff authority to "Make controls for health protection licences" in GB/2013/66 is an outdated duplicate of the same authority in (GB/2011/123 as updated in Sept 2023).
Auckland Council staff	• Staff authority to perform "all powers, duties and functions" to administer and enforce the Bylaw and Code, including to issue approvals (health protection licences), impose conditions and enforce compliance are an outdated duplicate of the same authority in GB/2011/123, as updated in Sept 2023).

4.2 Licensing and Environmental Health Unit issues licences and enforces the Bylaw and Code

LEH primarily **promotes** its licensing and enforcement role through the council webpage.

In relation to **health protection licences** (approvals):

- Operators are charged an annual fee based on whether they provide a basic or high risk service, and single or multiple services (see Table 4 below).
- LEH Environmental Health officers carry out inspections before issuing a license and then inspect operators annually.
  - Each inspection reviews the operator's premises and their procedures for providing services (for example hair removal or tattooing).

  - Inspections ensure operators are working safely and hygienically by complying with the Code.
  - The total inspection time (including travel and administration) takes between 1.5 to 3 hours, with the on-site inspection taking an average of 45 minutes. Inspection times vary based on the services the operator provides and their level of compliance with the Code.
  - After an inspection, officers inform operators of any changes needed for the business to fully comply with the Code (these changes are called **requisitions**)
    Note: LEH issued 733 requisitions to 564 operators in the 2023/24 financial year.
- As at 30 August 2024, there were 1,216 licensed health and beauty operators in Auckland.
- LEH have not declined an application for a health protection licence since 2018 as applicants normally check with council about the requirements before lodging their application.

Table 4: Health Protection Licence fees as at 1 July 2024

Service category	Fee (incl. GST)
Single basic service - A single service which is categorised as a risk of breaking or burning skin (for example moxibustion or sun-beds)	$312
Single high risk service - A single service categorised as piercing the skin (for example body piercing, derma rolling, electrolysis, extractions, red vein treatment, pulse light or laser treatment, stamping, tattooing or traditional tattooing)	$508
Multiple basic services - More than one service which is categorised as a risk of breaking or burning skin (for example intense pulsed light and laser treatments)	$419
Multiple high risk services - More than one service categorised as piercing the skin (for example acupuncture, body piercing , derma rolling, electrolysis, extractions, red vein treatment, pulse light or laser treatment, stamping, tattooing/traditional tattooing)	$508

- LEH does not undertake unannounced monitoring of commercial services, except for complaints.
- LEH use a 'modern regulator' approach to compliance. Officers respond to complaints (**requests for service** or **RFS**) by inspecting premises, educating operators and encouraging compliance.
  - If an officer identifies a minor breach of the Bylaw or Code, they provide the operator with advice and education about the issue.
  - If the breach is more serious, the officer will issue the operator with a notice that identifies the breach, the steps they must take to rectify it and the enforcement action that may occur if they do not comply.
- Officers do not regularly proactively identify or inspect:
  - unlicenced operators or premises that should be licensed (noting the exception in 2022 where LEH proactively investigated operators whose licences expired).
  - operators who are regulated by the Code but are not required to be licensed (for example massage operators or public swimming pool operators).
- Between 2018 to 2023, the total number of RFS ranged between 31 to 140 (see Table 5 on next page). These included RFS for operators that should be licensed (unregistered operators).

Table 5: Requests for service (RFS) for licensed and unregistered operators

Year	RFS for licensed operators	RFS for unregistered operators	Total
2018	45	21	66
2019	52	33	85
2020	30	23	53 [6]
2021	19	15	34
2022	30	110 [7]	140
2023	16	15	31
Average	32	36	68

4.3 Licensing and Environmental Health Unit use statutory powers for enforcement

LEH rely on statutory powers and penalties to enforce the Bylaw and Code (see Table 6 below). Enforcement may be taken when the operator:

- is not complying with the Bylaw (for example they do not have a licence, are in breach of a licence condition or are in breach of the minimum standards in the Code).
- is permitting or causing a nuisance that is injurious to health.

Table 6: Enforcement powers under bylaw-making legislations

Legislation	Enforcement powers
Local Government Act 2002	• Enter premises to do anything under legislation with either 24 hours' notice or as early as practicable (section 171), power to enter for purpose of detecting breach of bylaw (s 172), seek a court injunction (s 162), seize property (s 165), and require information (s178). • Prosecutions for breaching the Bylaw have a maximum fine of $20,000 (s 242(4)). • **Note**: There are no infringement fees.
Health Act 1956	• Enter premises without notice to abate nuisance (s 34, s 128) and to allow Environmental Health officers to clean and disinfect premises to prevent or limit the spread of infections or disease (s 81, s 83), or at any reasonable time to fulfill council's public health statutory duties (s 128 and 23). • Issue a cleansing order (s 41), require names and addresses (s 134), seek a court order to abate a nuisance and prohibit recurrence (s33), and recover costs to abate nuisance (s 33(6)-(9), s 34(2)) • Issue an infringement fine of $2,000 (for individuals) and $10,000 (for body corporates) if an operator offers sun-bed services to a customer under 18 years (ss 114-116B). • Prosecute a person who allows or causes a health nuisance on any premises and seek a maximum court fine of $500 and $50 every day the offence continues (s 136). • **Note**: There are no infringement fees except for offering sun-bed services to people under 18.

Council has prosecuted two operators under the Bylaw since it was first made in 2013. Both prosecutions were successful and were based on operators breaching specific provisions of the Code.

- One laser operator seriously burned a consumer while delivering a laser tattoo removal. The operator was fined $1,000 for breaching the Code's rules around training, record-keeping and consent, premises, and maintenance of equipment, and was also ordered to pay $1,000 for emotional harm to the victim.
- A tattoo studio owner and its operator tattooed a person who was under the age of consent. Both the owner and operator entered guilty pleas and both were required to pay $350 for emotional harm to the 16-year-old and $130 in court costs each. No fine was imposed because the circumstances of the offence meant the conviction and reparations were sufficient.

[6] Covid lockdowns affected the number of RFSs in 2020 and 2021.

[7] There were more RFSs in 2022 because LEH proactively investigated whether operators were still offering services if their licences had expired because they had not paid the fee. Approximately 95 of the 110 RFSs were proactive 'follow-ups'.

5 Is there still a problem and is the problem the same as 2018?

Key findings

- Yes. The problem (similar to 2018) continues to be the risk of physical harm to both consumers and operators from poor practices associated with health and beauty services in Auckland.
- Each type of service has a different frequency and impact of physical harm. This means each service has a different risk level, ranging from low (for example exfoliation which can cause infections or blisters) to very high (for example tattooing which can transmit Hepatitis B and HIV / AIDS).
- The number of ACC claims in Auckland for services the Code regulates have remained consistent despite population and industry growth. For licensed services, there were 124 claims in 2018 and 137 claims in 2023. For unlicensed services, there were 19 claims in 2018 and 21 claims in 2023.
- The frequency of problems for most services appears to be low. For example, there were 7 ACC claims for exfoliation services in 2023.
- Where the frequency of problems is higher, the impacts of physical harm appear to also be low. For example, while there were 50 ACC claims for manicure / pedicure services in 2023, only one incident of high impact physical burns was recorded between 2018 and 2023 out of 211 claims.
- Most physical harms appear to be minor and adequately dealt with by routine primary healthcare and normal consumer responses to bad treatments.
- However, data limitations mean there is a degree of uncertainty about the frequency and impact of the problem. These limitations include under-reporting of harm and limited data about the frequency of high and very high impact harms.
- The risk of physical harm caused by health and beauty services is likely to continue. In general, the health and beauty industry has grown since the COVID-19 lockdowns and during unfavourable economic conditions. The industry's revenue is forecasted to rise 3.6 per cent annually from 2022 to 2027, up to $1.4 billion per year.[8] Most services have inherent risks (for example exfoliation needs to contact the skin and tattooing needs to pierce the skin), meaning risks of physical harm will continue.

This report analyses the Bylaw and Code in three topics (see Appendix 1) that group services together based on their risk level (see Appendix 4).

Risk levels are based on the frequency and the impacts of the physical harms each type of service causes (see Chapter 1.7 for data limitations on this analysis).

The key findings above summarise the problem across all topics, while the Table below summarises the problems for each topic listed in Appendix 1.

Table 7: Summary of the problem for low-to-moderate risk, high risk and very high risk services

Topic	Problem	Frequency and impact of problem
Low-to-moderate risk services	**Risk of** physical harm to both consumers and operators...	Problems from **hair removal** services occur with a moderate frequency (for example 15 ACC claims in 2023) and have a low impact (for example wax burns or cuts).
		Problems from **manicure / pedicure** services occur with a high frequency (for example 50 ACC claims in 2023). However, most of these physical harms have a low impact (such as punctures, stings, minor infections or burns). High impact chemical burns are extremely rare—with only one ACC claim between 2014 and 2023.

[8] Industry report S9511NZ Hairdressing and Beauty Services in New Zealand, IBIS World, 2022.

Topic	Problem	Frequency and impact of problem
Low-to-moderate risk services	… **from** poor practices associated with low-to-moderate risk health, beauty and swimming pool services in Auckland.	Problems from **exfoliation** services occur with a low frequency (for example 7 ACC claims in 2023). Most of the physical harms are low impact. They include easy-to-treat harms such as blisters, cysts, infections and skin pigmentation changes. It is unlikely there were serious injuries from chemical burns. Most ACC claims for exfoliation are for injuries at homes. These could be from mobile or unlicensed operators, or from self-applied exfoliation.
		Problems from **massage** services occur at a moderate frequency (for example 15 ACC claims in 2023) and have a low impact (for example infections from unclean surfaces).
		Colon hydrotherapy services do not appear to have caused any physical harms in Auckland since 2008. The potential physical harms from these services have a low (unlikely) frequency and moderate impact.
		Problems from **public swimming pools** occur with a low frequency (for example since 2014, there have only been a very small number of instances of notifiable or infectious diseases linked to swimming pools). The impact of the problems can range from moderate (for example gastro-intestinal infections and the Cryptosporidiosis parasite) to very high (Legionnaires' Disease).
		The problems from **commercial sexual services** have an unknown frequency as data is not available. The impact of the harms can range from low (sexually transmissible infections and infections from unsanitary conditions) to high and very high (HIV / AIDS).[9]
High risk services	… **from** poor practices associated with high risk health and beauty services in Auckland.	Problems from beauty treatments that **pierce the skin** (including **electrolysis**, red vein and dermarolling / stamping) occur with a low frequency (for example no ACC claims in 2023). The impact of the problems can range from moderate (for example bacterial infections) to high (blood borne diseases or excessive bleeding).
		Problems from **intense pulsed light (IPL) / laser** services occur with a moderate frequency (for example 12 ACC claims in 2023). The impacts can range from moderate (for example bacterial infections) to high (eye damage, scarring, burning or a contribution to an increased chance of skin cancer by making it less likely to detect melanomas).
		The problems from **acupuncture** have an unknown frequency as data is not available. Between 2012 and 2016 there were three or fewer ACC claims in Auckland per year. The impact of the harms can range high to very high (for example blood-borne viral and bacterial infections and injury to organs).
Very high risk services	… **from** poor practices associated with very high risk health and beauty services in Auckland.	Problems from **body piercing** and **body modification** services occur with a moderate frequency (for example 12 ACC claims in 2023). The impacts can range from low (for example cuts) to very high (bacterial infections, and blood-borne diseases such as Hepatitis B and HIV).
		Problems from **tattooing** services (including **traditional tools tattooing**) have a high frequency (for example 41 ACC claims in 2023). The impacts can range from low (for example cuts) to very high (bacterial infections, and blood-borne diseases such as Hepatitis B and HIV).
		Problems from **sun-bed and solarium** services occur with a low frequency (for example no ACC claims in 2023). The impacts can range from moderate (burns) to very high (eye damage and skin cancer).
		There have been no reports of **eyeball tattooing** occurring in Auckland since 2019 when the service was first explicitly restricted. The impacts can range from low-moderate (for example irritation and infection) to high (for example blood borne diseases) to very high (for example blindness).

[9] See Appendix 4 for reasons why commercial sexual services has a low-moderate risk level.

6 What are council's desired objectives and outcomes?

Key findings

- The objective and outcome are essentially the same as in 2018 but could be clarified to better align with the problem definition and Auckland Plan. For example:
  - the overall objective is to minimise the risk of physical harm to consumers and operators from poor practices associated with health and beauty services in Auckland
  - the outcome sought is to ensure Aucklanders are healthy and businesses are prosperous.

The Table below shows how the objective and outcome for all three topics are essentially the same as in 2018 but could be clarified to better align with the problem definition and the Auckland Plan 2050 (see Appendix 5 for details).

Table 8: Council objectives and outcomes for the Bylaw and Code in 2018 and 2024

	2018 Review	2024
Objective of the Bylaw	To reduce harm to people using commercial services that involve contact with the human body, including by ensuring comprehensive coverage of both current and emerging services that pose health risks.	To minimise the risk of physical harm to consumers and operators from poor practices associated with health and beauty services in Auckland.
Outcomes the Bylaw contributes to	To ensure the public are protected from harm caused by services that contact the body.	Aucklanders are healthy and businesses are prosperous (for example by protecting public health while minimising compliance costs for businesses) (see Appendix 5 for more details).[10]

[10] Auckland Plan 2050. Belonging and Participation outcome, Direction 2; Opportunity and Prosperity outcome, Focus area 2.

7 How can the Bylaw and Code help to achieve the objectives and outcomes?

Key findings

- The Bylaw and Code seek to help achieve the objective of minimising the risk of physical harms from health and beauty services by prescribing minimum standards for how these services should operate and requiring higher-risk services to be licensed.
- There is evidence the Bylaw and Code help achieve the objective.
  - Operators of nearly all service types appear to be highly aware of the Code.
  - In 2023/24, LEH corrected 733 non-compliance issues from 564 operators using the Code.
  - Council has conducted two prosecutions against operators.
  - Operators, industry associations and central government agencies support the Bylaw and Code as no other agency keeps an eye on harms not addressed at a national level, and the Code is an example of best practice that can be applied nationally.
- However, there are implementation challenges to the Bylaw and Code.
  - It is difficult for any single regulator to maintain an up-to-date Code and have the required expertise to inspect all operators due to the wide variety of existing and new treatments, risk levels, technology, and required levels of operator experience.
  - Consumers appear to have a low awareness of the Code. This may lead to under-reporting of problems and the inability of council to support operators.
  - The number of unlicensed operators and the amount of harm they cause is unknown.
  - It is extremely difficult for council to verify whether an operator's qualifications are real and have given the operator appropriate skills to provide a service safely and hygienically.
- The wider regulatory framework also creates challenges, including that no single central government agency specifically regulates the health and beauty industry, and there are inconsistencies between the bylaws some councils use to regulate health and beauty services.

The Table below summarises the analysis of the Bylaw and Code's effectiveness for all topics in Appendix 1.

Table 9: Summary of how the Bylaw and Code can help achieve the objective and outcome

Topic	How the Bylaw and Code can help achieve objectives and outcomes	Challenges to Bylaw and Code effectiveness

All topics
 	
Low-to-moderate risk services
 	
High risk services
 	
Very high risk services
	The Bylaw and Code seek to help achieve the objective by:
	• prescribing minimum standards in the Code that:
	  ○ set clear expectations on how health and beauty services are to operate, to minimise lower-level harms (noting that higher-level harms are regulated at a national level, see Chapter 3)
	  ○ can be enforced when processing licence applications and responding to complaints.
		Challenges related to the Bylaw and Code include:
		• the difficulty in regulating multiple services that have a wide variety of risk levels, technology, and required levels of operator experience. It is difficult for any single regulator to maintain an up-to-date Code and have the required expertise to ensure all services are conducted safely and hygienically
		• low awareness of the Code may lead to under-reporting of problems and the inability of council to support operators.
		  ○ Consumers lack awareness about council's role to investigate complaints. A People's Panel Survey in December 2022 found only seven per cent of consumers (84 out of 1213 respondents) reported incidents to council.

Topic	How the Bylaw and Code can help achieve objectives and outcomes	Challenges to Bylaw and Code effectiveness
	• requiring higher-risk services to be licensed, which funds the cost of proactive inspections to ensure compliance with the Code. For example: • operators of nearly all service types having apparent high levels of awareness and compliance with the Bylaw and Code (with the exception of colon hydrotherapy services and public swimming pools which have low awareness and unknown compliance). For example slightly over 90 per cent of all operators surveyed appear to be aware of the Code. • Environmental Health officers issuing 733 requisitions to 564 operators in 2023/24 to correct issues where operators did not comply with the Code. • council has conducted two prosecutions of operators for breaches of the Code since 2013, and both were successful (see Chapter 4) • operators, industry associations and central government agencies supporting council retaining the Bylaw and Code as no other agency keeps an eye on the lower level harms. • the Code promoting and protecting public health nationally in ways that are hard to measure. For example the Code is used as an example of best practice by the New Zealand Association of Registered Beauty Professionals and the Health and Disability Commissioner, and other local authorities can use it as an example for their bylaws. Operators and associations support the Code's enforcement powers.	○ Services that must comply with the Code but are not required to be licensed by council are likely to be unaware of the Code. For example, the council does not communicate with operators of hotel swimming pools, colon hydrotherapists or massage therapists at all. • no proactive identification of unlicensed operators by the Licensing and Environmental Health Unit, who process licence applications and respond to complaints. The number of unlicensed operators and the amount of harm they cause (for example the number of ACC claims they cause) is unknown. • Code reviews not occurring frequently enough to account for the health and beauty industry offering new treatments or new technology or developing updated standards. These lead to parts of the Code becoming outdated, confusing or wrong (see Chapter 9). For example the Code is missing standards for new services such as eyelash extensions and lifts, brow lamination, fat freezing and teeth whitening. • absence of infringement fines under the Local Government Act 2002 or Health Act 1956.[11] Council has only prosecuted two operators since 2014. These were both costly, lengthy processes that resulted in only one fine of $1000 and reparations to the victims totaling $1700. • it is a lengthy process to verify whether an operator's qualifications are real and have given the operator appropriate skills to provide a service safely and hygienically. Challenges related to the wider regulatory framework include: • no single central government agency specifically regulates the health and beauty industry • ACC considers the health and beauty sector to be a lower priority for reducing harm in other sectors (for example forestry or sports) • only a few isolated sections of legislation to address specific issues (for example prohibiting sun-bed services to people younger than 18) • agencies do not proactively share information between themselves and Council. This means there is no early warning system for public health harms from health and beauty treatments • some councils use bylaws to compensate for a lack of national regulation but these rules are inconsistent because each council must determine what regulations are necessary, if any.

[11] The Health Act enables council to issue infringement fees against operators who provide sun-bed services to a person under 18.

8 What are the alternatives?

Key findings

- The alternative to a Code, Bylaw or both for any particular health and beauty service, is to take a more reactive approach and rely on the Health Act 1956 as well as providing information to operators and consumers, and relying on existing general consumer responses, industry self-regulation, other government agencies and primary health care.
- This approach could be appropriate if for example the level of harm is considered too low to justify regulation (for example there have been no ACC claims for colon hydrotherapy in Auckland since 2008), use of a code or bylaw is considered ineffective (for example verifying operators are qualified to offer a service would require a significant increase in council resources), or use of a code or bylaw could considered inappropriate (for example to regulate culturally significant tattoo using traditional tools).
- The disadvantages of relying on the Health Act as part of this approach include that the Act lacks relevant details about the practices that operators should use, which makes it more difficult for council to specify what is required or to enforce or prosecute unsafe or unhygienic practices.

The Table below summarises the possible feasible alternatives to the Bylaw and Code for all topics in Appendix 1.

Note: These alternatives can be applied at the same time and are not mutually exclusive.

Table 10: Reliance on Health Act 1956 to respond to problems as they arise

Powers and penalties	Effectiveness and efficiency compared to the current Bylaw and Code to minimise risk of physical harm
The Health Act provides several 'nuisance' offences (section 29), including where business premises and processes are likely to be injurious to health. Under the Health Act 1956, council's environmental health officers may: o **enter premises** to abate nuisance without notice (s 34), to disinfect or destroy any article, when necessary to prevent spread of infectious disease (s 81, s 83), or to fulfil its purpose to improve, promote, and protect public health within its district at all reasonable times	The Health Act provides Auckland Council with a number of powers (including the making of bylaws for enforcement purposes) to fulfil its statutory obligations to improve, promote, and protect public health in Auckland. ✓ Does not change the current response to requests for service. LEH can still inspect and issue requisitions (for example to clean premises and equipment or adopt practices that avoid being injurious to health). ✓ Does not change the ability to issue infringement fees for underage use of sun-beds which apply both with or without a bylaw. ✓ Does not change the ability to enter premises, require name and address, seek a court order for abatement of nuisance (injunction), recover costs associated with enforcement of abatement of nuisance and cleansing orders, or to prosecute offenders (but with a lower fine), all of which apply both with or without a bylaw. ✓ Does not change the ability to issue cleansing orders. **Note**: Cleansing orders are focused on insanitary housing conditions. Health and beauty operators are rarely the subject of complaints about insanitary conditions. ✓ Lower compliance costs to operators as they would not have to pay a licence fee) However, **relying on the Act alone is more reactive** than the current approach of regulating an industry that has inherent risks and is continuing to grow in size and complexity. ✗ The Health Act 1956 alone does not cover health and beauty services to the same level of detail as the Bylaw and Code, for example: o no requirement to be licensed and inspected annually o no age restrictions on skin piercing, tattooing or colon hydrotherapy

Powers and penalties	Effectiveness and efficiency compared to the current Bylaw and Code to minimise risk of physical harm
(including a dwellinghouse) (s 23 and s 128) ○ issue an order to **require cleansing of the premises** (cleansing order) if necessary to prevent danger to health (s 41) ○ require owners and occupiers of premises to **provide names and addresses** (s 134) ○ **seek a court order** for the nuisance to be abated and prohibit its recurrence (s 33) ○ **recover costs** to abate nuisance (s 33(6)-(9), s 34(2)) ○ **issue an infringement fee** (fine) where an operator provides sun-bed services to a person under 18 of up to $2,000 for individuals and $10,000 for body corporates (s 114-116B) ○ **seek a court fine** on conviction of up to $500 for any offence, and a further fine up to $50 per day if the offence continues (s 136)	○ no explicit requirements for hygienic and safe practices (for example to evaluate skin site, wear surgical gloves and disposal of waste) The Health Act more simply focuses on the desired outcome and gives operators full freedom to determine their own practices provided the practices are not unnecessarily offensive or likely to be injurious to health. × Without a code, there is a lack of detail on how operators can avoid practices that are injurious to health. This makes it harder for LEH staff to specify what is required in requisitions. **However**, this could be mitigated by LEH adopting an **internal policy** that was promoted on council's website and given to operators in response to requests for service. This would be a form of Code that could not be enforced but could support officers taking enforcement action. An internal policy would have several advantages: ○ it avoids negative impacts on operators if certain provisions are out of date ○ it is easier to change ○ officers have more discretion in its application as a non-regulatory tool. × For officers to use the Health Act's powers, they would need to prove that a business was engaging in practices that were either creating a nuisance, unnecessarily offensive or likely to be injurious to health. This means **using the Health Act would be more difficult than using the Code** (for example it is easier to refer to a specific standard in the Code than it is to prove a lack of training or providing a tattoo to someone under 18 is likely to be injurious to health). As a result, LEH would prioritise only responding to complaints about the most serious or repeated incidents of harm. × Requiring officers to prove a practice was a nuisance, unnecessarily offensive or likely to be injurious to health means **it would be more difficult to prosecute operators**. For example it would have been more difficult to prove the two successful Bylaw prosecutions (see Chapter 4) because the council would have had to establish the existence of 'nuisance' rather than a specific breach of the Bylaw or Code, and a single instance of careless conduct is unlikely to constitute a Health Act 'nuisance'. × The maximum court fine of $500 under the Health Act is significantly less of a deterrent than the maximum $20,000 fine under a Local Government Act (LGA) bylaw. For example, one LGA prosecution resulted in a fine of $1000. × The Health Act, Local Government Act and any associated bylaws have no ability to issue infringement fines, which limits their deterrent effect. **Note**: Central government is considering infringement fines for bylaws but there is no certainty about the outcome of this decision, and no indication of when the fines would come in effect or their monetary value.[12] × Relying solely on the Health Act removes the council's ability to apply the Local Government Act's additional enforcement powers, specifically the power of seizure. **However**, this is arguably a neutral point as to date this power has not been used.

[12] Government Response to the Report of the Regulations Review Committee on Inquiry into bylaws (2024). Retrieved from https://www.dia.govt.nz/diawebsite.nsf/Files/Proactive-release/$file/Government-Response-to-the-Report-of-the-Regulations-Review-Committee-on-Inquiry-into-bylaws.pdf

Table 11: Summary of other regulatory and non-regulatory alternatives to a bylaw and code

Alternative organisation	Purpose and powers	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on **general consumer responses**	Consumers of health and beauty services can promote safe practices by: o giving negative online reviews o seeking compensation directly from the operator o informing media and news agencies about harmful, unsafe or unhygienic practices o reporting incidents to relevant authorities (for example council or the authorities in this Table below) o only using operators that are members of an industry association (where one exists).	Consumer responses occur whether there is a bylaw or not. They are helpful but safeguards are still required as not all consumers are able to protect themselves all the time. ✓ Consumers are already doing these things and, anecdotally (from interviews with operators), are more aware of safe hygienic practices due to the national response to COVID since 2020. ✓ Businesses are motivated to maintain hygiene and safety to avoid negative online reviews. ✓ Anecdotally, negative reviews appear to affect whether consumers are willing to use an operator. × Not all consumers are aware of or know to educate themselves about the risks or their rights, or are willing and motivated to act. For example, the level of consumer awareness of industry associations is unknown.
Relying on industry **self-regulation** (industry association involvement, responses to consumer reviews, media attention)	Self-regulation would involve industry associations: o researching best practices for new services and technology o developing Codes of Practice o educating operators o approving and declining membership based on compliance with industry Codes. Industry associations and operators would need to respond to negative news stories and social media attention.	Industry self-regulation occurs regardless of whether there is a bylaw. It is helpful but voluntary. ✓ Industry associations have more service-specific expertise about technical standards than council (for example, more detailed). ✓ Some industry associations have their own equivalents to the Code of Practice for their specific industries but similar limitations on resources and time to update them (for example Massage New Zealand promotes professional standards for qualified massage therapists). ✓ Individual operators and franchises described themselves as going above the requirements of the Code. For example the New Zealand Board of Professional Skin Therapies writes its own standards for beauty therapists and updates the requirements every year. (**Note**: The New Zealand Association of Registered Beauty Professionals appears to have adopted the council's Code.) × Not all services have industry associations. For example, there are no sun-bed operator associations. × Not all services will have industry standards. For example, there are no industry standards for tattooing. × Not all operators will be members of an industry association. Membership is voluntary. × Associations have limited enforcement powers, such as cancelling memberships. × Associations are unlikely to proactively monitor operator compliance with standards. × Some industries have no qualifications or training standards. For example, some tattooists are apprenticed while others are self-taught.

Alternative organisation	Purpose and powers	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on **general central government legislation**	Legislation provides nationally consistent regulations for services.	✗ There are almost no central government regulations specifically for the health and beauty services the Code regulates. ✓ Sun-beds are regulated by the Health Act 1956, which prohibits operators from offering artificial UV tanning services to people under 18 years old ✗ Manatū Hauora / Ministry of Health has published **voluntary** guidelines for the safe piercing of skin (1998) and for customary tattooing for operators (2010). ✗ The Health Practitioners Competence Assurance Act 2003 now regulates traditional Chinese medicine, including acupuncture.
Relying on **WorkSafe** or the **Health and Disability Commissioner (HDC)**	WorkSafe ensures the safety of workplaces. HDC protects the rights of health and disability consumers. When consumers or staff inform them of unsafe practices occurring in a business, they respond (on a case-by-case basis) by: o investigating unsafe business practices o recommending systemic changes to improve safety in sectors they consider high risk o referring cases to the Director of Proceedings (HDC-only; see Chapter 3) o refer people to the Nationwide Health & Disability Advocacy Service (HDC-only) o publicising results of investigations o prosecuting offences when necessary (WorkSafe-only).	WorkSafe and HDC protections occur regardless of whether there is a bylaw. They are helpful but reactive. ✓ Agencies have statutory powers to investigate, prosecute and require businesses to change their behaviours or address consumer concerns. ✓ WorkSafe provides guidelines for cleaning and sterilising tattooing equipment. ✗ WorkSafe and HDC do not proactively monitor health and beauty operators to ensure safety. ✗ Agencies do not proactively share information between themselves. This means there is no early warning system for public health harms from health and beauty treatments.
Relying on the **National Public Health Service – Northern Region**	Required to investigate individual cases and outbreaks of notifiable diseases in the community. o Notifiable diseases include diseases that are recognised health risks of services, including Hepatitis B and C, Legionellosis and HIV. o These could be caused by swimming pools or services that pierce the skin. Visits commercial sun-bed operators to ensure they are familiar with best practice for reducing risks from ultra-violet radiation exposure from sun-beds.	Public Health Service protections occur regardless of whether there is a bylaw. They help address higher risk services. ✓ Identifies the sources of notifiable diseases and responds to them. ✓ Educates sun-bed operators on best practice. ✗ Public health officials rely on council to prosecute operators who commit offences under the Health Act.

Alternative organisation	Purpose and powers	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on **Recreation Aotearoa**	All council pools belong to PoolSafe, an external audit scheme administered by Recreation Aotearoa, the industry body for aquatics businesses. PoolSafe covers the information in the Code but has additional requirements. Recreation Aotearoa has created a Quality Pools audit scheme (which is less onerous than PoolSafe) for non-council-controlled public swimming pools.	Recreation Aotearoa protections occur regardless of whether there is a bylaw. They are helpful but voluntary. ✓ All council pools comply with PoolSafe, which exceeds the Code's requirements. × Few non-council pools have signed up to the Quality Pools scheme. × The scheme relies on public awareness, which is limited.
Relying on **qualification verification agencies** (such as the New Zealand Qualifications Authority (**NZQA**) and Immigration NZ)	NZQA develops qualifications and verifies how qualifications from private institutions fit into New Zealand's qualifications and credentials framework (NZQCF). Immigration NZ requires migrant workers or people on work visas to have specific and appropriate qualifications that have equivalents in the NZQCF.	The requirement for qualifications to fit into New Zealand's education framework applies regardless of whether there is a bylaw. They are helpful but difficult to enforce. ✓ A verified qualification provides confidence that an operator is competent to perform the service in a way that is safe and hygienic. × Agencies (and council) find it extremely difficult and resource-intensive to verify whether an international qualification exists, whether a specific qualification enables an individual to offer services safely, and whether an individual has graduated with the qualification.
Relying on the **Environmental Protection Agency (EPA)** and **Medsafe**	EPA regulates hazardous substances and Medsafe regulates medicines and medical devices to protect New Zealanders and ensure their safety. EPA can restrict the import or sale of hazardous substances. Medsafe can: o classify products as medicines with restricted access o issue product recalls.	EPA and Medsafe protections occur regardless of whether there is a bylaw. They are helpful to prevent higher risk impacts. ✓ EPA and Medsafe currently identify and regulate hazardous products at a national level. o For example, exfoliation peels containing phenol cause the most serious chemical burns. Since the Code was made 2013, Medsafe has reclassified phenol as a medicine that is only available by prescription and at pharmacies for specific uses. The EPA has banned phenol from being imported into New Zealand from 31 December 2025 and from sale from 31 December 2026.[13]
Relying on **community groups** to ensure practitioners provide safe tattoos	Communities have their own formal and informal ways of determining if it is appropriate for someone to give a culturally significant tattoo.	Community-specific ways of approving whether someone can provide a culturally significant tattoo occur whether there is a bylaw or not. ✓ LEH officers do not have the cultural expertise to assess if practitioners of culturally significant tattooing are operating safely.

[13] https://www.epa.govt.nz/hazardous-substances/rules-notices-and-how-to-comply/specific-substance-guidance/cosmetics/updated-rules-for-cosmetics/

Alternative organisation	Purpose and powers	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on **community groups** (continued)	For example the right to become a tufuga ta tatau (master tattooist of Samoan tatau) is passed down through the Su'a and Tulou'ena families. The Bylaw currently exempts non-commercial tā moko given under authority of an Auckland marae under tikanga māori.	✓ Council's role in licensing and regulating practitioners of culturally significant tattooing can be considered culturally inappropriate or offensive. × However, community approval of a practitioner does not necessarily mean that the community has the mana or authority to ensure practitioners change their practice if necessary for health and safety. Practitioners have significant mana and prestige within their communities.
Treating **low-level physical harms** with general consumer responses	Consumers who receive low-level physical harms currently: o seek medical care from GPs or pharmacies o make an ACC claim if necessary.	Treatment of low-level harm occurs regardless of whether there is a bylaw. This is a necessary component of the wider framework. While preventing the harm is better, reactive treatment may be acceptable if the frequency of harms does not significantly impact the public health system. ✓ Many consumers who receive low-level harms do not complain to council. This could be because they are unaware council regulates health and beauty operators or because they consider the harms too minor to complain about. ✓ Appropriate response for physical harms like cuts, minor burns and fungal infections. × Not a systemic response to issues caused by a specific operator or a type of service (for example an operator harming multiple consumers may not be detected).
Treating **moderate- and high-level physical harms** with primary healthcare, public health responses (see above) and standard general regulatory responses from government agencies (see above).	Consumers who receive moderate- and high-level harms currently: o seek medical care from primary healthcare, GPs or pharmacies o make an ACC claim if the injury received is the result of an accident. ACC: o assess claims and requests for entitlements, including compensation, on a case-by-case basis o can take actions to improve safety in sectors they consider high risk (for example educating operators about reducing or minimising issues caused by a specific type of service) o does not currently consider the health and beauty sector to be high risk. Primary healthcare providers will notify the National Public Health Service if the harm is caused by a notifiable disease.	Treatment of moderate to high-level harms occurs regardless of whether there is a bylaw. This is a necessary component of the wider framework but prevention is better. ✓ Many consumers who receive moderate to high level harms do not complain to council. This could be because they are unaware council regulates health and beauty operators or because other agencies can address the harms. ✓ Necessary response for physical harms like serious burns and eye damage from laser hair removal or diseases such as Hepatitis B. × Not a systemic response to issues caused by a specific operator or a type of service (for example an operator harming multiple consumers may not be detected).

9 Are the Bylaw and Code fit for purpose?

Key findings

- The Bylaw and Code are currently not fit for purpose. Parts of the Code are outdated, confusing, wrong or difficult to enforce.
- General improvements could be made to better reflect current practice and be easier to understand, use and enforce. For example:
  - using diagrams and more readable explanations
  - clarifying where the Code is recommending best practice as opposed to requiring standards
  - removing any duplications or inconsistencies, such as standardising rules for hand washing and gloves.
- Topic-specific improvements and updates could be made. For example, updating Australian / New Zealand standards that have been superseded since the Code was made.
- There are opportunities to improve implementation. For example:
  - updating delegations
  - increasing promotion of the Code
  - addressing issues related to qualifications and competency (for example deciding if it is council's role to verify whether an operator's qualifications are real and appropriate).
- There are opportunities to improve the Bylaw. For example:
  - removing colon hydrotherapy as there have been no ACC claims since 2008
  - removing acupuncture as it is now regulated by central government legislation
  - updating the Bylaw to include standards for new services not covered by the Bylaw's current general service categories (such as fat freezing, needle-free dermal fillers such as phinjections, and vampire facials).

The Tables below summarise the suggested improvements in Appendix 1 to investigate as part of any option to improve the Bylaw and Code.

Table 12: Potential general and topic-specific improvements to Bylaw and Code

Services risk level	Examples of Bylaw improvements to investigate	Examples of Code improvements to investigate
All services	• Amend relevant clauses of the Bylaw (including Clause 10(2)(a)(i)) to address the finding that qualifications do not guarantee an operator is competent to safely offer services. It is extremely difficult for council and central government agencies to verify qualifications. Issues include determining if qualifications are real, whether they provide appropriate skills, and if an operator has actually graduated.	• Make the contents of the Code more certain and easier for operators, enforcement officers and the public to understand, interpret, and use. • Amend relevant standards in the Code to implement the recommendations about qualifications and competency (see previous column). • Resolve any contradictions in minimum standards (for example requirements for qualifications and experience that would not allow an operator to gain practical experience) • Remove duplication of standards (for example hand washing and gloves, in Standards 3(10) and 3(38) of the Code) • Update the Code's technical standards, for example to remove out of date information and inaccuracies, to

Services risk level	Examples of Bylaw improvements to investigate	Examples of Code improvements to investigate
All services (continued)		make the Code easier for officers to enforce and operators to comply with.[14] • Clarify where the Code is recommending best practice as opposed to requiring standards (for example some recommended best practice sections appear to include mandatory requirements). • Update the Code to include standards for new services that have emerged over the past ten years (for example, vampire facials, eyelash extensions and lifts, brow lamination, body sculpting or fat freezing, plasma pens, phinjections, and teeth whitening).
Low **Moderate**	• Investigate removing colon hydrotherapy from the Bylaw, as there is no evidence of a problem requiring regulation. • Clarify how the Bylaw should be implemented — for example defining who should be the licence holder.	• Make it easier for operators to comply, for example updating the rules to enable mobile operators to offer services at homes or night markets, and ensuring the rules for sterilising equipment are practical. • Update Code's technical standards for hair removal, colon hydrotherapy and public swimming pools. • Remove commercial sexual services from the Code and link to external online advice for safe and hygienic operation of these services. • Consider whether low-to-moderate risk level services require regulation.
High	• Investigate adding laser tattoo removal to the definition of laser. • Remove acupuncture from the Bylaw, including the following clauses: 6(1)(a), 9(1)(b). Central government has recently regulated traditional Chinese medicine, so it is now out of scope.	• Update technical standards for electrolysis and IPL / laser services to remove inaccuracies. • Consider whether the requirement to exempt consumers with a family history of melanoma from receiving IPL / laser services is necessary. For example determine if it helps minimise incidence of melanoma. • Consider whether the removal of skin conditions such as acne, skin tags, freckles and skin pigment should be regulated. For example investigate whether any of these indicate cancer risk. • Define 'skin lesion'.
Very high	• Investigate whether there is an appropriate framework for exempting practitioners giving culturally significant tattooing from being regulated by the Bylaw. • Investigate whether sun-beds and solarium need to be regulated by the Bylaw, given the low (and decreasing) number of operators and the role of public health officials in monitoring operators to ensure	• Update technical standards for body piercing, tattooing and traditional tools tattooing. • Align the technical standards for sun-beds with Ministry of Health survey requirements. • Investigate whether the requirement for a 48-hour gap between sun-bed sessions reflects current research.[15] • Make it easier for operators to comply with the Code (for example more practical rules for mobile operators and for sterilising equipment).

[14] Some of the Code's standards have been superseded since it was created in 2013 (for example AS/NZS 3500.1:2003, 3500.2:2003, 3500.4:2003, 3760:2003, 4173:2004, and 4187:2003). The powered beauty therapy equipment standard (AS/NZS 3130:1995) is no longer operative, and the disposable gloves standard (AS/NZS 4034:2002) is incorrectly referenced.

[15] The 48-hour gap is a requirement of Australia New Zealand standard 2635:2008 *Solaria for cosmetic purposes.*

Services risk level	Examples of Bylaw improvements to investigate	Examples of Code improvements to investigate
	they are using safe practices. **Note**: Council officers currently share the results of their sun-bed inspections with public health officials, and operators in Auckland have a higher compliance rate than in other parts of New Zealand.	

Table 13: Potential improvements to Bylaw and Code administration, enforcement and monitoring

Examples of Bylaw and Code administration, enforcement and monitoring improvements to investigate	

Administration	• Update delegations to ensure the most recent delegations for council committees and staff apply, and to remove any duplications or inconsistencies.
	• Revise the Health Protection Licence application process to clarify:
	  ○ who the licence holder should be (for example the business owner, manager, staff member or – in the case of franchises – a head office position unconnected with the day-to-day running of the business)
	  ○ whether a person or premise is being licensed
	  ○ whether multiple people within the same business should be licensed.
	• Ensure the Health Protection License sub-types are appropriately aligned with the 2024 risk matrix. For example sun-bed and solarium services receive a 'basic services' health protection licence. The risk matrix (see Appendix 4) categorises them as very high risk due to their potential long-term harms.
	• Update the online Code so specific sections and external links are easily accessible.
	• Translate the Code into other languages to make it more accessible to operators.
	• Promotion of the Code could encourage reporting of unsafe practices and help minimise the risk of physical harm.
	• Run an education campaign to raise consumer and operator awareness of the Code, to help minimise the risk of physical harm.
	• Build relationships with communities of practice for culturally significant tattooing.
	• If the Code retains qualification requirements, the qualifications should either be part of the NZQA qualifications framework or able to be verified by council staff. **Adequate qualification verification would require significant additional resourcing** to LEH, to allow staff to adequately investigate the qualifications of every staff member who provides health and beauty services in a business.

Enforcement	• Operational staff could adjust the inspection process by assessing every staff member who provides health and beauty services in a business, with the aim of ensuring operators have a high level of compliance with the Code. **Note**: Several stakeholders suggested officers could conduct unscheduled 'drop-in' inspections. This may not be practical and would require consideration of the council's powers of entry under the Local Government Act 2002 and Health Act 1956 (see Chapter 8). • Undertake proactive efforts to identify unlicensed operators and educate and license them, to help minimise the risk of physical harm. • Increase Environmental Health officers' expertise in culturally significant tattooing and technical skills relevant to specific services.

Monitoring	• Policy and operational staff could conduct regular monitoring by:
	  ○ analysing data or early warnings received from the National Quality Forum (a collection of health agencies that share information) to form a limited early warning system
	  ○ requesting data from ACC and WorkSafe to monitor incidence of harm
	  ○ regularly check-in with Auckland public health officials about infection data and if there have been any changes to evidence or regulations for services like sun-beds and lasers.

10 Do the Bylaw and Code comply with legislation?

Key findings

- The Bylaw and Code are authorised under the Local Government Act 2002 and Health Act 1956 and do not conflict with any other New Zealand legislation (are not repugnant).

10.1 The Bylaw and Code are authorised by statute

Matter	Authorising legislation to make a bylaw	
All	s 64, Health Act 1956 (HA56) s 145(b), Local Government Act 2002 (LGA02)	• Improving, promoting, or protecting public health, and preventing or abating nuisances. • Protecting, promoting, and maintaining public health and safety.
Services allowed subject to Code standards (Bylaw cl 6 & 9)	See All	• See All
Services requiring a licence (Bylaw cl 7 and 9)	See All, and s 64(y), HA56 s 151(3)(a), LGA02	• See All, and • A bylaw may provide for the licensing or registration of persons or property • A bylaw may provide for the licensing of persons or property.
Restricted services (Bylaw cl 8)	See All	• See All
Making a health protection code of practice and Health protection licence process (Bylaw cl 10 to 12)	See All, and s 13, Bylaws Act 1910 s 64, s65(a), HA56 s 145(b), s151(2), LGA02	• See All • Bylaw not invalid because of discretionary power left to local authority

10.2 The Bylaw and Code do not conflict with other New Zealand legislation

Legislative requirement	Description
Are not repugnant	✓ Council has a legislative mandate to make the Bylaw and Code (see previous Table). ✓ The Bylaw and Code are not inconsistent with their empowering legislation (LGA02 and HA56) nor with related secondary legislation such as the Health (Protection) Amendment Act 2016, Health and Safety at Work Act 2015, Resource Management Act 1991, Building Act 2004, Hazardous Substances and New Organisms Act 1996. **Note**: Health Practitioners Competence Assurance Act 2003 now regulates acupuncture, cupping and moxibustion practitioners. These services are currently exempt in clause 9(1)(a) of the Bylaw.
Are reasonable and do not unjustifiably limit rights and freedoms	✓ In general, for operators providing health and beauty services and for consumers' freedom of expression through tattooing, body piercing, scarification and other body modification, the Bylaw and Code's constraints seek to promote and protect public health and safety by minimising risk of physical harm from poor practices – which is reasonable and justified in a free and democratic society. × However, consideration should be given to improvements suggested in Chapter 9. ○ Any recommended amendments to the Bylaw or Code would also need to consider consistency with the New Zealand Bill of Rights Act 1990.

Appendix 1: Topic Assessments

Topic 1: 'Low to moderate-risk' services

Explanation of Topic

- This topic refers to health, beauty and swimming pool services considered to pose a low-to-moderate risk of injury or infection to their customers, specifically:
  - hair removal (includes waxing, threading or tweezing)
  - manicure and pedicure
  - exfoliation (includes micro-dermabrasion, chemical peels, derma-blading, extractions)
  - massage
  - colon hydrotherapy
  - swimming pools (including at council facilities spas, schools, hotels, but not households)
  - commercial sexual services.

Current Bylaw and Code

- The Bylaw regulates the above services in one of two ways. Operators in Auckland providing:
  - massage, colon hydrotherapy, swimming pool and commercial sexual services must comply with relevant standards in a code of practice (cl 6)
  - hair removal, manicure and pedicure, and exfoliation services must obtain a licence from council to operate and comply with relevant standards in a code of practice (cl 7 and 6).
- The Bylaw enables Auckland Council to make a code of practice (Code) that sets minimum standards and recommended best practice for the provision of the above services (cl 10).
- The Code requires these services to be provided in premises that are safe, hygienic and fit-for-purpose, and to conduct services safely and cleanly (see Table below).

Service (*Code reference*)	**Minimum Standards**
Hair removal Part 4A	• Conduct: Must wear **single-use surgical gloves** and **evaluate skin site** before service. Must ensure **wax** is not contaminated or applied to broken skin and use **single use cotton threads**.
Manicure and Pedicure Part 4B	• Conduct: Must not treat **broken skin**, must **evaluate skin site** before service, **be aware of heat** created when using instruments. Must **store all chemicals** correctly and **dispose of waste** appropriately. • Premises: Have appropriate **ventilation**. • Experience: Have appropriate **qualifications or industry experience**.
Exfoliation Part 4 and 4C	• Conduct: Have relevant **precautions and aftercare** advice and use **sterile or single-use disposable or disinfected instruments.** • Premises: Have smooth **water-proof flooring**. • Experience: Have appropriate **qualifications or industry experience**.
Massage Part 5	• Conduct: Have relevant **precautions, consent and aftercare** advice. Must keep a **record of services**. Use **sterile or single-use disposable or disinfected instruments**. **Evaluate skin site** before service.
Colon Hydrotherapy Part 8	• Conduct: Have relevant **precautions and aftercare** advice, must only provide services to a person **over 18 years** unless given parent consent and must keep a **record of services**. Use **sterile or single-use disposable instruments** and **dispose of contaminated material** appropriately. Properly **clean and disinfect all non-single-use equipment**. • Premises: Have a **toilet, hand wash basin and shower** for consumers and **appropriate flooring**. Ensure colon hydrotherapy systems are registered and **comply with New Zealand standards**. • Experience: Must be **trained in colon hydrotherapy** unless a health practitioner.

Service (*Code reference*)	Minimum Standards
Swimming Pools Part 9	• Conduct: Must comply with the **New Zealand standard for pool water quality**. The council can specify **testing frequency** and those results must be kept for two years. **Warning signs** must be displayed at specific locations. • Premises: **Do not use public swimming pools in certain circumstances** (such as when the filtration system is not operating).
Commercial sexual services Part 10	• Conduct: Provide customers with **information** about health information and safety risks. Keep employees and customers safe and healthy, including minimising the risk of acquiring or transmitting **sexually transmissible infections**.

Bylaw and Code Implementation

- See Chapter 4 for a summary of how the Bylaw and Code are implemented. The following points provide further detail in relation to this topic.
- For exfoliation, hair removal and manicure and pedicure service operators who require a licence:
  - in Auckland as at 30 August 2024, there were:
    - 342 licenced operators for hair removal services
    - 184 licenced operators for manicure and pedicure services
    - 144 licenced operators for exfoliation services
  - between 2018 and April 2024, LEH received 8 complaints about exfoliation services, 45 complaints about hair removal services, and 71 complaints about manicure / pedicure services.
  - **Note**: No data available on the number or outcomes of either inspections or requisitions.
- For massage services and colon hydrotherapy service operators that do not require a licence, LEH has received no complaints between 2018 and April 2024.

Is there still a problem and is the problem the same?

- Yes. The problem (similar to 2018) continues to be the risk of physical harm to both consumers and operators from poor practices associated with low to moderate risk health, beauty and swimming pool services in Auckland. For example infections, burns, cuts, and disease from unhygienic surfaces or tools, incorrect use of tools or poor water quality (see Table below).

Service (Code reference)	Causes of risk	Physical harm impacts
Hair removal (Part 4A)	• Burns from wax that is too hot • Cuts from hair removal tools • Unhygienic surfaces or tools.	• Bacterial infections • Burns • Cuts
Manicure and Pedicure (Part 4B)	• Unclean tools • Inappropriately used tools • Unhygienic foot spas • Inappropriately used electric files.	• Bacterial infections • Fungal infections • Burns • Cuts
Exfoliation (Part 4 and 4C)	• Over-exfoliation to rejuvenate the skin • Unhygienic equipment • Inappropriate skin preparation.	• Infections • Blisters, burns • Cysts • Changes to skin pigmentation • Chemical burns
Massage (Part 5)	• Unhygienic equipment.	• Infections
Colon Hydrotherapy (Part 8)	• Unhygienic equipment.	• Gastro-intestinal infections • Perforated colon
Swimming Pools (Part 9)	• Poor water quality.	• Infections • Disease
Commercial Sexual Services (Part 10)	• Sexually transmissible infections • Unsanitary premises.	• Infections

- The frequency and impact of physical harm from these services in Auckland create a low to moderate risk (see Table below for data and Appendix 4 for risk matrix).[16] For example:
    - while the frequency of harm from exfoliation is low (7 ACC claims in 2023), the impact can be high which equates to a moderate risk (for example chemical burns can cause scarring).
      Note: Phenol is the most dangerous chemical used in some exfoliation treatments. Since the Code was made in 2013, phenol has been re-classified as a medicine that is only available by prescription and at pharmacies for specific uses. Phenol will be banned from being imported into New Zealand from 31 December 2025 and from sale from 31 December 2026
    - while the frequency of harm from manicure/pedicure is high (50 ACC claims in 2023), the impact is generally low which also equates to a moderate risk (for example a toenail fungal infection treated over two to three months with medicine available from a pharmacy without a prescription)
    - since 2018, the risk level for some services (public swimming pools, colon hydrotherapy, massage, hair removal) has changed from moderate to low due to a re-evaluation of the frequency of physical harms, based on ACC claims data
    - there is not enough information available about the frequency of very high impact harms from commercial sexual services. Because of this, staff have taken a status quo approach.
- Further, while the potential physical harms from some services can be high, the actual harm appears to be at the low-to-moderate end as consumers appear to prioritise posting negative online reviews, seeking treatment from primary healthcare providers such as pharmacies or GPs, and making ACC claims when necessary.
    - **Note**: Consumers appears to have a low awareness that they can report incidents to council.[17]

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Hair removal	**Moderate** • 580 licensed operators • 29 ACC claims • 2 complaints to HDC that could have involved hair removal • 11 complaints to LEH	**Moderate** • 342 licensed operators • 15 ACC claims • 2 complaints to HDC that could have involved hair removal • 1 WorkSafe complaint • 2 LEH complaints • 13% (37 of 287) People's Panel Survey respondents (PPS) had negative experiences	**Low** Burning (from hot wax), cuts (from tools or threads)	**Low**

[16] Chapter 1.7 fully describes the data limitations on this analysis.
- At the time of this analysis, the most recent WorkSafe data held by staff was for 2022.
- Health and Disability Commissioner data describes general categories; each complaint might apply to multiple services.
- No central government agency holds data on the rates on infections from different services.
- ACC claims data includes incidents at commercial and home locations for all services except public swimming pools. Staff have only analysed commercial locations for public pools as the Code does not regulate home / private swimming pools.
- Based on ACC claims data, there appear to be more incidences of physical harm than are reported to council.
- The results from the council's NZ Beauty Expo survey include a mix of licensed and unlicensed operators.

[17] The Peoples Panel Survey in December 2022 found only seven per cent of consumers (84 out of 1213 respondents) reported incidents to council.

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Manicure / Pedicure	**High** • 486 licensed operators • 31 ACC claims, with none involving exposure to chemicals • 2 complaints to HDC that could have involved manicure-pedicures • 14 LEH complaints	**High** • 184 licensed operators • 50 ACC claims with one claim involving exposure to chemicals • 2 complaints to HDC that could have involved manicure-pedicures • 7 LEH complaints • 20% (78 of 391) negative experiences (PPS)	**Low** • Infections (such as fungal or bacterial infections from unclean tools and surfaces) and injuries (such as cuts from tools) **High** • Chemical exposure to hazardous substances with effects from contact dermatitis to possible risk of cancer if frequently exposed	**Moderate**
Exfoliation	**Low** • 189 licensed operators • 8 ACC claims • 0 complaints to the Health and Disability Commissioner (HDC) • 4 LEH complaints	**Low** • 144 licensed operators • 7 ACC claims[18,19] • 0 complaints to HDC • 0 LEH Complaints • 6% (5 of 87) negative experiences (PPS)	**Low** • Infections **High** • Chemical burns	**Moderate**
Massage	**Moderate** • 125 members of Massage NZ in Auckland • 14 ACC claims that did not involve soft tissue injuries[20] • 1 complaint to HDC • 0 LEH complaints	**Moderate** • Unknown number of Massage NZ members • 15 ACC claims that did not involve soft tissue injuries • 3 complaints to HDC • 0 LEH complaints • 6% (32 of 512) negative experiences (PPS)	**Low** • Infections (such as infections from contact with unclean surfaces)	**Low**
Colon hydro-therapy	**Low** • 8 operators (estimated) • 0 ACC claims[21] • 2 complaints to HDC that could have involved colon hydrotherapy • 0 LEH complaints	**Low** • 9 operators (estimated) • 0 ACC claims • 2 complaints to HDC that could have involved colon hydrotherapy • 0 LEH complaints • No negative experiences (PPS)	**Moderate** • Gastro-intestinal infections, perforated colon	**Low**

[18] It is unlikely there were serious injuries from chemical burns. Exfoliation peels containing phenol cause the most serious chemical burns. Since 2013, Phenol has been reclassified as a medicine only available by prescription and at pharmacies for specific uses. Phenol will be banned from being imported into New Zealand from 31 December 2025 and from sale from 31 December 2026.

[19] Majority of ACC claims for exfoliation occurred at homes and could be injuries caused by mobile or unlicensed operators, or from self-applied exfoliation.

[20] The 2018 Findings Report stated there were 35,370 ACC claims for massage in Auckland. The 2024 Code review filtered this data to exclude claims the Code does not regulate, such as fractures, sprains and soft tissue injuries.

[21] There were no ACC claims lodged for colon hydrotherapy between 1 January 2008 and 31 December 2023 and no People's Panel survey respondents had a negative experience from them between 2020 and 2022.

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Swimming pools	**Low** • 375 public swimming pools (estimated) • 5 ACC claims that did not involve falls[22] • 0 complaints to HDC • 1 complaint to WorkSafe • 0 complaints to LEH about water quality	**Low** • Unknown number of pools • 6 ACC claims that did not involve falls • 0 complaints to HDC • 1 complaint to WorkSafe • 0 LEH complaints • 22% (121 of 552) negative experiences (PPS)	**Low** • Gastro-intestinal infections **High** • Parasites (Cryptosporidiosis) **Very high** • Diseases (Legionellosis)	**Moderate**
Commercial sexual services	No data available			

- The 2024 risk matrix illustrates the methodology used to determine the risk level for each service. (see Appendix 4).
- The risk of physical harm caused by health and beauty services is likely to continue (see Chapter 5).

Are the Bylaw and Bylaw Control's desired objectives or outcomes the same?

✓ Yes. The objective and outcome are essentially the same as in 2018 but could be clarified to better align with the problem definition and Auckland Plan (see Chapter 6 for details).

How can the Bylaw and Code help achieve the desired objectives and outcomes?

- See Chapter 7 for a summary of how the Bylaw and Code can help achieve the desired objectives and outcomes. The following points provide further detail in relation to this topic.
- Operators of low-moderate risk services have apparent high levels of awareness and compliance with the Bylaw and Code from a 2023 operator survey[23] (see Table below).

Service	Total respondents	Aware operators (% of respondents)	Number of respondents who were aware	Licensed operators (% of respondents)	Licensed operator respondents
Hair removal*	319	91.9%	293	95.0%	303
Manicure/Pedicure	265	90.9%	241	95.5%	253
Exfoliation	242	93.4%	226	92.6%	224
Massage**	295	90.9%	268	94.9%	280
Colon hydrotherapy	Insufficient data available				
Public swimming pools	Insufficient data available				
Commercial sexual services	No data available				

** Hair removal data includes responses from hair removal, laser and intense pulsed light operators*
*** Massage operators are not required to be licensed, but licensed premises may offer massage as one of their services.*

- The Code appears to have been adopted by the Association of Registered Beauty Professionals.
- However, there appears to be low awareness of the Code from services that do not require a licence (for example public swimming pool operators).

[22] ACC swimming pool data is unlikely to be relevant to the Code.
[23] NZ Beauty Expo Survey was sent to all ticketholders of the 2023 NZ Beauty Expo. We received 1004 responses.

What are the alternatives?

- See Chapter 8 for a summary of the alternatives to a bylaw, code or both. The following points provide further detail in relation to this topic.

Alternative	Effectiveness and efficiency in addressing physical harm from services
Industry **self-regulation** (industry association involvement, responses to consumer reviews, media attention)	✓ The New Zealand Association of Registered Beauty Professionals represents operators offering hair removal, manicure/pedicure and exfoliation services. ✓ Massage New Zealand represents qualified massage therapists and promotes professional standards. ✓ The International Association of Colon Hydrotherapy supports colon hydrotherapists. ✓ All council pools belong to PoolSafe, an external audit scheme administered by Recreation Aotearoa, the industry body for aquatics businesses. PoolSafe covers the information in the Code but has additional requirements. × Recreation Aotearoa have created a Quality Pools audit scheme (that is easier to comply with than PoolSafe) for non-council controlled public swimming pools. The scheme has had few sign-ups since it was launched.
Relying on **general central government legislation**	× It is voluntary to comply with the New Zealand standard for pool water quality (NZS 5826: 2010). This standard is only enforceable if it is incorporated into regulations such as a bylaw. × Businesses that clean and maintain water quality in non-council public swimming pools are likely to have variable levels of compliance with NZS 5826:2010 ✓ Council-controlled public swimming pools are maintained by a contractor that is unaware of the Code and describes their operating procedures as meeting a higher standard than the Code (including complying with NZS 5826:2010). ✓ The Prostitution Reform Act 2003 and the Health and Safety at Work Act 2015 regulate commercial sexual services.

Are the Bylaw and Code 'fit for purpose' (no change required)?

× No. The Bylaw and Code are not fit for purpose. Parts of the Bylaw and Code are outdated, confusing, wrong or difficult to enforce.

- There are a number of suggestions for improving the Bylaw and Code (see Table below) but each suggestion has disadvantages. For example, establishing, implementing and administering a robust process for verifying qualifications would have cost and resource implications.

Suggested Bylaw and Code improvements for low-to-moderate risk services
• Make the contents of the Code more certain (easier for operators and enforcement officers to interpret) and easier to read.
• Low-to-moderate risk services could be removed from the Bylaw and Code, particularly: o colon hydrotherapy, as there have been no ACC claims in the last 10 years o commercial sexual services, as they are regulated by other legislation.
• Update the Code's technical standards for hair removal, colon hydrotherapy (if retained in the Bylaw) and public swimming pools.
• Make it easier for operators to comply with the Code (for example more practical rules for mobile operators and for sterilising equipment).
• The Bylaw and Code could clarify how they should be implemented (for example defining who should be the licence holder and which staff members should be inspected).
• Anecdotally, staff have heard there is limited public awareness that Council regulates health and beauty services in Auckland. Promotion of the Code could encourage reporting of unsafe practices and help minimise the risk of physical harm.
• Massage, colon hydrotherapy and public swimming pool operators are not required to be licensed. If LEH proactively identified these operators and educated them about the Code's standards, it could improve their practices and help minimise the risk of physical harm.

Suggested Bylaw and Code improvements for low-to-moderate risk services
• **Qualification requirements could be removed from the Code** for manicure/pedicure, exfoliation, and colon hydrotherapy. The Health and Hygiene Code of Practice uses qualifications as a way of assessing if someone can safely offer services. LEH staff and other government agencies – such as NZQA and Immigration NZ – find **verifying qualifications is extremely difficult**. Issues include determining if: o a specific qualification or educational institution is real o a qualification provides appropriate experience (for example an online course that does not provide sufficient practical experience) or can be compared to a qualification on the New Zealand Qualification Framework o an operator has actually graduated with the qualification.
• If the Code retains qualification requirements, they should either be part of the NZQA qualifications framework or able to be verified by council staff. Verification would require significant additional resourcing to LEH, as no central government agency is resourced to do this work.
• The qualifications requirements should also be amended to be internally consistent (for example the Code's rules should not contradict themselves). For example: • operators offering manicure/pedicure services must have a specific level of qualification but operators who provide higher-risk services (such as tattooing) do not necessarily need to have any qualifications. • the Code permits 'commercial industry experience' as an alternative to qualifications for manicure/pedicure and exfoliation operators. Working on a consumer without a qualification would be inconsistent with a strict interpretation of the current Code.
• The Code could be simplified down to a small list of essential safety and hygiene procedures that apply to all services (for example hand-washing and appropriate sterilisation of equipment).
• Introduce infringement fines if these become available.

Do the Bylaw and Code comply with legislation?
• The Bylaw and Code are authorised under the Local Government Act 2002 and Health Act 1956 and do not conflict with any other New Zealand legislation (see Chapter 10 for details).

Topic 2: High risk services

Explanation of Topic

- This topic refers to appearance and wellness services considered to pose a high risk of injury or infection to their customers, specifically:
  - 'beauty treatments' that pierce the skin (electrolysis, red vein, dermarolling / stamping) for skin rejuvenation, removing red veins and broken capillaries, and 'anti-ageing' treatments
  - acupuncture
  - IPL / Laser for hair removal, tattoo removal and skin rejuvenation.

Current Bylaw and Code

- The Bylaw regulates the above services by requiring operators in Auckland to:
  - obtain a licence from council to operate (cl 7), and
  - comply with relevant standards in a code of practice (cl 6).
- The Bylaw enables Auckland Council to make a code of practice (Code) that sets minimum standards and recommended best practice for the provision of the above services (cl 10).
- The Code requires these services to be provided in premises that are safe, hygienic and fit-for-purpose, and to conduct services safely and cleanly (see Table below).

Service (*Code reference*)	**Minimum Standards**
Piercing of the Skin *Part 3*	• Conduct: Must only provide services to a person **over 16 years** unless given parent consent and give relevant **precautions, consent and aftercare advice**. Must **keep a record** of services. Must thoroughly **wash hands** and wear **single-use surgical gloves**. Use **sterile or single-use** disposable or disinfected instruments. Evaluate and **prepare the skin** site before service. Must **dispose of sharps** appropriately. Must **clean and disinfect tools** that do not need to be sterile. Must **sterilise tools** with an autoclave. • Premises: Have smooth **water-proof flooring**. • Experience: Must always have one operator who holds a **current first aid workplace certificate** on site.
Acupuncture (including cupping and moxibustion) *Part 3D*	• Conduct: Use **sterile and single-use** disposable needles. Remove needles from packaging by the **handle**.
Electrolysis, Red Vein Treatment and Derma Rolling/ Stamping *Part 3E*	• Conduct: Use **sterile** or **single-use disposable instruments**, **securely store reusable derma rollers** / stamps. Wear **protective face / eyewear**. Use **gloves** when applying creams / lotions. **Keep a record** of services. Obtain **medical consent** for red vein treatment or electrolysis in certain circumstances. • Experience: Have appropriate **qualifications or industry experience**.
Pulsed Light and Laser Treatment *Part 7*	• Conduct: Give relevant **precautions, consent** (including medical history and skin type) **and aftercare advice**. Must **keep a record** of services. **Health practitioners only** to treat skin lesions / moles. **Medical consent** required to remove hair from moles. **Wear protective eyewear.** Ensure **equipment is calibrated**. Must **clean and disinfect** equipment. • Premises: Display **evidence of qualifications**. Must ensure there is a safe **'controlled area'** for equipment. • Experience: Have **appropriate qualifications** or industry experience in pulsed light and / or laser.

Bylaw and Code Implementation

- See Chapter 4 for a summary of how the Bylaw and Code are implemented. The following points provide further detail in relation to this topic.
- For high risk services:
  - as at 30 August 2024, there are:
    - 24 electrolysis licences
    - 12 acupuncture licences
    - 96 dermarolling licences
    - 4 red vein treatment licences
    - 43 IPL / laser licences
  - between 2018 and April 2024, LEH received 9 complaints about treatments that pierce the skin and 14 about IPL / Laser services.
  - **Note**: No data available on the number or outcomes of either inspections or requisitions.
- Since the Bylaw was made, the council has prosecuted one high risk service – a laser operator who caused injuries (third degree burns) to a consumer. One person was fined $1,000 for breaching the Code's rules around training, record-keeping and consent, premises, and maintenance of equipment, and was also ordered to pay reparations of $1,000 for emotional harm to the victim.

Is there still a problem and is the problem the same?

- Yes. The problem (as in 2018) continues to be the risk of physical harms to both consumers and operators from poor practices associated with high risk appearance and wellness services in Auckland. For example burns and eye damage from laser hair removal and bacterial infections from beauty treatments that pierce the skin (see Table below).

Service (Code reference)	Causes of risk	Physical harm impacts
Beauty treatments that pierce the skin (Part 3, 3E) *Includes electrolysis, red vein and dermarolling / stamping*	• Unhygienic equipment • Unhygienic premises • Unhygienic processes • Inappropriate skin preparation (including hand-washing).	• Bacterial infection • Blood borne diseases (for example Hepatitis B and C, HIV) • Excessive bleeding
Acupuncture (Part 3D) *Includes cupping and moxibustion*	• Unhygienic equipment • Unhygienic processes • Inappropriate skin preparation (including hand-washing).	• Blood borne diseases (for example Hepatitis B and C, HIV) • Collapsed lung • Electric shock (from electro-acupuncture) • Burning (moxibustion, cupping) • Skin infections (cupping)
Intense Pulsed Light / Laser (Part 7)	• Unsafe equipment • Unhygienic premises • Unhygienic processes • Inappropriate skin preparation (including hand-washing).	• Bacterial infections • Eye damage • Scarring • Burning • Skin cancer (lasering over a lesion or mole makes it less likely to detect melanomas)

- The frequency and impact of physical harm from these services in Auckland creates a high risk (see Table below for data and Appendix 4 for risk matrix).[24] For example:
  - while the frequency of harm from 'beauty treatments' that pierce the skin is low (no ACC claims in 2023), the impact can be moderate-to-high which equates to a high risk (for example Hepatitis B transmitted by reused and unsterilised equipment)
  - while the frequency of harm from IPL / laser is moderate (12 ACC claims in 2023), the impact can be moderate-to-high which equates to a high risk (for example skin cancer as lasering over a lesion or mole makes it less likely to detect melanoma).
- Further, while the potential physical harms from these services can be high, the actual harm appears to be low-to-moderate as consumers appear to prioritise posting negative online reviews, seeking treatment from primary healthcare providers such as pharmacies or GPs, and making ACC claims when necessary.
  - **Note**: Consumers appear to have a low awareness that they can report incidents to council.[25]
- The following table shows the number of complaints and incidences of harm for each type of very high-risk service in 2018 and 2023, and the types of harm each service can cause.

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Beauty treatments that pierce the skin *Includes red vein and dermarolling / stamping*	**Low** o 263 licensed operators o 0 ACC claims o 2 complaints to the Health and Disability Commissioner (HDC) that could have involved skin piercing services or electrolysis o 0 complaint to WorkSafe o 1 LEH complaint that could have involved skin piercing services or electrolysis	**Low** o 100 licensed operators o 0 ACC claims o 2 complaints to the Health and Disability Commissioner (HDC) that could have involved skin piercing services or electrolysis o 0 complaints to WorkSafe o 1 LEH complaint that could have involved skin piercing services or electrolysis o 9% (11 of 119) People's Panel Survey (PPS) respondents who had one of these services within the previous three years had a negative experience	**Moderate** Bacterial infections **High** Blood borne diseases and excessive bleeding	**High**
Acupuncture *Includes cupping and moxibustion*	No data available			

[24] Chapter 1.7 fully describes the data limitations on this analysis.
- At the time of this analysis, the most recent WorkSafe data held by staff was for 2022.
- Health and Disability Commissioner data describes general categories; each complaint might apply to multiple services.
- No central government agency holds data on the rates on infections from different services.
- ACC claims data only includes commercial services the Code covers. Incidents at home (which could include unlicensed operators) have been excluded.
- Based on ACC claims data, there appear to be more incidences of physical harm than are reported to council.
- The results from the council's NZ Beauty Expo survey include a mix of licensed and unlicensed operators.

[25] The Peoples Panel Survey in December 2022 found only seven per cent of consumers (84 out of 1213 respondents) reported incidents to council.

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Electrolysis	**Low** ○ 136 licensed operators ○ 1 ACC claim ○ 2 complaints to the Health and Disability Commissioner (HDC) that could have involved skin piercing services or electrolysis ○ 0 complaints to WorkSafe ○ 1 LEH complaint that could have involved skin piercing services or electrolysis	**Low** ○ 24 licensed operators ○ 0 ACC claims ○ 2 complaints to the Health and Disability Commissioner (HDC) that could have involved electrolysis ○ 0 complaints to WorkSafe ○ 1 LEH complaint that could have involved skin piercing services or electrolysis ○ 6% (1 of 17) PPS had a negative experience	**Moderate** Bacterial infections **High** Blood borne diseases and excessive bleeding	**High**
Intense Pulsed Light / Laser	**Low** ○ Unknown licensed operators ○ 9 ACC claims ○ 2 complaints to HDC that could have involved IPL / laser ○ 0 complaints to WorkSafe ○ 2 LEH complaints	**Moderate** ○ 43 licensed operators ○ 12 ACC claims ○ 2 complaints to HDC that could have involved IPL / laser ○ 0 complaints to WorkSafe ○ 0 LEH complaints ○ 8% (9 of 106) PPS had negative experiences	**Moderate** Bacterial infections **High** Eye damage, scarring, burning or skin cancer (lasering over a lesion or mole makes it less likely to detect melanomas)	**High**

- The 2024 risk matrix illustrates the methodology used to determine the risk level for each service. (see Appendix 4).

Note: ACC claims data only includes commercial services. Incidents at home (which could include unlicensed operators) have been excluded (see also Chapter 1.7).

- The risk of physical harm caused by health and beauty services is likely to continue (see Chapter 5).

Are the Bylaw and Bylaw Control's desired objectives or outcomes the same?

✓ Yes. The objective and outcome are essentially the same as in 2018 but could be clarified to better align with the problem definition and Auckland Plan (see Chapter 6 for details).

How can the Bylaw and Code help achieve the desired objectives and outcomes?

- See Chapter 7 for a summary of how the Bylaw and Code can help achieve the desired objectives and outcomes. The following points provide further detail in relation to this topic.
- Council has successfully prosecuted one IPL / Laser operator (see 'Bylaw and Bylaw Control implementation', above)
- Operators of high-risk services have apparent high levels of awareness and compliance with the Bylaw and Code from a 2023 operator survey[26] (see Table below).

Service	Total respondents	Aware operators (% of respondents)	Number of respondents who were aware	Licensed operators (% of respondents)	Licensed operator respondents
Beauty treatments that pierce the skin*	194	92.8%	180	71.6%	139
Acupuncture	No data available				
IPL / Laser**	319	91.9%	293	95.0%	303

** 'Beauty treatments' that pierce the skin include responses from dermal filler / Botox operators (who are not regulated in Code).*
*** IPL / Laser data includes hair removal (waxing), laser and intense pulsed light operators, so operator numbers appear higher.*

- The Code appears to have been adopted by the Association of Registered Beauty Professionals.

[26] NZ Beauty Expo Survey was sent to all ticketholders of the 2023 NZ Beauty Expo. We received 1004 responses.

What are the alternatives?

- See Chapter 8 for a summary of the alternatives to a bylaw, a code or both. The following Table provide further detail in relation to this topic.

Alternative	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on industry **self-regulation** (industry association involvement, responses to consumer reviews, media attention)	✓ The New Zealand Association of Registered Beauty Professionals represents operators offering beauty treatments that pierce the skin and IPL / Laser services.
Relying on **general central government legislation**	✓ The Health Practitioners Competence Assurance Act 2003 now regulates traditional Chinese medicine, including acupuncture.

Is the Bylaw 'fit for purpose' (no change required)?

✗ No. The Bylaw and Code are not fit for purpose. Parts of the Bylaw and Code are outdated, confusing, wrong or difficult to enforce.

- There are a number of suggestions for improving the Bylaw (see Table below) but each suggestion has disadvantages. For example, establishing, implementing and administering a robust process for verifying qualifications would have cost and resource implications.

Suggested Bylaw and Code improvements for high risk services
• Make the contents of the Code more certain (easier for operators and enforcement officers to interpret) and easier to read.
• Acupuncture should be removed from the Bylaw and Code as it is now regulated under the Health Practitioners Competence Assurance Act 2003
• Update the Code's technical standards for electrolysis and IPL / laser services (for example to remove inaccuracies). o The Code references the safe use of lasers standard (AS/NZS 4173: 2004). However, it does not state a specific certificate must be obtained. This standard has been replaced with an updated version (AS/NZS 4173:2018).
• Make it easier for operators to comply with the Code (for example more practical rules for sterilising equipment).
• The Bylaw and Code could clarify how they should be implemented (for example defining who should be the licence holder and which staff members should be inspected).
• The Bylaw and Code could require operators to be inspected while they are providing a service (for example LEH staff could conduct unscheduled 'drop-in' inspections).
• LEH staff could adjust the frequency of inspections depending on a licence-holder's level of compliance.
• Anecdotally, staff have heard there is limited public awareness that Council regulates health and beauty services in Auckland. Promotion of the Code could encourage reporting of unsafe practices and help minimise the risk of physical harm.
• Consider whether the requirement to exempt consumers with a family history of melanoma from receiving IPL / laser services are minimising incidence of melanoma and therefore necessary. o Four stakeholders have told us they disagree with the Code's standard that states a person with a family history of melanoma must be exempt from all IPL and laser treatment. o One operator explained that laser treatments do not cause melanoma. Instead, lasers can remove the pigment out of melanoma which would make it undetectable. o All four operators agreed if specific qualifications are obtained before providing IPL / laser services, they can identify what they should not laser and take measures to avoid.
• Introduce standards regulating laser tattoo removal.

Suggested Bylaw and Code improvements for high risk services

• **Qualification requirements could be removed from the Code** for high risk services.
• The Health and Hygiene Code of Practice uses qualifications as a way of assessing if someone can safely offer services. LEH staff and other government agencies – such as NZQA and Immigration NZ – find **verifying qualifications is extremely difficult**. Issues include determining if:
  o a specific qualification or educational institution is real
  o a qualification provides appropriate experience (for example an online course that does not provide sufficient practical experience) or can be compared to a qualification on the New Zealand Qualification Framework
  o an operator has actually graduated with the qualification.

• If the Code retains qualification requirements, they should:
  o either be part of the NZQA qualifications framework or the Code should specify the exact qualifications for providing IPL and laser services, and
  o be able to be verified by council staff.
• Anecdotally, IPL / laser operators have seen operators become licensed with very limited knowledge and experience and who have stated they have adequate qualifications.
  o Staff interviewed two operators who believe operators should obtain a Laser Safety Certificate at a bare minimum before providing services.

• The qualifications requirements should also be amended to be internally consistent (for example the Code's rules should not contradict themselves). For example: o for electrolysis and laser / IPL treatments, the Code permits 'commercial industry experience' as an alternative to qualifications. Working on a consumer without a qualification would be inconsistent with a strict interpretation of the current Code.
• The Code could be simplified down to a small list of essential safety and hygiene procedures that apply to all services (for example hand-washing and appropriate sterilisation of equipment).
• Introduce infringement fines if these become available.

Do the Bylaw and Code comply with legislation?
• The Bylaw and Code are authorised under the Local Government Act 2002 and Health Act 1956 and do not conflict with any other New Zealand legislation (see Chapter 10 for details). • **Note**: Health Practitioners Competence Assurance Act 2003 now regulates acupuncture, cupping and moxibustion practitioners. These services are currently exempt under clause 9(1)(a) of the Bylaw.

Topic 3: Very high risk services

Explanation of Topic

- This topic refers to appearance and wellness services considered to pose a very high risk of injury or infection to their customers, specifically:
  - body piercing and body modification
  - tattooing, including with traditional tools (tools that are culturally traditional in structure – for example made of bone or wood – and that are used in procedures such as tā moko, tatau, or any other traditional tattooing practice that has recognised cultural significance)
  - sun-beds and solariums.

Current Bylaw and Code

- The Bylaw regulates the above services by requiring operators in Auckland to:
  - obtain a licence from council to operate (cl 7), and
  - comply with relevant standards in a code of practice (cl 6).
- The Bylaw restricts the provision of eyeball tattoo services to appropriately qualified health practitioners such as ophthalmologists (eye specialists) (cl 8).
- The Bylaw exempts tā moko (traditional Māori tattooing) from complying with the Bylaw if it is undertaken by artists authorised by an Auckland marae and given in accordance with tikanga Māori (cl 9).
- The Bylaw enables Auckland Council to make a code of practice (Code) that sets minimum standards and recommended best practice for the provision of the above services (cl 10).
- The Code requires the above services to be conducted in premises that are safe, hygienic and fit-for-purpose, and to conduct services safely and cleanly. Sun-bed operators must also obtain informed consent from consumers (see Table below).

Service (*Code reference*)	**Minimum Standards**
Body piercing and body modification *Part 3A*	• Conduct: Must use **cleaned** or **sterilised** instruments and jewellery. Must use **high-quality, undamaged jewellery**.
Tattooing *Part 3B* Traditional tools tattooing *Part 3C*	• Conduct (tattooing): Must use **sterile or single-use** disposable or disinfected instruments, and inks decanted for a specific customer. Must **dispose** of inks and any materials that contact bodily fluids appropriately. • Conduct (traditional tools tattooing): Must **wash hands**. Must wear **single-use surgical gloves** and use **sterile** or **single-use** disposable or disinfected instruments. Must **sterilise equipment** appropriately.
Sun-beds *Part 6*	• Conduct: Must not allow people to use a sun-bed if they are **under 18**, or have used a sun-bed **within 48 hours** or over three times in the last week, or have Skin Phototype 1 or a history of melanoma. Must assess and keep a record of **customer's skin type**. Must provide **appropriate warnings** and information. Must set and control appropriate **exposure times**, and **supervise** customers. Must ensure equipment is **safe and hygienic**. Operators must wear and disinfect **protective eyewear**. • Experience: Have appropriate **training and knowledge**.

Bylaw and Code Implementation

- See Chapter 4 for a summary of how the Bylaw and Code are implemented. The following points provide further detail in relation to this topic.
- For very high risk services:
  - in Auckland as at 30 August 2024, there were:
    - 38 body piercing licences
    - 130 tattooing licences
    - 5 traditional tools tattooing licences
    - 12 sun-bed licences.
  - between 2018 and April 2024, LEH received 12 complaints about body piercing services, 25 complaints about tattooing services (including one for traditional tools tattooing), and five complaints about sun-bed and solarium services
  - **Note**: No data available on the number or outcomes of either inspections or requisitions.
- LEH use the same licensing and inspection processes for commercial tattooists, people offering tattoos using traditional tools, and people offering culturally significant tattooing such as tatau (traditional Samoan tattooing given by tufuga te tatau).
  - LEH Environmental Health officers do not have the expertise to inspect or assess tufuga te tatau to ensure they are providing safe tatau.
- Public health officials conduct six-monthly surveys of sun-bed operators, which LEH assists with by providing officials with the results of their inspections. These surveys ensure operators are familiar with best practice procedures to reduce the risks from exposure to ultra-violet (UV) radiation from sun-beds.
- Since the Bylaw was made, the council has prosecuted one very high risk service – a tattoo studio owner and its operator that tattooed a 16-year-old.
  - Both the owner and operator entered guilty pleas and were each fined $350 in emotional reparations to the 16-year-old. The council also recovered $260 in court costs.

Is there still a problem and is the problem the same?

- Yes. The problem (as in 2018) continues to be the risk of physical harms to both consumers and operators from poor practices associated with very high risk health and beauty services in Auckland. For example Hepatitis B and bacterial infections from body piercing and tattooing, and burns, eye damage and skin cancer from sun-beds (see Table below).

Service (Code reference)	Causes of risk	Physical harm impacts
Body piercing and body modification (Part 3A)	• Unhygienic equipment • Unhygienic premises • Unhygienic processes • Inappropriate skin preparation (including hand-washing) • Poor quality jewellery.	• Cuts • Bacterial infections • Blood-borne diseases (for example Hepatitis B and C, HIV)
Tattooing Includes traditional tools tattooing (Parts 3B and 3C)	• Unhygienic equipment • Unhygienic premises • Unhygienic processes • Inappropriate skin preparation (including hand-washing) • Inappropriate dyes.	• Cuts • Bacterial infections • blood-borne diseases (for example Hepatitis B and C, HIV)
Sun-beds and solariums (Part 6)	• Inadequate training • Unsafe equipment • Unsafe processes • Inappropriate skin-type assessment.	• Burns • Eye damage • Skin cancer

- The frequency and impact of physical harm from these services in Auckland create a very high risk (see Table below for data and Appendix 4 for risk matrix).[27] For example:
    - while the frequency of harm from body piercing and body modification is low-to-moderate (12 ACC claims in 2023), the impact can be high-to-very high which equates to a very high risk (for example HIV and Hepatitis B transmitted by reused and unsterilised equipment)
    - while the frequency of harm from tattooing is high (41 ACC claims in 2023), the impact can be high-to-very high which equates to a very high risk (for example HIV and Hepatitis B transmitted by reused and unsterilised equipment)
    - the frequency of low impact harms from sun-beds and solariums is low to non-existent (no ACC claims in 2023). Staff infer there is a very high risk from sun-bed services because they are specifically regulated by the Health Act 1956 and monitored by public health officials. There are data limitations to this assessment because there is insufficient data to determine the frequency of high and very high impact harms (for example permanent eye damage or skin cancer from UV radiation).
        - ACC claims data does not cover skin cancers.
        - A skin cancer cannot be linked to a specific instance of using a sun-bed. Damage from UV exposure is cumulative and increases the risk of skin cancer over time. Sun-beds may only be one source of UV radiation and skin cancers can manifest years after exposure.
        - The number of sun-bed operators in Auckland is decreasing, which may further decrease the frequency of harms.
- In 2019, the Bylaw restricts eyeball tattooing so that only appropriately qualified health practitioners can provide this service. Desktop research did not find any reports of eyeball tattooing occurring in Auckland since 2019.
- Further, while the potential physical harms from some services can be very high, the actual harm appears to be at the low-to-moderate end as consumers appear to prioritise posting negative online reviews, seeking treatment from primary healthcare providers such as pharmacies or GPs, and making ACC claims when necessary.
    - public health officials have not reported any instances of transmission of notifiable blood-borne diseases from body piercing or tattoo services in Auckland since 2018.
    - **Note**: Consumers appears to have a low awareness that they can report incidents to council.[28]

[27] Chapter 1.7 fully describes the data limitations on this analysis.
- At the time of this analysis, the most recent WorkSafe data held by staff was for 2022.
- Health and Disability Commissioner data describes general categories; each complaint might apply to multiple services.
- No central government agency holds data on the rates on infections from different services.
- The ACC claims data for tattooing combines the physical harms from tattooing and traditional tools tattooing.
- ACC claims data only includes commercial services the Code covers. Incidents at home (which could include unlicensed operators) have been excluded.
- Based on ACC claims data, there appear to be more incidences of physical harm than are reported to council.
- No agency collects data on harms from tatau or other forms of culturally significant tattooing that use traditional tools. **Note**: Reports by public health officials indicate that isolated instances of harm do continue to occur. For example in 2020 two Samoan men in Wellington had infective complications from tatau given by a visiting tufuga.
- The results from the council's NZ Beauty Expo survey include a mix of licensed and unlicensed operators.
- The available data is unable to compare what difference the Bylaw and Code make to skin cancer rates in Auckland and the rest of New Zealand. Exposure to UV radiation emitted by sun-beds can cause skin cancers which can have a long delay before appearing.

[28] The Peoples Panel Survey in December 2022 found only seven per cent of consumers (84 out of 1213 respondents) reported incidents to council.

Service	Incidence of actual harm in Auckland in 2018	Incidence of actual harm in Auckland in 2023	Consequences / Harm	Risk level
Body piercing and body modification	**Low** • 41 licensed operators • 7 ACC claims • 2 complaints to the Health and Disability Commissioner (HDC), which may have involved body piercing • 0 complaints to WorkSafe • 1 complaint to LEH	**Moderate** • 38 licensed operators • 12 ACC claims • 2 complaints to HDC, which may have involved body piercing • 0 complaints to WorkSafe in 2022 • 1 complaint to LEH • 3% (1 of 30) People's Panel Survey respondents (PPS) had negative experiences	**Low** Cuts **High** Bacterial infections, Blood-borne diseases (for example Hepatitis B and C **Very high** Blood-borne diseases (for example HIV)	**Very high**
Tattooing *Includes traditional tools tattooing*	**High** • 115 licensed operators • 39 ACC claims • 2 complaints to HDC, which may have involved tattooing • 0 complaints to WorkSafe • 9 complaints to LEH	**High** • 135 licensed operators (including 5 for traditional tools tattooing) • 41 ACC claims • 2 complaints to HDC, which may have involved tattooing • 0 complaints to WorkSafe in 2022 • 4 complaints to LEH • 5% (5 of 96) negative experiences for tattooing (PPS) • 0% (0 of 4) negatives experiences for traditional tools tattooing (PPS)	**Low** Cuts **High** Bacterial infections, Blood-borne diseases (for example Hepatitis B and C **Very high** Blood-borne diseases (for example HIV)	**Very high**
Sun-beds and solariums	**Low** • Unknown number of licensed operators • 0 ACC claims • 2 complaints to HDC, which may have involved sun-beds • 0 complaints to WorkSafe • 0 complaints to LEH	**Low** • 12 licensed operators • 0 ACC claims • 2 complaints to HDC, which may have involved sun-beds • 0 complaints to WorkSafe in 2022 • 0 complaints to LEH • 14% (1 of 7) negative experiences (PPS)	**Moderate** Burns **High** Eye damage (temporary), skin cancer (treatable) **Very high** Eye damage, skin cancer	**Very high**

- The 2024 risk matrix illustrates the methodology used to determine the risk level for each service (see Appendix 4).
- The risk of physical harm caused by health and beauty services is likely to continue (see Chapter 5).

Are the Bylaw and Bylaw Control's desired objectives or outcomes the same?

✓ Yes. The objective and outcome are essentially the same as in 2018 but could be clarified to better align with the problem definition and Auckland Plan (see Chapter 6).

How can the Bylaw and Code help achieve the desired objectives and outcomes?

- See Chapter 7 for a summary of how the Bylaw and Code can help achieve the desired objectives and outcomes. The following points provide further detail in relation to this topic.
- Body piercing, body modification and tattooing (including traditional tools tattooing) operators appear to have high levels of awareness of and compliance with the Code (see Table below).[29]

Service	Total respondents	Aware operators (% of respondents)	Number of respondents who were aware	Licensed operators (% of respondents)	Licensed operator respondents
Body piercing, body modification, tattooing (including traditional tools tattooing) *	284	92.3%	262	82.0%	233
Sun-beds and solariums	No data available from survey				

** The survey combined these services into one category*

- Sun-bed operators in Auckland are more aware of and compliant with the Code's requirements than operators in the rest of New Zealand, based on results of Ministry of Health surveys[30,31,32] (see Table below).
  - The number of sun-bed operators is decreasing nationally. This trend is expected to continue.[33]
  - Public health officials annually survey all sun-bed operators in New Zealand to ensure they are aware of relevant Australian / New Zealand technical standards.[34]

Service	2018			2019			2020-2021
Sun-beds and solariums	Auckland	Rest of NZ	All of NZ	Auckland	Rest of NZ	All of NZ	All of NZ
	98.2%	87.8%	89.3%	97%	87.8%	89.7%	97%

- While Auckland Council has received very few complaints, the council has prosecuted one tattoo operator for breaching the Bylaw's and Code's requirements to not provide tattoos to someone under the age of 18.

[29] NZ Beauty Expo Survey was sent to all ticketholders of the 2023 NZ Beauty Expo. We received 1004 responses.

[30] Visits to commercial solaria by DHB Public Health Units between 1 February and 31 July 2019: Summary of findings

[31] Surveillance of commercial solaria by DHB Public Health Units in the period 2020-21: Summary of findings.

[32] There are data limitations to the Ministry of Health survey results.

- There is limited and unrepresentative data for 2020-2021 as the survey was conducted around Covid lockdowns.
- The percentage represents the number of operators that had full or nearly full compliance with eleven aspects of operations. These aspects closely align with the Code's standards.

[33] Surveillance of commercial solaria by DHB Public Health Units in the period 2020-21: Summary of findings.

[34] AS/NZS 2635:2008 *Solaria for cosmetic purpose*

What are the alternatives?

- See Chapter 8 for a summary of the alternatives to a bylaw, code or both. The following points provide further detail in relation to this topic.

Alternative	Effectiveness and efficiency in addressing physical harm caused by health and beauty services
Relying on industry **self-regulation** (industry association involvement, responses to consumer reviews, media attention)	✓ The Malofie Association supports tufuga te tatau (master tattooists in the art of Samoan tatau) ✓ The New Zealand Association of Registered Beauty Professionals represents operators offering cosmetic tattoos × Staff are unaware of industry associations for body piercing, body modification or tattooing (excluding cosmetic tattooing). × One association for sun-beds and solariums (Indoor Tanning Association of New Zealand) has closed due to a lack of industry support.
Treating **moderate- and high-level physical harms** with primary healthcare, public health responses (see above) and standard general regulatory responses from government agencies (see above)	× In some cases, ACC may be able to provide cover for an infection arising from a tattoo or piercing – but all ACC claims are assessed on a case-by-case basis.
Relying on **general central government legislation**	× There are no central government regulations specifically for body piercing and tattooing services. • For body piercing and body modification services, additional measures include: o Manatū Hauora / Ministry of Health published voluntary guidelines for the safe piercing of skin in 1998. • For tattooing services, including traditional tools tattooing, additional measures include: o manufacturers and suppliers of tattoo inks complying with Environmental Protection Agency standards o Manatū Hauora / Ministry of Health published voluntary Customary Tattooing Guidelines for Operators in 2010. • For sun-bed and solarium services, additional measures include: o public health officials continuing to visit sun-bed operators to check their operational practices against the recommendations in AS/NZS 2635:2008 Solaria for cosmetic purpose (potentially assisted by council's Environmental Health officers). o Sun-bed and solarium operators do not need to comply with AS/NZS 2635:2008 Solaria for cosmetic purposes or other relevant standards unless they are incorporated into legislation (such as a bylaw).
Relying on **other organisations**	✓ Consumer New Zealand conducts annual 'mystery shopper' inspections on sun-bed operators. They send people with pale skin to operators, to see if they will provide them with sunbed services. Consumer New Zealand sends information about non-compliant operators to Auckland Council.

Are the Bylaw and Code 'fit for purpose' (no change required)?
✗ No. The Bylaw and Code are not fit for purpose as they are not minimising the risk of physical harm from very high risk health and beauty services in Auckland. • There are a number of suggestions for improving the Bylaw (see Table below) but some suggestions have disadvantages or are not implementable. For example the bylaw-making legislation does not enable LEH staff to conduct unscheduled 'drop-in' inspections on operators.

If the Bylaw and Code are still required for any very high risk services, then the following changes should be considered.
• Make the contents of the Code more certain (easier for operators and enforcement officers to interpret) and easier to read.
• Update the Code's technical standards for body piercing, tattooing and traditional tools tattooing.
• Update the Code's technical standards for sun-beds and solariums. • Align the technical standards for sun-beds with Ministry of Health survey requirements.
• Make it easier for operators to comply with the Code (for example more practical rules for mobile operators and for sterilising equipment).
• Reflect current tattooing practices by issuing health protection licences to individual operators rather than to a premise and by removing rules for the use of autoclaves (which the tattooing industry is phasing out).
• The Bylaw and Code could clarify how they should be implemented (for example defining who should be the licence holder and which staff members should be inspected).
• The Bylaw and Code could require operators to be inspected while they are providing a service. For example LEH staff could conduct unscheduled 'drop-in' inspections to assess if tattoo artists were complying with the Code.
• LEH staff could adjust the frequency of inspections depending on a licence-holder's level of compliance.
• Anecdotally, staff have heard there is limited public awareness that Council regulates health and beauty services in Auckland. Promotion of the Code could encourage reporting of unsafe practices and help minimise the risk of physical harm.
• Practitioners giving culturally significant tattooing could be exempted from the Bylaw and Code. • If Auckland Council continued to regulate tattooing, there are challenges to regulating culturally significant tattooing such as Samoan tatau. • Under the Bylaw and Code, the council's roles are to **authorise operators** to practice in Auckland (by giving them a licence) and to **ensure they are offering safe services** in a way that protects public health (by inspecting them). • Auckland Council may not be the appropriate body to authorise a person to give culturally significant tattoos. Each community will have its own ways of determining this. For example, the right to practice tatau is a gift passed down through generations of two Samoan families who train apprentices. For an apprentice to become a tufuga ta tatau (master tattooist), they must have their own pe'a (lower body tatau from waist to knee), hold a matai title, and have a formal benediction from a master. • Auckland Council is also not well-suited to ensuring practitioners provide safe culturally significant tattoos. For example LEH officers may not have the cultural expertise to inspect or assess tufuga te tatau to ensure they are providing safe tatau. • Communities and practitioners of culturally significant tattooing have different opinions about whether Auckland Council should regulate culturally significant tattooing, with some accepting the council's licensing, inspecting, and enforcing role. Others find it offensive or inappropriate for reasons such as: o significant cultural sensitivities around council regulating well-respected practitioners o council regulation of tatau is seen by some tufuga and members of the wider tatau community as inconsistent with the Bylaw's exemption of tā moko. • If the council continued to regulate tattooing, it could exempt all culturally significant tattooing from the Bylaw and Code.

If the Bylaw and Code are still required for any very high risk services, then the following changes should be considered.
• Alternatively, culturally significant tattooing could be overseen by culturally appropriate bodies that can ensure safe practices. That would be similar to how tā moko is exempted. In this case, staff would need to investigate whether communities with a tradition of culturally significant tattooing have representative bodies that: o considered it culturally appropriate to ensure practitioners in their communities were providing safe culturally significant tattoos using traditional tools o could ensure practitioners changed their practice if necessary. • There are examples of how this might work: o The wider tatau community has initiated at least two workshops to engage with tufuga about the art of safe tatau (in 2019 and 2023). o The Malofie Association was formed in 2019 to represent tufuga te tatau.
• Explore if there are ways to ensure operators offering very high risk services are competent. Currently there are no qualification requirements for operators of very high risk services and operators may be self-taught. Alternatives could include: o gaining commercial experience working for another operator o having a specified number of years of commercial experience already o investigating if appropriate qualifications for very high risk services have been introduced.
• Investigate whether the requirement for a 48-hour gap between sun-bed sessions reflects current research.
• The Code could be simplified down to a small list of essential safety and hygiene procedures that apply to all services (for example hand-washing and appropriate sterilisation of equipment).
• Increase the council's powers to enforce the Code by applying to central government for the ability to use infringement fines under the Local Government Act 2002.

Do the Bylaw and Code comply with legislation?
• The Bylaw and Code are authorised under the Local Government Act 2002 and Health Act 1956 and do not conflict with any other New Zealand legislation (see Chapter 10 for details).

Appendix 2: ACC claims data

Staff analysed ACC claims data for the services covered by the Health and Hygiene Bylaw and Code.

The data covers the time period from 2014 (when the Code came into effect) to 2023.

All services in Auckland

Source data: ACC claims, 2014-2023 – Auckland only

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Hair removal	23	33	30	32	29	27	29	26	16	15
Manicure / Pedicure	30	28	32	41	31	31	29	28	42	50
Exfoliation	4	5	8	11	8	7	8	9	7	7
Massage	14	12	14	12	14	15	21	18	19	15
Colon Hydrotherapy	0	0	0	0	0	0	0	0	0	0
Public swimming pools	9	5	26	11	5	10	9	4	5	6
Electrolysis	0	1	0	0	1	0	0	0	0	0
Intense pulsed light (IPL) /Laser	13	11	12	18	9	8	10	12	13	12
Specific piercing the skin services	0	0	0	0	0	0	0	1	0	0
Body piercing and body modification	17	17	10	15	7	13	14	12	23	12
Tattooing, including traditional tools tattooing	24	39	41	38	39	39	25	22	43	41
Sun-beds and solariums	0	2	1	0	0	0	0	0	0	0
Total	**134**	**153**	**174**	**178**	**143**	**150**	**145**	**132**	**168**	**158**
3-year rolling average			**154**	**168**	**165**	**157**	**146**	**142**	**148**	**153**

Average	**153.5**

Low-to-moderate risk services

Hair removal (ACC claims, 2014-2023)

Includes waxing, threading or tweezing

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	**23**	**33**	**30**	**32**	**29**	**27**	**29**	**26**	**16**	**15**

About the data used in this analysis:

- Data includes ACC claims at commercial locations, and at home locations (to include mobile operators). This will also include unlicensed operators and home / personal injuries.
- For all hair removal ACC claims, the primary diagnosis was equal to Laceration / Puncture / Sting or Burn.
    - For general hair removal related claims, the accident description also contained ‘tweezing’ or ‘epilation’
    - For waxing hair removal related claims, the accident description also contained 'wax' and any of the following: armpit, leg, bikini, lip, Brazilian, eyebrow, or hair.
    - For threading hair removal related claims, the accident description also contained 'thread' and any of the following: eyebrow, hair, or lip.
- There are 342 licensed hair removal service operators.

Manicure / Pedicure (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	30	28	32	41	31	31	29	28	42	50

About the data used in this analysis:

- Data includes ACC claims at commercial locations, and at home locations (to include mobile operators). This will also include unlicensed operators and home / personal injuries.
- For manicure / pedicure related claims, the primary diagnosis was equal to Laceration / Puncture / Sting and Burn, and the accident description also contained any of the following: mani pedi, nail bar. manicure, nail salon, pedicure
- For manicure / pedicure chemical exposure related claims the accident description or the primary injury description also contained 'chemical'.
- There are 184 licensed manicure / pedicure service operators.

Exfoliation (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	4	5	8	11	8	7	8	9	7	7

About the data used in this analysis:

- Data includes ACC claims at commercial locations, and at home locations (to include mobile operators). This will also include unlicensed operators and home / personal injuries.
- For exfoliation related claims the accident description contained any of the following: chemical peel, micro derm, enzyme peel, hydra facial,[35] skin peel, hydra dermabrasion, exfoliat[36]
- There are 144 licensed exfoliation operators.

Massage (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	14	12	14	12	14	15	21	18	19	15

About the data used in this analysis:

- Data includes ACC claims at commercial locations, and at home locations (to include mobile operators). This will also include unlicensed operators and home / personal injuries.
- Data excludes ACC claims about soft tissue injuries, which the Bylaw and Code do not regulate.
- For massage related ACC claims the primary diagnosis was not equal to Soft Tissue Injury, Contusion, Dislocation, Fracture, Fracture / Dislocation or Sprain Or Strain and the accident description contained ‘massage’ and could contain any of the following: skin, pierc, lacerat, break, burn, punctur
- There are an unknown number of massage service operators as Auckland Council does not require them to be licensed.

[35] ‘hydra’ was incorrectly used as the search term for ‘hydro facial’ and ‘hydro dermabrasion’.

[36] **Note**: ACC data requests use word fragments that bring up different versions of the word - for example ‘exfoliat’ would find ‘exfoliating’ and ‘exfoliation’, while ‘pierc’ would find ‘pierce’ or ‘piercing’.

Colon hydrotherapy (ACC claims, 2014-2023)

- **There were no colon hydrotherapy claims** lodged between 1 January 2008 and 31 December 2023.
- Nine colon hydrotherapy operators estimated to be operating in Auckland. The council does require them to be licensed.
- For colon hydrotherapy related ACC claims the accident description could contain either 'colon hydro' or 'colonic hydro'.

Public swimming pools (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	9	5	26	11	5	10	9	4	5	6

About the data used in this analysis:

- Data only includes ACC claims for commercial locations as the Code does not regulate home / private swimming pools.
- For pool related ACC claims the primary diagnosis was equal to Laceration / Puncture / Sting, the injury cause does not relate to falls, and the accident description also contained any of the following: water play park, splash pad, swim, pool
- There are an unknown number of public swimming pool operators as Auckland Council does not require them to be licensed.

High risk services

Electrolysis (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	0	1	0	0	1	0	0	0	0	0

About the data used in this analysis:

- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- For electrolysis treatment skin related ACC claims the accident description contained 'electrolysis'.
- There are 24 licensed electrolysis operators.

Intense pulsed light (IPL) / Laser (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	13	11	12	18	9	8	10	12	13	12

About the data used in this analysis:

- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- For laser and pulsed light related ACC claims the primary diagnosis was equal to Burn, and the accident description also contained any of the following: laser hair remov, light therapy, IPL , - photo rejuvinat, laser, photo rejuven, LED therapy, pulsed light.
- This data may include injuries from other types of lasers.
- There are 43 licensed laser / IPL operators.

Specific piercing the skin services (ACC claims, 2014-2023)

These include derma-blading, derma-planing, derma-rolling, derma-stamping, micro-planing, and red vein treatments.

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	0	0	0	0	0	0	0	1	0	0

About the data used in this analysis

- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- For specific piercing the skin related ACC claims the accident description could contain any of the following: derma roll, derma plan, derma stamp, micro plan, derma blad, red vein treat.
- There are 100 operators licensed to provide services that pierce the skin.

Very high risk services

Body piercing and body modification (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	17	17	10	15	7	13	14	12	23	12

About the data used in this analysis:

- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- For body piercing related ACC claims the primary diagnosis is equal to Laceration / Puncture / Sting, and the accident description contains 'pierc' and any of the following: belly, nipple, tongue, body, nose, tragus, face, nostril, umbilical, lip, skin, navel.
- For body modification ACC claims, the accident description contains either ‘body modification’ or ‘scarification’.
- There are 38 licensed body piercing or modification operators.

Tattooing, including traditional tools tattooing (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	24	39	41	38	39	39	25	22	43	41

About the data used in this analysis:

- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- For tattoo related claims the primary diagnosis was equal to Laceration / Puncture / Sting, and the accident description contained any of the following: moko kauae, malu, pe'a, microblading, ta moko, tattoo, tatau, cosmetic tattoo.
- For tattoo allergy related ACC claims the accident description uses the above keywords and the accident description or the primary injury description also contains 'allerg',
- For tattoo chemical exposure related claims the accident description uses the above keywords and the accident description or the primary injury description also contains 'chemical'.
- There are 135 licensed tattoo operators, which includes 5 licences for people providing tattoos with traditional tools.

Sun-beds and solariums (ACC claims, 2014-2023)

Council	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Auckland	0	2	1	0	0	0	0	0	0	0

About the data used in this analysis:

- Note: This analysis only assesses low impact injuries from sun-bed related claims (specifically burns).
    - For sun-bed related claims the primary diagnosis is equal to Burn, the primary injury site was not equal to Eye, and the accident description also contained any of the following: solarium, sun bed, tanning bed.
- Data only includes commercial premises as ACC claims from incidents at home are likely to be unlicensed operators or amateurs.
- There are 12 licensed sun-bed and solarium operators.

Appendix 3: Stakeholder and research methodology

Staff engaged with a variety of stakeholders with an interest in or responsibility for aspects of the Code and Bylaw.

These stakeholders included consumers, operators, industry groups representing operators and training providers. Government agencies that staff engaged with included primary healthcare organisations, agencies such as ACC and WorkSafe who work on reducing harm, and qualification-checking agencies such as NZQA.

The engagement methods included surveys, interviews, workshops and data analysis.

Surveys	Internal interviews	External interviews and workshops	Research and analysis
• People's Panel (1212 responses) • Health licence holders (98) • NZ Hair & Beauty Expo (1004) • Training providers (5) • Professional bodies (3) • Cultural groups (1)	• Licensing and Environmental Health Unit (LEH) inspectors and support staff • Building Consents	• Tufuga te tatau • National Public Health Service – Northern Region[37] • ACC • WorkSafe • Immigration New Zealand • NZQA • Health and Disability Commission (HDC) • Health Quality and Safety Commission • Toitū te Waiora	• Data (ACC, WorkSafe, HDC) for accidents and injuries • LEH complaints data • Environmental and media / literature scans

[37] Formerly known as the Auckland Regional Public Health Service (ARPHS).

Appendix 4: 2024 Risk Matrix

The 2018 Bylaw review created a risk matrix to highlight the levels of risk for each service the Code regulates.

The risk level was determined by assessing the incidence (frequency) of harm from a service against the consequences (impact) of that harm.

For the 2024 Code review, **staff have updated the risk matrix** to align with new research and updated data from LEH, ACC, HDC and WorkSafe for the period between 2018 and 2023.[38] Where information about the frequency of physical harms is available, the risk matrix has been adjusted if appropriate. This has changed the risk levels of the following services:

- colon hydrotherapy (from High risk to Moderate risk, as there have been no ACC claims since 2008)
- waxing / hair removal (from High to Moderate, as the injuries are likely to have low level impacts)
- manicure / pedicure (from High to Low, as the available information indicates the majority of physical harms that consumers and operators experience are at the lower levels)
- public swimming pools (from High to Moderate, because the frequency of Legionella / Legionnaire's Disease – a very high impact harm – is extremely low)

Sun-beds and tattooing has been kept at the Very High risk level as a precautionary approach there is not enough information available about the frequency of very high impact harms.

There is also not enough information available about the frequency of very high impact harms from commercial sexual services and acupuncture. Because of this, staff have taken a status quo approach.

The evaluation of each service in the updated risk matrix relies on information gathered for this report, including ACC injury data, complaints data and published research (see Chapter 1.7 for details about the limitations of this data.)

This framework means services with the potential to cause public health harms of national significance are regulated by central government (for example sun-beds) while services with potential lower-level harms are regulated at a local level (for example tattooing) or not at all (for example sleep pods).

If council sought to move to a purely risk-based approach to regulation, a more robust risk assessment would be required. This would include supporting scientific analysis, such as a risk-ranking process that includes estimates of the incidence and burden of illnesses caused by services in New Zealand.

The Tables, below, summarises the frequency, impact and risk level for each service in 2024 and 2018.

The 2024 Risk Matrix lists the following information for 2023 for each service:

- the number of ACC claims
- the number of complaints to LEH
- the percentage of People's Panel Survey (PPS) respondents who had a negative experience from a service type within the previous three years'
- examples of physical harms at the low (L), moderate (M), high (H) and very high (VH) impact levels.

[38] The evaluation of each service in the risk matrix is based on stakeholder engagement, published research and data from ACC, LEH, WorkSafe, and the Health and Disability Commissioner.

Updated Risk Matrix for 2024 Code review

Frequency (based on actual frequency in 2023)

Possible Impacts (possible consequences)		1 Low	2 Moderate	3 High
4	Very high	**Acupuncture** • No data available	**Body piercing** • 12 ACC, 1 LEH, 3% PPS • L: Cuts; H: Infections, Hepatitis; VH: HIV	**Sun-beds / solariums** • No ACC or LEH, 14% PPS • M: Burns; VH: eye damage, skin cancer **Tattoo** • 41 ACC, 4 LEH and 5% PPS (and 0% PPS for traditional tools tattooing) • L: Cuts; H: Infections, Hepatitis; VH: HIV **Eyeball tattooing** • No data available • Desktop research found no recent media reports about this procedure in Auckland.
3	High	**Beauty treatments that pierce the skin,** • No ACC, 1 LEH, 9% PPS • M: Infections; H: Disease, bleeding **Electrolysis** • No ACC, 1 LEH, 6% PPS • M: Infections; H: Disease, bleeding	**IPL / Laser** • 12 ACC, no LEH, 8% PPS • M: Infections; H: eye damage, scarring, burning, and makes it harder to detect skin cancer	
2	Moderate	**Colon Hydrotherapy** • No ACC, LEH or PPS • M: Infections, perforations **Exfoliation** • 7 ACC, no LEH, 6% PPS • L: Infections; H: chemical burns **Swimming pools** • 6 ACC, no LEH, 22% PPS • Public Health reports low rates of Cryptosporidiosis and Legionellosis • L: Infections; H: disease		
1	Low		**Hair removal** • 15 ACC, 2 LEH, 13% PPS • L: Burns, cuts **Massage** • 15 ACC, no LEH, 6% PPS • L: Infections	**Manicure / pedicure** • 50 ACC, 7 LEH, 20% PPS • L: Infections; H: Chemical exposure

Note: ACC = Number of claims to ACC 2023 | LEH = Number of complaints to LEH in 2023 | % = percentage of negative experiences from respondents to a 2022 Peoples Panel Survey.

Legend Very high risk | High risk | Low-Moderate risk

2018 Risk Matrix

Likelihood

Consequence		1 Rare	2 Unlikely	3 Possible	4 Likely	5 Almost Certain
5	**Catastrophic**		• Dermal filler • Acupuncture • Beauty treatments that pierce the skin	• Body Piercing • Other body modification • Scarification • Tattoo	• Sun-beds	
4	**Major**			• Pulsed light/Laser	• Eyeball tattoo	
3	**Moderate**	• Sleep pods	• Exfoliation • Swimming pools • Colon hydrotherapy	• Waxing • Manicure • Pedicure		
2	**Minor**			• Massage		
1	**Negligible**		• Threading	• Ultrasound fat reduction		

Legend

Low Risk

High Risk

Moderate Risk

Very High Risk

Notes: Explanation

Likelihood

Rare	This will probably never happen/recur
Unlikely	Do not expect it to happen/recur, but it is possible it may do
Possible	Might happen or recur occasionally
Likely	Will probably happen/recur, but it is not a persisting issue/circumstances
Almost Certain	Will undoubtedly happen/recur, possibly frequently.

Consequences

Catastrophic	Incident leading death Multiple permanent injuries Irreversible health effects Affect large number of people
Major	Major injury leading to long-term incapacity e.g. loss of limb Requiring time off work for more than 14 days.
Moderate	Moderate Injury requiring professional intervention Requiring time off work for 4-14 days
Minor	Minor injury or illness requiring minor intervention. Requiring time off work for less than 3 days.
Negligible	Minimal Injury requiring no or minimal intervention or treatment. No time off work.

Appendix 5: Wider regulatory and strategic framework

Legislation empowers council to make bylaws about health and hygiene

Auckland Council may make a bylaw to protect public health, under the Local Government Act 2002 and the Health Act 1956.

Legislation	Bylaw-making powers
Local Government Act 2002 (s145)	To protect, promote and maintain public health and safety.
Health Act 1956 (s64(1)(a)(t))	To improve, promote or protect public health, to prevent or abate nuisances, and to prescribe sanitary precautions to be adopted in respect of any business or trade.

Legislation and regulations informing the Bylaw and Code

Legislation	Relationship to the Bylaw and Code
Health (Protection) Amendment Act 2016	Prohibits owners and operators of artificial UV tanning services from providing artificial UV tanning services (such as sun-beds) to people under the age of 18 years.
Health and Safety at Work Act 2015	Ensure the health and safety of workers and workplaces by eliminating or minimising risks arising from work.
Resource Management Act 1991	Promote the sustainable management of natural and physical resources by avoiding, remedying, or mitigating any adverse effects of activities on the environment.
Building Act 2004	Sets rules for constructing, altering and maintaining new and existing buildings.
Electricity (Safety) Regulations 2010	Ensure installations, fittings, appliances, and associated equipment are electrically safe.
New Zealand Building Code and regulations	The Code requires all building work to meet regulations covering aspects such as durability, services and facilities (including ventilation and hygiene).
Prostitution Reform Act 1991	Requires the operators of commercial sexual services to take all reasonable steps to minimise the risk of sex workers or clients acquiring or transmitting sexually transmissible infections.
Hazardous Substances and New Organisms Act 1996	Requires tattoo inks and permanent make-up substances to meet the Tattoo and Permanent Makeup Group Standard 2020.
Health Practitioners Competence Assurance Act 2003	Ensures health practitioners are competent and fit to practise their professions.
Health Practitioners Competence Assurance (Designation of Chinese Medicine Services as Health Profession) Order 2021	Designates practitioners of acupuncture, cupping and moxibustion as health practitioners for the purposes of the Health Practitioners Competence Assurance Act 2003.

Local plans, policies and strategies supporting the Bylaw and Code

Local plans	Relationship to the Bylaw and Code
Auckland Plan 2050	Sets direction on how Auckland will grow and develop over the next 30 years, and provides a framework under which all council plans, policies and bylaws are aligned. Aims to improve the health and wellbeing of all Aucklanders by minimising harm, and to support businesses.
Māori Plan for Tāmaki Makaurau	Establishes a foundation to effectively advocate and form a key partnership with council, other agencies and private sector to deliver for Māori communities in the region. At its core is the cultural, social, economic and environmental wellbeing of Mana Whenua (Māori with tribal affiliations within the region) and Mataawaka (Māori with tribal affiliations outside the region). Aims to promote a distinctive identify for Tāmaki Makaurau, ensure a sustainable future for Māori cultural heritage, and develop vibrant communities.

Australian and New Zealand Standards

Standards	Relationship to the Bylaw and Code
• NZS 4304:2002	Plumbing, drainage and waste management
• AS/NZS 3500.1:2021, AS/NZS 3500.2:2021, AS/NZS 3500.4:2021	Plumbing, drainage and waste management
• AS/NZS 4187:2014	Cleaning reusable equipment
• AS/NZS 3200.2.22:1997 • AS/NZS 4173:2018	Laser equipment safety
• AS 2773.1: 1998 • AS 2773.2:1999	Ultrasonic cleaners
• AS/NZS 4031:1992 • AS/NZS 4261:1994 A1 • AS 4031:1992	Collection and storage of sharp medical items
• AS/NZS 3760:2022	Inspecting and testing electrical equipment
• AS/NZS 2635:2008	Solaria / Sunbeds
• NZS 5826:2010	Pool water quality
• AS/NZS 3130:1995	Powered beauty therapy equipment (NB: No longer operative)
• AS/NZS 4034:2002	Disposable gloves (NB: Incorrect reference)

Strategic alignment

The Bylaw and Code supports the following Auckland Plan 2050 outcomes:

Outcome	**Belonging and Participation**	**Code review aligns with outcomes by:**
Direction 1	Foster an inclusive Auckland where everyone belongs.	Ensuring that existing, new and emerging services that contact the skin are appropriately regulated, to protect public health and safety. Ensuring that the Code is accessible and comprehensible to a diverse range of audiences. Ensuring that the cultural significance of some regulated services to Auckland communities is appropriately acknowledged and reflected, both in the development and content of regulations.
Focus area 5	Recognise, value and celebrate Aucklanders' differences as a strength.	
Direction 2	Improve health and wellbeing for all Aucklanders by reducing harm and disparities in opportunities.	
Outcome	**Opportunity and Prosperity**	**Code review aligns with outcomes by:**
Direction 1	Create the conditions for a resilient economy through innovation, employment growth and raised productivity.	Ensuring that the regulations: • increase Aucklanders' trust and confidence in operators' health and safety practices, including where these relate to new and emerging services • are the minimum regulations necessary to protect public health and safety, recognising the impact of compliance costs on operators.
Focus area 2	Ensure regulatory planning and other mechanisms support business, innovation and productivity growth.	
Outcome	**Māori identity and wellbeing**	**Code review aligns with outcomes by:**
Direction 3	Recognise and provide for Te Tiriti o Waitangi outcomes.	Providing regulations that appropriately recognise and protect: • the status of tā moko as a taonga under Te Tiriti o Waitangi • mātauranga Māori and tino rangatiratanga, by inviting tā moko practitioners and marae (where tā moko is practiced under their authority) to contribute to updated minimum standards.

The current Bylaw and Code support wellbeing areas and indicators of the Independent Māori Statutory Board Māori Plan for Tāmaki Makaurau.

Māori value	**Wairuatanga (spirituality and identity)**	**How values align**
Key direction	Promote distinctive identity.	By providing regulations that support promoting a sense of identity, uniqueness and belonging and ensuring Māori cultural wellbeing is future-proofed (including supporting people to find someone to help them with cultural practices such as tā moko).
Outcome	Recognised sense of identity, uniqueness and belonging.	
Focus area	Māori heritage of Tāmaki Makaurau is valued and protected. "Māori retain a sense of place and identity, and the wider community understands the value of diversity and embraces our unique culture."	
Indicator	Percentage that thinks it very important or quite important to be involved in things to do with Māori culture.	
Māori value	**Kaitiakitanga (guardianship)**	
Key direction	Ensure sustainable futures.	
Outcome	Intergenerational reciprocity.	
Focus area	Māori cultural wellbeing is future-proofed. "Māori are enabled to continue to practice our unique cultural heritage, to ensure the retention and protection of mātauranga Māori across Tāmaki Makaurau."	
Māori value	**Whanaungatanga (relationships)**	
Key direction	Develop vibrant communities	
Outcome	A city/region that caters for diverse Māori lifestyles and experiences.	
Indicator	Percentage that would find it very easy or easy to find someone to help them with cultural practices such as going to tangi, speaking at a hui or blessing a taonga.	