

List of Attachments for Appeal on 372 New Scotland Avenue (Updated November 25, 2018)

A – USDO Use Interpretation 100418.001

B – October 17, 2018 email of Chris Spencer reaffirming certain decisions

C – August 29, 2018 Certificate of Occupancy – Change of Use to “outpatient/personal business service”

D – September 27, 2018 LaJoy email referencing CO permit as a “Change of Use”

E – August 9, 2018 Letter re continuing legal nonconforming use for 372 New Scotland Avenue

F – NYS Department of State Division of Licensing Service Consumer Guide regarding NYS Beauty Salons and Spas

G – “Tattoo Artist” Certification for Kathleen Cronin issued pursuant to Albany County Local Law for 1999 and Permit to operate a “Tattoo Studio”

G-1- August 20, 2018 Application and Floor Plans for 372 New Scotland

G-2 - “Precision Microblading& Natural looking Permanent makeup by Kathleen Cronin, RN - “Colour Cosmetic Studio Inc.” at 1525 Western Avenue website

G-3 - Scheduling webpage for “Colour Cosmetic Studio, Inc.” at both 1525 Western Avenue and 372 New Scotland Avenue showing Nora Quinn providing services. (Welcomes Nora Quinn to the staff “For expert natural eyelash extensions...”

G-4 - NYSDOS website listing of Nora Quinn’s esthetician license

H – June 9, 2018 Judy Doesschate email to Rob Magee, copying Rick LaJoy (who reports to Chris Spencer), the Chief of Staff and others, clearly contesting the alleged legal nonconforming office use status of 372 New Scotland Avenue

I –September 28, 2018 Judy Doesschate email to Chris Spencer asking him to rescind the August 9th nonconforming determination and any permits or other determinations made to allow the operation of these services at the premises and providing him with detailed reasons why such determinations were inconsistent with the facts and the law.

J – October 25, 2018 Tom Keefe affidavit regarding “home office” use of the Chiropractor who occupied the premises immediately prior to Seth Kohl and the discontinuance of the use as an “office” use as of June 27, 2017

K – New York State Board of Nursing 11-1-18 email re Micropigmentation Services are Not the Practice of Nursing.

L. New York State Department of Health Website Re: Tattooing and Health and Safety Concerns

M. Albany County Department of Health Tattoo and Body Piercing Rules and Regulations

N. New York State Department of State Division of Licensing Services Website – Licensure Requirements for Beauty Salons

O. September 10, 2018 Email from Rick LaJoy, Director of Buildings and Regulatory Compliance RE No Inquiries or Action Regarding 372 New Scotland Avenue

P. Zoning Compliance Certificate Application – With Unsigned, Unsworn Statement from Unknown person re prior 372 New Scotland Avenue Use and Description of Business

Q. FOIL Request relating to 372 New Scotland Avenue submitted on October 2, 2018 – Including Specific Request for Any Documentation that might have been relied upon in issuing such permits, including a finding a continuing legal non-conforming use

R. Affidavit of Carol Carpenter, Part Owner and prior resident of 370 New Scotland Avenue, who babysat at 372 New Scotland, Re: 372 New Scotland Avenue Used as a Single Family Residence With No Doctor's Office in the main residence; Doctor's Office was in the Basement 1961 through at least 1971;

S. Affidavit of Richard Mabee, Tenant of 372 New Scotland Avenue 1979-1983 Regarding "Office Use" Discontinued and Vacant in 1982 through after October 1983

T. Letter of Mary Alice Maynes, Owner of 3 Ramsey Place, Re: History of 372 New Scotland Avenue and opposition to commercial use

U. Deeds for 372 New Scotland Avenue:

From Katherine Rosenblatt to Howard and Suzanne Serling; October 22, 1971

From Howard Serling to Charles and Sarah Serling; October 22, 1982

From Charles and Sarah Serling to Donald and Jean Tumonis; September 1, 1983

From "Donald A. Tumonis, **residing at 372 New Scotland Avenue**, Albany, New York, 12208, and Jean S. Tumonis," to "Donald A. Tumonis, **residing at 372 New Scotland Avenue**, Albany, New York 12208; May 26, 1988.

From "Donald A. Tumonis, residing at 372 New Scotland Avenue, Albany to Seth and Karen Kohl; February 2, 1989

From Seth and Karen Kohl to Karen Kohl; August 24, 2017

V. Excerpts from Polk City Directory for 372 New Scotland Avenue:

1966: Rosenblatt Kalmon Phys IV2-8510; Rosenblatt Robt 482-5331

1971: Rosenblatt Kalmon phys 482-8510; Vacant

1972: Serling Howard A podiatrist 434-3653 (no tenant)

1973: Serling Howard A podiatrist 438-6849 (no tenant)

1974: Serling Howard A podiatrist 438-6849 (no tenant)

1975: Serling Howard A podiatrist 438-6849; Sandler Alan podiatrist

1976: Serling Howard A podiatrist 438-6849; Lynch Mary Anne

1977: Serling Howard A podiatrist 438-6849; Mills Catherine

1979: Cohen Ted podiatrist 438-6849; Serling Gail K

1980: City Directory not published
1981: Cohen Ted podiatrist 438-6849; Mabee Richd 482-3544
1982: City Directory not published
1983: Vacant; Mabee Richd 482-3544
1984: City Directory not published
1985: Albany Chiropractic Office 438-2021
1986: Albany Chiropractic Office 438-2021(no tenant)
1987: City Directory Unavailable or not published
1988: Albany Chiropractic Office 438-2021(no tenant)

W. Prior Albany Zoning Code Provisions Relevant to 372 New Scotland

X. New York State Education Department Division of Licensing Services Disciplinary Record for Seth Kohl; License Suspended September 12, 2017; October 27, 2017 Conviction Noted in Record

Y. Albany County Local Law 4 for 1999 – Tattoo and Body Piercing Shops Regulation

Z. Excerpt from Colour Cosmetics Website Nov 15,2018 showing Nora Quinn as “Certified Micropigmentation Specialist” (but not a nurse)

AA. Chapter 38 of Legal Manual for New York Physicians, Fourth Edition: Corporate Practice of Medicine and Fee-Splitting, by Judy L. Doesschate, Esq. and Andrew Roth, Esq., published by New York State Bar Association and Medical Society of the State of New York (Business Corporations cannot practice medicine or other professions without express authorization pursuant to statute)

BB. New York State Law Provisions RE:

1. Definition of “Professional Services” (General Business Law §1501);
2. Nursing License Does Not Confer Authority to Practice Medicine (Education Law §6909)

CC. October 19, 2018 email from Kathleen Cronin, RN Re Use of Second Floor

DD. Affidavit of Donald A. Tumonis, Chiropractor, regarding his residing in and operating his Chiropractic practice at 372 New Scotland Avenue for 5 years in the 1980s, and the first floor office being vacant when he purchased the property in September of 1983.

USDO USE INTERPRETATION 100418.001

DATE: October 04, 2018
FROM: CHRIS SPENCER
ACTION: NO ACTION REQUIRED



UNLISTED USE:

As noted in the USDO, §375-3(A)(3), "When a proposed land use is not explicitly listed in Table 375-3-1: Permitted Use Table, The Chief Planning Official shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same.

DESCRIPTION OF PROPOSED USE:

"Para-medical micropigmentation services to restore the Areola/Nipple complex after Mastectomy and other surgery; cosmetic enhancement and reconstructive micropigmentation to restore the color and shape to missing eyebrows, eyelash line and lips; restorative micropigmentation to the scalp know has Simulated Hair Follicle (SMP); and micropigmentation to correct and diminish scars and vitiligo. Also, the office will provide esthetician skin care. This will not be a retail business and will be by appointment only. Services will be provided by a NYS Licensed Registered Nurse and a NYS Licensed Esthetician."

USE DETERMINATION:

Based on the above description, the size, scale, operating characteristics, and external impacts, such a use is most closely related to Office and shall be treated as the same. There are two (2) definitions for Office in the USDO. The first one is related to the Albany-Colonie Intermunicipal Overlay District. The second one, which is relevant to the above use description shall be used.

OFFICE:

Establishments providing executive, management, administrative, professional services, consulting, banking, laboratory, record keeping, music or sound recording, or a headquarters of an enterprise or organization, but not including the on-premises sale of retail goods. This use does not include a Marijuana Dispensary or Methadone Dispensary.

Office Use has included doctors offices, dental offices, professional design offices, or other non-retail uses where clients, if seen at all, are by appointment only in a professional setting.

LIMITATIONS:

Based on the description of the proposed use, and the use category of Office, such a use shall not include retail, or uses typically associated with personal service. Any micropigmentation shall be corrective in nature and shall not include body art or services typically performed in a tattoo parlor.

Begin forwarded message:

From: Christopher Spencer <cspencer@albanyny.gov>
Date: October 17, 2018 at 5:14:49 PM EDT
To: Kathy Sheehan <ksheehan@albanyny.gov>
Subject: 372 New Scotland

Hi Mayor:

Here are the relevant details related to the above referenced address / use:

We received an Application for a Zoning Compliance Certificate for the use of 372 New Scotland Avenue and began reviewing it on August 6, 2018. The property is in an R-2 Two Family Zoning District. Our records and research indicated it had been used as an office since 1950. In this particular case it had been a doctors office, a podiatry office, and a Chiropractic office. It was determined that it had not been vacant or inactive as a chiropractic office for more than one year, and therefore the use of Office was still a valid non-conforming use. A letter to the applicant was sent out on August 9, 2018 informing them that "the property was used as an office prior to the effective date of any regulations prohibiting such use. Such use therefor exists as a legally non-conforming use subject to the provisions of §375-5(F)(3) of the USDO."

Since the USDO requires that "When a proposed land use is not explicitly listed in Table 375-3-1: Permitted Use Table, the Chief Planning Official Shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same." Based on the description of what the applicant intended to do, I made a formal interpretation that it was consistent with the use "Office" and added it to the Planning Department Webpage so as to be accessible to the general public. In this interpretation, I indicated that such a use, "shall not include retail or uses typically associated with personal service. Any micropigmentation shall be corrective in nature and shall not include body art or services typically performed in a tattoo parlor. "

<https://www.albanyny.gov/Government/Departments/PlanningandDevelopment/USDODevelopment.aspx>

As for the sign, the USDO has two conflicting sections. They are as follows:

E. OBSOLETE SIGNS [Section 375-4(I)(5)(ii)(E)]

Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district.

(d) SIGN MAINTENANCE [Section 375-4(J)(2)(d)(iii)]

1. (iii) Signs that contain messages that have become obsolete because of the termination of the use or business or product advertised, or for some other reason, shall have such message removed within 60 days after becoming obsolete, unless the sign is architecturally historically significant, or is considered to be a character-defining feature of the building or district, or has been approved as an historic sign by the Historic Resources Commission.

I had asked the applicant to cover over the sign, based on the Sign Maintenance section of the Code. I will ask her to remove the sign and propose one that is better scaled to the environment, but smaller than what is permitted which is a 20 sq. ft. sign.

The USDO does not allow a substitution of one non-conforming use for another without approval by the BZA. Therefore, the use of this property cannot be Personal Service or tattoo parlor.

Let me know if you have any further questions on this.

Chris

Christopher P. Spencer
Commissioner of Planning & Development | City of Albany
Department of Planning and Development
200 Henry Johnson Boulevard | Albany, NY 12210
518.434.5262



City of Albany

Department of Buildings and Regulatory Compliance

Kathleen Cronin
372 New Scotland Ave
Albany NY 12208

Certificate of Occupancy

Address: 372 New Scotland Ave

Permit CT18-4977

Parcel 20355

This is to Certify that the building located at 372 New Scotland Ave in the City of Albany, NY has been inspected and found to be in compliance with the plans on file and with permit application for Change of Tenant Business Services Office.

The following occupancy is permitted at this location:

Area	Use	Uniform Code Classification
Cellar/Basement		
First Floor	Outpatient/Personal Business Service	B
Second Floor		
Third Floor		
Other Floors		

No change in the nature of this parcel, building or use is allowed without a permit and the issuance of a new Certificate of Occupancy.

Zoning District at time of Issuance R1-M

Issuance Recommended By:

Adam Clark
Building Inspector

Department Supervisor - Valerie Scott

Issue Date: Wednesday, August 29, 2018

From: Richard LaJoy [mailto:rlajoy@albanyny.gov]
Sent: Thursday, September 27, 2018 2:52 PM
To: 'Judy Doesschate'; 'Al De Salvo'
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Judy,
Here is what was applied for in the change of use.

Paramedical micropigmentation services to restore the Areola/Nipple complex after Mastectomy and other surgery; cosmetic enhancement and reconstructive micropigmentation to restore the color and shape to missing eyebrows, eyelash line and lips; restorative micro-pigmentation to the scalp known as Simulated Hair Follicle (SMP); and micropigmentation to correct and diminish scars and vitiligo. Also, the offices will provide esthetician skin care. This will not be a retail business and will be by appointment only. Services will be provided by a NYS Licensed Registered Nurse and a NYS Licensed Esthetician.

Rick

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Thursday, September 27, 2018 2:02 PM
To: Richard LaJoy; 'Al De Salvo'; Bradley Glass; Christopher Spencer
Cc: Zach Powell; Joshua Gold
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Thank you.
Initially they did some yard work, then I saw someone scraping windows, but after that the blinds were pulled down regularly.
So, I have no way of knowing.

What was the change of tenant permit about?
What is the date of the application?

I am concerned she is putting money into renovations that she is not authorized to provide on the premises.

From: Richard LaJoy [mailto:rlajoy@albanyny.gov]
Sent: Thursday, September 27, 2018 1:04 PM
To: 'Al De Salvo'; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell; Joshua Gold
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Al,

I am going to send our Senior Inspector over there to see what is going on. If there is any work happening that requires a permit we will deal with it.

Rick

From: Al De Salvo [mailto:ads@nycap.rr.com]
Sent: Thursday, September 27, 2018 12:53 PM
To: Richard LaJoy; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell

Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2
Importance: High

Judy—Can you answer Rick? You mentioned that there is a dumpster there and that work is going on. If electrical or plumbing work (e.g. new, professional sinks) are happening I would guess a permit is needed....

From: Richard LaJoy [mailto:rlajoy@albany.ny.gov]
Sent: Thursday, September 27, 2018 12:34 PM
To: 'Al De Salvo'; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

There is a Change of Tenant permit in our system but there is no permit for any work.

What kind of work is being done?

Rick

From: Al De Salvo [mailto:ads@nycap.rr.com]
Sent: Thursday, September 27, 2018 9:43 AM
To: Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Richard LaJoy; Zach Powell
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2
Importance: High

1. Judy, under item #6, did you mean 2018, instead of 2017. You said...." The property was not marketed for sale until the very end of July 2017 – well over a year after he stopped seeing patients on the premises. He did not actively market the office for rental prior to that time (which is what the code addresses.)" but he stopped practicing in June, 2017.
2. BRAD/RICK—is there a building permit on file for current work being done?

From: Bradley Glass [mailto:bglass@albany.ny.gov]
Sent: Thursday, September 27, 2018 9:15 AM
To: 'Judy Doesschate'; Christopher Spencer
Cc: 'Al DeSalvo'; Richard LaJoy; Zach Powell
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Judy,

Thank you for this information. We will review and reach out to Ms. Cronin, if necessary. I unfortunately do not have any more information than I can provide at the moment.

Bradley Glass, Director
Department of Planning & Development
City of Albany
200 Henry Johnson Boulevard
Albany, NY 12210
Phone: (518) 445-0754

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Wednesday, September 26, 2018 2:49 PM
To: Bradley Glass; Christopher Spencer
Cc: 'Al DeSalvo'; Richard LaJoy; Judy Doesschate

Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2
Importance: High

Thanks.

Here is some more information that is relevant:

3. Seth Kohl was arrested on June 27, 2017 and it was widely publicize that he had inappropriately sexually touched two female patients (more came forward later)
4. Channel 10 report on that date (6-27-2017) shows they went to his office and there was a note on the door saying **"office is closed today"**
5. I live across the street - my house faces the driveway he always used - and I never saw Seth Kohl's car (or his wife's) in the driveway from that day forward except to remove some items from the office and do basic property maintenance primarily outside. (I can't imagine anyone would go to see him after those reports and I imagine if someone asked for proof of being paid for any services during that time and through August or Sept of 2017 he would be unable to produce any such evidence.) **Thus, any potential claim to a legal non-conforming use ceased to exist in June of 2017 and any grandfathering in ceased to exist in June of 2018.** The claim in the application that the "practice closed mid-September of 2017" is clearly false and misleading.
6. Mr. Kohl is clearly a disreputable individual whose word should not be trusted.
7. His license was suspended in early Sept 2017....the deed transferring ownership to Colour Cosmetic Studio was filed on September 13, 2018
8. The property was not marketed for sale until the very end of July 2017 – well over a year after he stopped seeing patients on the premises. He did not actively market the office for rental prior to that time (which is what the code addresses.)
9. The individual who operated the chiropractic office before Seth Kohl lived upstairs with his girlfriend. (it was a legal home office use – not a non-conforming use – I am not sure what proof you have otherwise?).
10. Per our former Common Council member, the building dept fully acknowledged that it had issued a sign permit for a sign that did not conform with the code at the time, but they were not willing to retract it because the city could be sued since Kohl acted in reliance on the permit in ordering the sign. I have received many complaints over the years about why was that allowed and its potential precedential impact. The lighting was distracting. A sign that was erected in violation of the code with no variance has no grandfathering status.
11. The city code says: "Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district." 375-4(l)(5)(E). The City should have required Mr. Kohl to remove the sign completely when he closed his office – or at the latest, when his license was suspended. (I have asked that to be done previously and no action has been taken)
12. Any new sign for a new business requires a new sign permit and the new sign must comply with the zoning ordinances – which do not allow large signs in R-2 districts.
13. As a result of the foregoing, any permanent sign requires a new permit and a variance.
14. The building was purchased in early Sept 2018 – deed filed on Sept 13, 2018. The new owner is Colour Cosmetic Studio, Inc. with an address of 54 Eton Road, Bronxville, NY 10708. A business with the same name is operated by a Kathleen Cronin at 1525 Western Avenue in Guilderland (which is the address Ms. Cronin listed on her application to you).
15. A review of the website reveals a description of her business that repeatedly includes the word "tattoo" – something that is expressly deleted from the description that was provided to your office – a significant fact that likely would have yielded a different opinion had they used the same description that appears on the website.
http://www.colourcosmeticstudio.com/?gclid=Cj0KCQjw3KzdBRDWARIsAIJ8TMQC9_DYfwJEvZ5nuWP0mMIZ6G6tZKnC-C2ZNbbrBd1_01oOMfcc-WgaAis5EALw_wcB
16. The business name appearing on the window of 372 New Scotland Avenue is "Colour Cosmetic."
17. I have confirmed that Ms. Cronin and her business "Colour Cosmetic Studio" on Western Avenue **is licensed as a tattoo parlor** with the Albany County Dept of Health
18. **As such, this is clearly not an "office" use under the City of Albany USDO - zoning code – but a Personal or Business Service** (the code specifically mentions tattoo parlors under

Personal or Business Service – it is also akin to a beauty salon – which is also specifically listed as a personal or business service.)

19. While the application to your office mentions that Ms. Cronin is a licensed registered nurse – the services she is providing are **not a service requiring a professional nursing license , therefore, she is not providing “professional services.”** She just happens to be a nurse.
20. They have a dumpster in the driveway and I have seen people working inside – evidence of construction that might alter the alleged non-conforming use – which, under the code, may affect any claim to a legal non-conforming use.

It is not clear to me whether Ms. Cronin intends to live on the property while providing these services. If so, that would require a different analysis and our neighbors would certainly feel differently about the potential impact of this business on our neighborhood.

However, I am very concerned about the Department of Planning and Community Development taking ANY action that would allow a tattoo parlor (or beauty salon – which this is akin to) to be operated in an R-2 district and the precedent that would set not only for this neighborhood, but for all residential neighborhoods.

Once you have had an opportunity to review this information, I would appreciate the opportunity to meet with you and being informed of what action you will be taking.

Thank you.

Judy Doesschate, Member
Albany Common Council, 9th Ward

From: Bradley Glass [mailto:bglass@albanyny.gov]
Sent: Wednesday, September 26, 2018 12:45 PM
To: 'Judy Doesschate'; Christopher Spencer
Cc: 'Al DeSalvo'; Richard LaJoy
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

The application submitted is attached. At this point, I can only speak to the fact the we determined on August 9 that use as an office was a legally nonconforming use. I have requested any subsequent permit applications from the Building Department and will review.

Bradley Glass, Director
Department of Planning & Development
City of Albany
200 Henry Johnson Boulevard
Albany, NY 12210
Phone: (518) 445-0754

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Wednesday, September 26, 2018 12:28 PM
To: Bradley Glass; Christopher Spencer
Cc: 'Al DeSalvo'; Richard LaJoy
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Could you tell me what date in Sept 2017 did they specify that it was being used for?
Can you send me the application?
(this stopped being used as an office when he was arrested)

Where in the code or other legal authority does it say that if a property is being actively marketed for the non conforming use that it gets to keep that status without regard to the one year limitation?

Is an establishment doing tattooing an "office" use?

Can we be clear that the sign that is placed outside there is and has been obsolete and needs to come down?

Thanks

Judy

From: Bradley Glass [mailto:bglass@albanyny.gov]
Sent: Wednesday, September 26, 2018 12:14 PM
To: 'Judy Doesschate'; Christopher Spencer
Cc: 'Al DeSalvo'; Richard LaJoy
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Hi Judy,

We received a Zoning Compliance Certificate request and responded on August 9 that an office was a legally nonconforming use. If they were actively marketing the property, it would not lose its nonconforming use.

I don't see a record of any permits coming through our office, but not sure there would be if there was not a change of use.

Bradley Glass, Director
Department of Planning & Development
City of Albany
200 Henry Johnson Boulevard
Albany, NY 12210
Phone: (518) 445-0754

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Tuesday, September 25, 2018 1:03 PM
To: Christopher Spencer; Bradley Glass
Cc: 'Al DeSalvo'; Richard LaJoy
Subject: 372 New Scotland Avenue -Chiropractic office zoned R-2
Importance: High

Hi Chris and Brad –

Have either of you or anyone on your staff have had any conversations with Seth Kohl (prior owner of 372 New Scotland Avenue) or the current owner of 372 New Scotland Avenue (Colour Cosmetic Studio of Bronxville....or possibly Kathleen Cronin) regarding permissible uses of 372 New Scotland Avenue and the oversized sign there?

Also – any variances or sign permits applied for?

Seth Kohl stopped providing services to patients there upon his arrest in June of 2017 – so any alleged grandfathering status lapsed in June of 2018....and the sign has met the definition of an obsolete sign requiring removal according to our code for some time (and clearly doesn't meet standards for a sign in an R-2 district).

I am not sure if the new owner plans to live there – which would help – but I am also not sure how much it meets the home occupation criteria either.

People immediately around this building and all along New Scotland Avenue are concerned about “creeping commercialism.”

I let the real estate agent know of the limitations of the uses prior to the sale via an email when I saw it was listed as commercial – mixed use – but have no idea what was conveyed to the new owner.

I would appreciate knowing about any conversations you and your staff have had about this building.

Thanks

Judy

CITY OF ALBANY



NEW YORK

DEPARTMENT OF PLANNING AND DEVELOPMENT

MAYOR: KATHY M. SHEEHAN
COMMISSIONER: CHRISTOPHER P. SPENCER

www.albanyny.gov

August 9, 2018

Naviasky Law Firm, PLLC
Laurence Naviasky
1802 Eastern Parkway
Schenectady, NY 12309

RE: 372 New Scotland Avenue (75.35-2-6)

Dear Mr. Naviasky:

I am in receipt of your application for a Zoning Compliance Certification relative to the permitted use of the above-referenced premises.

The property referenced above is located in a Two-Family (R-2) zoning district¹. Your application states that up until September 2017, the property was used as an office. Offices² are not a permitted use as of right in the R-2 district.

However, a review of the records available to this office has yielded documentation that the property was used as an office prior to the effective date of any regulation prohibiting such use. Such use therefore exists as a legally nonconforming use subject to the provisions of §375-5(F)(3).

Please be advised that no nonconforming use may be reestablished after it has been discontinued or vacated for a period of one year or more.³

Should you have any additional questions or concerns on this or any other matter, please do not hesitate to contact my office.

Truly yours,

Christopher P. Spencer
Commissioner of Planning & Development

¹ For a full explanation of permitted uses at this address, please consult Chapter 375 of the Albany City Code, in particular the Permitted Use Table in §375-3(B).

² **Office:** Establishments providing executive, management, administrative, professional services, consulting, banking, laboratory, record keeping, music or sound recording, or a headquarters of an enterprise or organization, but not including the on-premises sale of retail goods. This use does not include a Marijuana Dispensary or Methadone Dispensary. Section 375-6(B) of the Albany City Code.

³ §375-5(F)(3)(c)(i) of the Albany City Code



o New York State Beauty Salons and Spas

Search!

A Guide for Consumers to identify safe practices when interacting with New York State beauty salons and spas.

Although many consumers do not think that health and safety issues are serious considerations when getting a facial, body wrap, waxing or having their nails done, most beauty treatments involve actions that can be dangerous, if not performed by properly trained and licensed personnel. Bacterial infections, transmission of diseases, adverse reactions to substances and other physical injuries can all be the result of improperly performed treatments.

Selecting a Salon or Spa

All beauty treatment specialists as well as all spas and salons must be licensed to legally operate within New York State. The consumer should thus look for:

- A business license shall be displayed at the entrance or another conspicuous location in the spa or the salon where the licensed activities are performed
- A license with a photograph, for each operator within a spa or salon

In New York State, there are five different designations for beauty specialists:

- Cosmetologist
- Esthetician
- Nail Specialist
- Natural Hair Styling Specialist
- Waxing Specialist

What if I cannot locate a license?

If you do not see either a current business license or a current NYS issued cosmetology, nail, esthetic, waxing or natural hair styling license on display, ask the service provider to show it to you.

What should I do if they cannot show me a license?

If a license is not available for your viewing, you may want to verify the provider's licensure by contacting the NYS Department of State, Division of Licensing at (212) 417-5747 or access the Licensing Services' online database at www.dos.ny.gov.

What other information should be posted at the spa/salon?

In addition to licenses, an itemized list of all services performed and prices charged for those services should be displayed near the entrance or reception area.

Can any operator perform any service I need?

A provider should be licensed in the services that they are performing. All personal services offered in New York State require that the individual offering these services have the proper training and be licensed to offer that particular service to the consumer. The General Business Law in New York State covers services that include:

- Hair and Chemical Services
- Nail Services
- Waxing and Hair Removal Services
- Face and Body Treatments

It is important to note that not all practitioners are licensed to perform all services. NYS licensed cosmetologists can legally perform hair services, nail services, skin services and waxing. Estheticians can perform all services except hair and nail services. Nail, Waxing and Natural Hair Styling specialists can only perform those specific services for which they are licensed. Nail Specialists *cannot* perform waxing services in New York State.

Safety Guidelines:

It is important to note a number of safety guidelines that all practitioners should be following:

- The facility where any service is being offered should be clean, in good repair and free from dangerous conditions or hazards.
- Sufficient space with good lighting should be provided to ensure the safety and health of the consumer.
- Hot and cold running water, toilet facilities, and covered containers for paper and waste should be provided.
- State regulations require that a provider follow infection control procedures that protect the provider and the client. Hand washing is required of all nail care clients and providers prior to a nail service being performed.
- Tables and beds used for personal services should be sanitized/cleaned between each client.
- All implements that may abrade or clip superficial skin should be immersed in an EPA-approved disinfectant for at least 10 minutes and disinfected after each use.
- Porous manicuring and waxing implements such as emery boards, block buffers and waxing sticks and other implements that cannot be disinfected should not be used for more than one person.
- Gloves should be worn by operators performing waxing or extractions.
- Disposable supplies such as cotton, sponge applicators and paper products should never be used for more than one person.
- Disposable towels and paper table coverings should only be used as a single-use item.
- Other tools used to provide services should be cleaned, then disinfected after each client, using an EPA-approved disinfectant. These tools include but are not limited to scissors, razors, clippers, combs, brushes, capes and bowls.

The consumer should be able to observe the provider performing these duties between client services. Your technician may meet these requirements by providing a kit for each client and/or disposing of single-use items after each client.

Are there implements that are prohibited or limited from use?

Yes. Some items can be used only once per client and other items can not be used at all in performing services.

- The use of chamois buffers, pumice stones, credo blades and styptic pencils and bar soap is prohibited.
- The use of non-disposable powder puffs, sponges or neck dusters, which cannot be immersed in an EPA-approved hospital grade disinfectant is prohibited.
- Other items that can be used for only one application and disposed of include emery boards; nail white pencils (unless sharpened after each use), shaving mugs without the use of sanitary paper or plastic liners and razors for more than one application.
- Finger bowls, pedicure bowls and footbaths must be cleaned, rinsed and disinfected after each use.
- All sharp or pointed items should be stored when not in use.
- All fluids, creams and powders must be dispensed with shakers, dispenser pumps, spatulas or sprays to prevent contamination.

Client safety: Negative reactions

In the event that you have a negative reaction to a chemical service performed, tell the technician. If the sensation is extreme, or if you think you may be having an allergic reaction, ask the technician for a Material Safety Data Sheet (MSDS) and seek medical attention.

Complaints

Anyone who believes he or she is a victim of an untrustworthy or incompetent licensee of the Department of State, or who is aware of unlicensed conduct, should contact the Department of State at (212) 417-5747 or access the Department's website at www.dos.ny.gov and complete a licensee complaint form.

PERMIT

To Operate a
Tattoo Studio

This is to certify that
Kathleen M Cronin-Carr

the operator of
COLOUR COSMETIC STUDIO INC.
at
1525 WESTERN AVENUE-SUITE 2

Located in the *CITY* of *ALBANY* in *ALBANY* County
is granted permission to operate said establishment in compliance with the provisions
of **local sections of the State Sanitary Code** and
under the following conditions:

(1) This permit is granted subject to any and all applicable State, Local and Municipal Laws,
Ordinances, Codes, Rules and Regulations.



Effective Date August 01, 2018
Permit is **NON-TRANSFERABLE**

Elizabeth Whalen, M.D., M.P.H.
Permit Issuing Official

This permit expires on **July 31, 2019** and may be revoked or suspended for cause.

THIS PERMIT SHOULD BE POSTED CONSPICUOUSLY

Facility Code TAT01158

Permit Number TAT01158

Operation ID 901129

ALBANY COUNTY
DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENTAL HEALTH SERVICES

**TATTOO ARTIST
CERTIFICATE**

Pursuant to the provisions of
Albany County Local Law No.4 for 1999

Kathleen Cronin-Carr

HAS BEEN CERTIFIED TO PRACTICE AS A
TATTOO/BODY PIERCING ARTIST
IN THE COUNTY OF ALBANY

EFFECTIVE DATE:
August 1, 2018

EXPIRATION DATE:
July 31, 2019



CERTIFICATE NO: 310

Elizabeth F. Whalen, MD, MPH

Elizabeth F. Whalen, MD, MPH
Commissioner of Health

croninkathleen@colourcosmeticstudio.com

CITY OF ALBANY
DEPARTMENT OF BUILDINGS & REGULATORY COMPLIANCE
 200 Henry Johnson Boulevard
 Albany, NY 12210
 Phone (518) 434-5995
 codes@albanyny.gov



GENERAL BUILDING PERMIT APPLICATION

A building permit is needed before any general construction, repair, rehab, gutting, or other work may be done. Project-specific building permit applications may be available. Additional permits are required for specialized work such as electric or plumbing work which requires a license. Please refer to our website or ask our staff if you have any questions about what permits your project requires.

JOB SITE ADDRESS: <u>372 New Scotland Avenue, Albany New York</u>		ZIP: <u>12208</u>	1
PROPERTY ACCT # <u>20386</u>	ZONE: <u>R-2</u>	OVERLAYS: <u>CS-0</u>	2
THIS INFORMATION IS AVAILABLE AT HTTPS://ALBANYNY.MAPGEO.IO			3
APPLICANT: <u>Kathleen Cronin-Carr</u>		ZIP: <u>12211</u>	4
ADDRESS: <u>8 Graystone Rd.</u>		PHONE: <u>(518) 491-1554</u>	5
EMAIL: <u>croninkathleen@colourcosmetic.com</u>			6
HOW WOULD YOU LIKE TO RECEIVE YOUR PERMIT? (PLEASE CHOOSE ONE) PICK-UP <input type="checkbox"/> MAIL <input type="checkbox"/> OR EMAIL <input checked="" type="checkbox"/>			
<small>THE APPLICANT WILL BE NOTIFIED BY EMAIL ONLY WHEN THE PERMIT IS READY FOR PICK-UP. WHERE "PICK-UP" IS SELECTED, PERMITS THAT ARE NOT PICKED UP AT OUR OFFICE WITHIN 6 MONTHS OF ISSUANCE WILL BE MARKED "VOID". IF YOU WOULD LIKE TO RECEIVE YOUR PERMIT BY MAIL, PLEASE INCLUDE A STAMPED, SELF-ADDRESSED ENVELOPE WITH THIS APPLICATION.</small>			
OWNER (IF DIFFERENT): <u>Karen Kohl</u>			
ADDRESS: <u>112 Devon Road, Delmar NY</u>		ZIP: <u>12054</u>	7
EMAIL: <u>NSC0372@aol.com</u>		PHONE: <u>(518) 439-6144</u>	8
PROPOSED PROJECT: (PLEASE PROVIDE A DETAILED DESCRIPTION OF THE WORK TO BE DONE):			
<u>Change of Tenancy</u>			
DETAILED SITE PLANS OR OTHER DOCUMENTS DETAILING THE PROJECT ARE ATTACHED (RECOMMENDED): Yes <input type="checkbox"/> No <input type="checkbox"/>			
CURRENT USE OF THE PROPERTY: <u>Doctors Office-Last used 12/2017</u>			
CHANGE OF USE: DOES THIS PROJECT INVOLVE A CHANGE OF USE OR TENANCY AT THE PROPERTY? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
<small>IF "YES", PLEASE COMPLETE OUR "CHANGE OF USE OR TENANCY" APPLICATION (BRC FORM 033) AND ATTACH IT TO THIS PERMIT APPLICATION.</small>			
DEVELOPMENT PERMIT: IS THIS PROJECT THE SUBJECT OF A PLANNING DEPT ISSUED DEVELOPMENT PERMIT. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
TOTAL COST OF WORK: <u>COT 18-7440</u>		PERMIT FEE: \$	10
<small>INCLUDING LABOR & MATERIALS. BRC STAFF RESERVE THE RIGHT TO CONDITION CLOSURE OF A PERMIT, INCLUDING ISSUANCE OF A CERT. OF OCCUPANCY ON PROOF OF TOTAL WORK COST.</small>		<small>FEE'S DEPEND ON THE PROJECT TYPE. SEE OUR WEBSITE FOR OUR FEE SCHEDULE OR CALL OUR OFFICE AT (518) 434-5995 TO SPEAK WITH OUR STAFF ABOUT FEE CALCULATION.</small>	11
<ul style="list-style-type: none"> • APPLICATIONS MUST BE ACCOMPANIED BY PROOF OF WORKER'S COMP INSURANCE OR A FORM BP-1 "AFFIDAVIT OF EXEMPTION" AND FOR PROJECTS WHERE THE TOTAL COST OF WORK IS MORE THAN \$10,000 PROOF OF LIABILITY INSURANCE NAMING THE CITY OF ALBANY AS ADDITIONALLY INSURED. • WORK THAT WILL OBSTRUCT A PUBLIC RIGHT OF WAY WILL REQUIRE A SIDEWALK & BARRICADE PERMIT. • AN ADDITIONAL INSPECTION FEE OF \$100 MAY BE CHARGED WHERE PREVIOUSLY CITED CORRECTIONS HAVE NOT BEEN MADE, NO ONE IS AVAILABLE TO MEET OUR INSPECTOR OR THE WORK IS NOT READY FOR INSPECTION AT A SCHEDULED INSPECTION, AND WHERE THE INSPECTION IS REQUESTED TO ISSUE A TCO • NEW STRUCTURES AND SUBSTANTIAL ADDITIONS OR ALTERATIONS, INCLUDING TWO-STORY DECKS AND ALTERATIONS TO OR REMOVAL OF LOAD-BEARING BUILDING COMPONENTS, MUST BE ACCOMPANIED BY PLANS STAMPED BY A LICENSED ENGINEER OR ARCHITECT. 			
PERMIT NO. <u>COT 18-7440</u>	DATE REC'D: <u>8/20</u>	REC'D BY: <u>APL</u>	S&B PENDING <input type="checkbox"/> SCANNED & SAVED <input type="checkbox"/>

CITY OF ALBANY

DEPARTMENT OF BUILDINGS & REGULATORY COMPLIANCE

200 Henry Johnson Boulevard

Albany, NY 12210

Phone (518) 434-5995

codes@albanyny.gov



CHANGE OF USE OR TENANT APPLICATION

A change of use or tenant application must be submitted wherever there is a change in the nature or extent of the use at a property. This includes cases where one business is replacing another, even if the use itself remains the same. Use types are set out in the City and State code. **Approval of this application does not authorize that any work that must comply with State or City laws be performed at the property.**

<small>NOTE: IF THIS APPLICATION IS BEING SUBMITTED AS AN ATTACHMENT TO ANOTHER APPLICATION, YOU DO NOT NEED TO COMPLETE BOXES 1 THROUGH 4.</small>	
JOB SITE ADDRESS: <u>372 New Scotland Avenue</u>	ZIP: <u>12208</u>
PROPERTY ACCT #: <u>20396</u>	ZONE: _____ OVERLAYS: _____
<small>THIS INFORMATION IS AVAILABLE AT HTTPS://ALBANYNY.MAPGEO.IO</small>	
APPLICANT: _____ ZIP: _____	
ADDRESS: _____ PHONE: (____) _____	
EMAIL: _____	
<small>THE APPLICANT WILL BE NOTIFIED BY EMAIL WHEN THE PERMIT IS READY FOR DELIVERY.</small>	
HOW WOULD YOU LIKE TO RECEIVE YOUR PERMIT? (PLEASE CHOOSE ONE): PICK-UP <input type="checkbox"/> MAIL <input type="checkbox"/> OR EMAIL <input type="checkbox"/>	
<small>WHERE "PICK-UP" IS SELECTED, PERMITS THAT ARE NOT PICKED UP AT OUR OFFICE WITHIN 6 MONTHS OF ISSUANCE WILL BE MARKED "VOID". IF YOU WOULD LIKE TO RECEIVE YOUR PERMIT BY MAIL, PLEASE INCLUDE A STAMPED, SELF-ADDRESSED ENVELOPE WITH THIS APPLICATION.</small>	
OWNER (IF DIFFERENT): <u>KAREN KOHL</u>	
ADDRESS: <u>112 Devon Road, Delmar, NY</u> ZIP: <u>12054</u>	
EMAIL: <u>NSCO372@AOL.COM</u> PHONE: <u>(518) 439-6144</u>	
WORK: WILL ANY WORK BE DONE TO THE BUILDING CONTAINING THE PROPOSED USE AS A RESULT OF THE PROPOSED CHANGE OF USE? IF "YES", A BUILDING PERMIT APPLICATION WILL LIKELY BE REQUIRED IN ADDITION TO THIS FORM. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
VACANCY: IS THIS PROPERTY CURRENTLY VACANT? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> IF SO, HOW LONG HAS IT BEEN VACANT? <u>4 mos</u>	
CURRENT USE: <u>Doctors office - Last used 12/2017</u>	
<u>Rental Apartment - Last occupied 4/2018 (second floor)</u>	
CURRENT BUSINESS/ENTITY NAME (IF APPLICABLE): <u>N/A</u>	
CURRENT HOURS OF OPERATION (IF APPLICABLE): <u>N/A</u>	
LENGTH OF USE: HOW LONG HAS THE PROPERTY BEEN USED THIS WAY? <u>Since the early 1950's</u>	
<small>NOT REQUIRED UNLESS APPLICANT SEEKS TO "GRANDFATHER" EXISTING NON-CONFORMING USE.</small>	
PROPOSED USE (PROVIDE A DETAILED DESCRIPTION OF THE PROPOSED USE): _____	
PROPOSED BUSINESS/ENTITY NAME (IF APPLICABLE): _____	
PROPOSED HOURS (IF APPLICABLE): _____ DETAILED USE PROPOSAL ATTACHED (RECOMMENDED): YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
<ul style="list-style-type: none">• APPLICATIONS MUST BE ACCOMPANIED BY A DETAILED LAYOUT OF THE SPACE IN QUESTION, INCLUDING THE LOCATION, WIDTH & HEIGHT OF ALL EXITS, WALLS, ROOMS, AND WINDOWS AS WELL AS EXIT SIGNS, WHERE EXITS LEAD TO, FIRE SAFETY SYSTEM INFORMATION, AND FIRE-RATING OF ALL WALLS WHERE KNOWN. DRAWINGS MUST ALSO INDICATE ON WHICH STORY THE SPACE IS LOCATED AND COMPLIANCE WITH USE-SPECIFIC BUILDING CODE REQUIREMENTS, IF ANY. ADDITIONAL INFORMATION, INCLUDING STAMPED PLANS, MAY BE REQUIRED DEPENDING ON THE SPACE OR THE USE CHANGE IN QUESTION.• DETAILED USE PROPOSALS SHOULD INCLUDE A FULL DESCRIPTION OF THE PROPOSED USE, THE NATURE OF THE PROPOSED USE, AND EXISTING USES SIMILAR TO THE PROPOSED CHANGE OF USE. PLEASE CONSULT THE BACK OF THIS FORM AND THE ALBANY CITY CODE FOR MORE INFORMATION ON USE DEFINITIONS.	
PERMIT FEE: \$125 <small>(THIS FEE ONLY APPLIES WHEN NOT ACCOMPANIED BY A PERMIT APPLICATION FOR WORK ASSOCIATED WITH THE CHANGE OF USE OR TENANCY)</small>	
PERMIT NO.: _____	DATE: _____ REC'D BY: _____
PROPOSED CITY CODE USE: _____	BUILDING CODE OCCUPANCY CLASS: _____

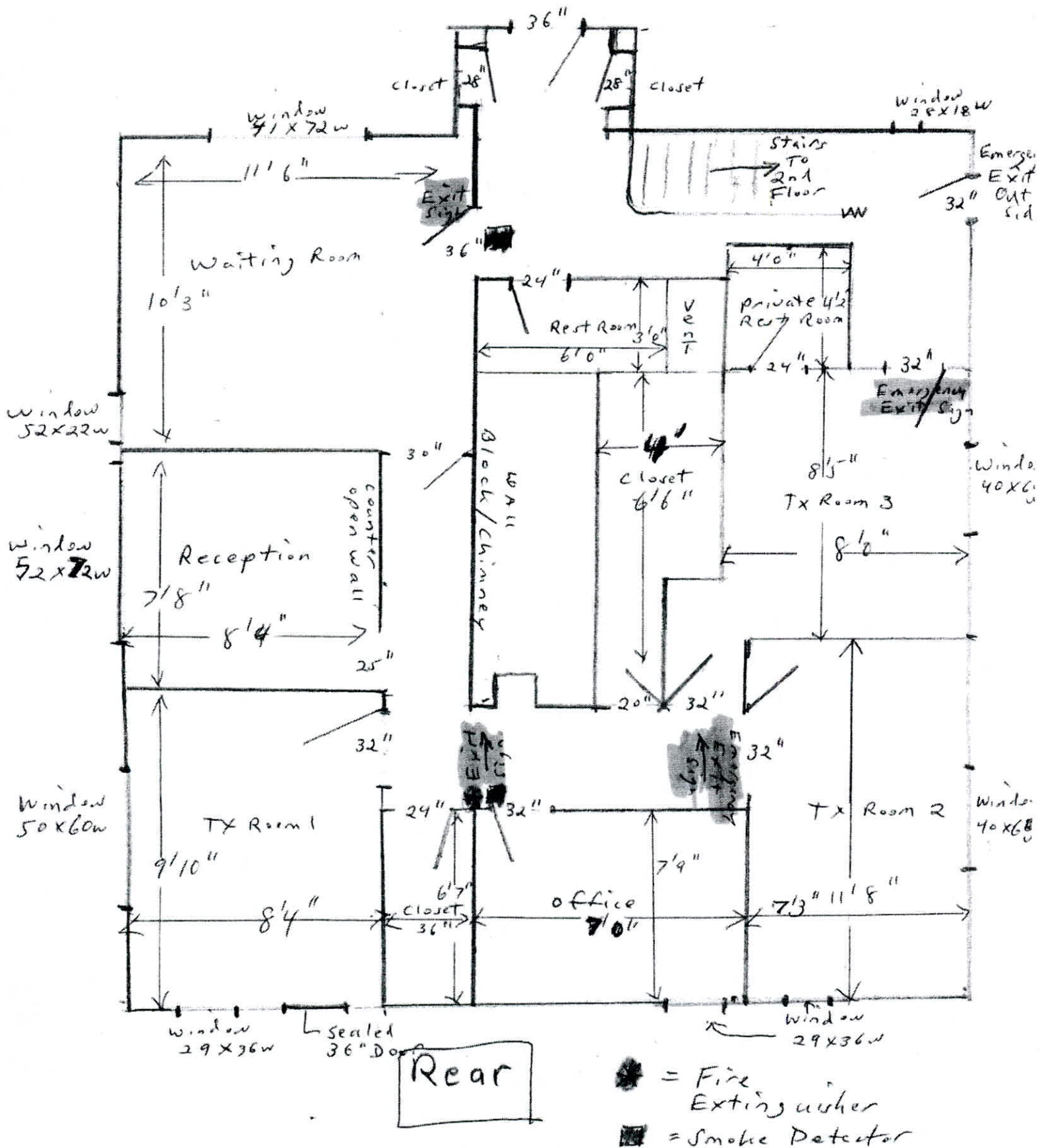
ATTACHMENT TO ZONING COMPLIANCE CERTIFICATE APPLICATION
FOR 372 NEW SCOTLAND AVENUE

The premises has most recently been used as a chiropractic office. The practice closed mid-September, 2017. The Applicant is presently under contract to purchase the premises, and wishes conduct here business from the prior chiropractic offices. The services Applicant will offer are as follows: Para-medical micropigmentation services to restore the Areola/Nipple complex after Mastectomy and other surgery; cosmetic enhancement and reconstructive micropigmentation to restore the color and shape to missing eyebrows, eyelash line and lips; restorative micro-pigmentation to the scalp known as Simulated Hair Follicle (SMP); and micropigmentation to correct and diminish scars and vitiligo. Also, the offices will provide esthetician skin care. This will not be a retail business and will be by appointment only. Services will be provided by a NYS Licensed Registered Nurse and a NYS Licensed Esthetician.

1st Floor 372 New Scotland Ave
 All doors are 6'6" high
 Ceiling ht. 9'2"

Outer walls are Plaster/Lat
 Inner walls are sheetrock
 or block as noted.

Front





City of Albany
Department of Buildings and Regulatory Compliance
200 Henry Johnson Blvd. - Suite 1
Albany, NY 12210
(518) 434-5995

INVOICE

Receipt Date: 8/20/2018 Transaction No.: COT18-7440
Fee Type: Building Permit Application Account Code: (A193) A.1000 2550
Amount: \$125.00 Payment Type: Check/Money Order
Address: 372 New Scotland Avenue
Paid By: Kathleen Cronin-Carr

Staple Check or Credit Card Receipt Here -
Make sure all checks are stamped "FOR
DEPOSIT ONLY"

Associate ID

4

COLOUR COSMETIC STUDIO, INC

MAIL BOX 5
1525 WESTERN AVE STE 2
ALBANY NY 12203-3537

1057

1-32/210 NY
19121

DATE 01/20/18

PAY
TO THE
ORDER OF

City of Albany \$ 125.00
One Hundred Twenty Five & no/100 DOLLARS

Bank of America



ACH R/T 021000322

FOR

Charge of Jan
Blas Korman

Kathleen Cronin-Lane MP

⑈001057⑈ ⑆021000322⑆ 483047625968⑈

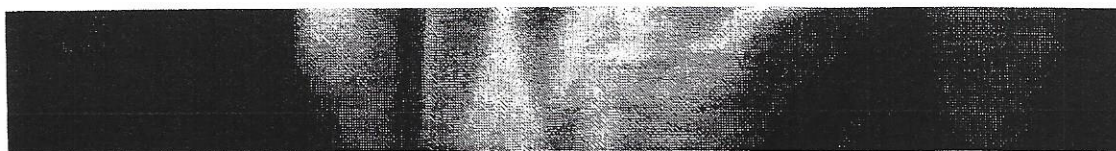
HOME PRICING FORMS CONTACT US PARAMEDICAL MICROPIGMENTATION MICROINKED®

SOFTAP® INC TRAINING OFFERED

COLOUR COSMETIC STUDIO, *inc.*

The Art of Permanent Cosmetic Micropigmentation





SCHEDULE HERE FOR ALBANY

 **SCHEDULE NOW**

COLOUR COSMETIC STUDIO, inc.

1525 Western Ave.

Suite 2

Albany, NY. 12211

518-776-0067

~

Our methods offer the most natural look!

Microblading

~

Micropigmentation

~

Permanent Makeup Cosmetic Tattoo

Eyebrows~ Eyeliner~ Lips

~

Corrective Para-medical Tattoo

Non-laser Tattoo Removal & Lightening

~

MicroINKed for Scalp micropigmentation

Hair Follicle Simulation

(SMP)

***We use only the finest hypo-allergenic cosmetic pigments
and patented tools to achieve
outstanding natural looking results***

***Permanent Cosmetic makeup
is a HIGHLY specialized method of tattoo
called
Micropigmentation.***

***This is a process that places micro-pigments
just under the epidermal skin layer
at a micro-depth.
Specialized hand tools
and state of the art micropigmentation machines are used.
THIS IS NOT BODY ART TATTOO!***

~

***Experienc & training matter!
Be sure to ask for the amount and quality of training
and actual photos of work by artist!
Make sure you ask for proof of training.***

Taking a 2 day course in Microblading is NOT enough...

~

***Kathleen Cronin, RN, CPCP
is a master trained artist & instructor
Offering***

***3D Microbladed eyebrows
Feathered or powdered eyebrows
Combination Shaded & Hairstroke Brows
Permanent eyeliner
Eyelash enhancement
Lip Stain & Lip Liner
Para-medical Micropigmentation***

SMP

(Hair Follicle Stimulation)

Tattoo Removal & Lightening / non-laser

~

Credentials and training listed below!

~

Kathleen Cronin, RN also has master level training in

Corrective Paramedical Micropigmentation Tattoo

Areola Restoration

**(Nipple Tattoo or Areola Tattoo)
after mastectomy or breast surgery**

Microneedling

**Corrective camouflage for lost or uneven pigment
of the skin due to scars from surgery or injury,
loss of pigment from vitiligo & hypopigmentation**

**Hair Follicle Simulation (SMP)
for bald spots and alopecia.**

518-776-0067

**You can leave a message with reception
or in our voice mail.**

**If we do not return your call that day,
please be kind enough to call again.
Many days, I am not able to return your call
until the evening hours.**

www.colourcosmeticstudio.com

www.microinked.com

~

CREDENTIALS & TRAINING

Kathleen Cronin, RN, CPCP

Registered Professional Nurse since 1980

Master trained Microblading & Permanent Cosmetic Artist

CERTIFIED PERMANENT MAKEUP PROFESSIONAL

SOFTAP PERMANENT MAKEUP INSTRUCTOR

PERMANENT MAKEUP TRAINER

Licensed NYS Cosmetic Tattoo Artist

CREDENTIALS

CERTIFIED SofTap® Inc.

Micropigmentation / Microblading Trainer

- Eyebrow Microblading / Shading
- Eyeliner
- Full lip Shading and Liner
- Scar Camouflage
- Tattoo Removal & Lightening
- Advanced Techniques
- Corrections

SofTap® Inc.

550 N Canyons Pkwy

Livermore, CA 94551

<http://www.softaps.com/consumer/>

SofTap® Inc.

- Fundamental of Micropigmentation

550 N Canyons Pkwy

Livermore, CA 94551

<http://www.softaps.com/consumer/>

SofTap® Inc.

Master Advanced Training

- Microblading & Microshading, Eyeliner, Lips, Camouflage and Tattoo Lightening

550 N Canyons Pkwy
Livermore, CA 94551
<http://www.softlaps.com/consumer/>

PHIBROWS Academy
Microblading Academy USA

- Phibrow Microblading

Kler Rosenberg
Boca Raton, FL 33433
<https://microbladingacademyusa.com/about/>

The Beau Institute
Areola & Scar Camouflage
Natural Sea Salt Saline Tattoo Removal and Lightening
2000 Academy Drive
Suite 400
Mt. Laurel, NJ. 08054
<http://www.beauinstitute.com/medical-professionals.php>

VICKY MARTIN Master Trainer & Artist
United Kingdom

- Advanced Areola tattoo

NOUVEAU CONTOUR
MASTERS IN MICROPIGMENTATION

- Masters training Machine
- Eyebrow / Hairstroke, Ombre / Powder
- Eyeliner
- Lips Lining/Shading

111 N. Orange Ave, Suite 775 S
Orlando, Florida. 32801
<https://nouveaucontourusa.com>

Mary Ritcherson Nano Lines
Advanced Hairstroke Nano Lines

- Master machine Hairstroke training

8593 W. Linebaugh Ave.
Tampa, FL 33625
<http://www.permanentmakeupbymary.com/MEET-MARY.html>

Mary Ritcherson Micro-needling
• Certified Micro-needling

M8593 W. Linebaugh Ave.
Tampa, FL 33625
<http://www.permanentmakeupbymary.com/MEET-MARY.html>

Will Anthony® Permanent Cosmetics
& Advanced Training Center

- Advanced Eyeliner

3271 Tamiami Trail b
Port Charlotte, FL 33952
<http://willanthonicosmetics.com>

G-2

Scalp Aesthetics (Miami)

- SMP SCALP FOLLICLE SIMULATION

300 W. 41st Street

Suite 200

Miami Beach, FL 33141

<http://www.tricopigmentation.co/locations/miami-fl/>

A+ Ocean Tattoo Removal

- Advanced technician

127 Forest Lake Blvd S, Ste 3,

Oldsmar, FL 34677-3028

In addition:

- Current Licensed Registered Nurse in NYS
- CPR Instructor 27 years
- Certified in Medical Aesthetics Administration
 - Botox
 - Fillers
 - Mesotherapy
 - Sclerotherapy
 - Laser
 - Anti-aging Bio-identical Hormone Therapy
 - Weight Control Nutritional Counseling
- Certified Personal Trainer
- MEMBER OF SPCP (Society of Permanent Cosmetic Professionals)
- CPCP / Certified Permanent Makeup Professional



G-2



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© Colour Cosmetic Studio, inc.

[Login](#)



Colour Cosmetic Studio, inc. (Albany Location)

About Services Offers

About Services Offers

Schedule Now

Last booked 7 hours ago About

Trust Kathleen, an experienced RN with your natural looking Microbladed Brows & Permanent Makeup. Specializing in Eyebrows, Lip liner and fill & Eyeliner Also offer Para-medicalmicropigmenta for Areola & Scalp micropigmentation for hair loss (SM

Additional Info

We welcome Nora Quinn, Lic. NYS Esthetician beginning October 8, 2018. Please refer to skin care services offered by Nora Quinn.

1525 Western Ave. Suite 2, Albany, NY 12203

Looking for another location?

Change Location

Colour Cosmetic Studio, inc. (Albany Location)

1525 Western Ave. Suite 2 Albany, NY 12203

Colour Cosmetic Studio, inc. @ 372 New Scotland Ave.,

New Location Albany, NY 12208

Staff



KATHLEEN CRONIN, RN Micropigmentologist Schedule with Kathleen Cronin, RN, for a soft natural looking microblading and natural feathered eyebrows and permanent make up. We also offer para-medical micro-pigmentation: Areola and Scalp pigmentation (SMP) We welcome NORA Q to our staff beginning July 2018 For expert natural eyelash extensions, please ask for NORA...beginning JULY 2018 Saturdays must call for appointment. Also in Saratoga @ Mary Martin & Co. Day spa by . Call 518-776-0067. Hours vary.



Nora Quinn , Lic. Esthetician Nora joins our studio and we are happy to have her. She offers Skin Ceutical facials and skin care as well as many other services to keep your skin in wonderful condition.

[Schedule Now](#)

Last booked 7 hours ago

[Address](#)

1525 Western Ave. Suite 2, Albany, NY 12203

[Show Map](#)

[Change Location](#)

Colour Cosmetic Studio, inc. (Albany Location)

1525 Western Ave. Suite 2 Albany, NY 12203

Colour Cosmetic Studio, inc. @ 372 New Scotland Ave.,

New Location Albany, NY 12208

[Hours](#)

Hours differ for Kathleen Cronin, RN & Nora Quinn, Esthetician Please allow 24 business hours for a call back. Please call again if we do not return your call...some days are just so busy and thank you!

[Payment Connect \(518\) 776-0067](#)

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[Need Help?](#) Call the NYS License Center Help Desk Team at (518) 453-8130 between the hours of 8:30am and 4:30pm Monday-Friday, with the exception of NYS - observed holidays.



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[Consumer Complaints](#)

License Information: Esthetics AEE-18-08295

Licensee Detail

License Number: AEE-18-08295

Name: Nora Quinn

County: Albany

License State: NY

License Issue Date: 09/19/2018

Current Term Effective Date: 09/19/2018

Expiration Date: 09/19/2022

Agency: Department of State

License Status: Active

► Related Records



Record list

Showing 0-0 of 0

Date	Record Number	Record Type	Description	Project Name	Expiration Date	Status
----------------------	-------------------------------	-----------------------------	-----------------------------	------------------------------	---------------------------------	------------------------

No records found.

[Submit](#)

Your browser does not support JavaScript.

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Saturday, June 09, 2018 4:34 PM
To: 'Robert Magee'
Cc: 'Richard LaJoy'; 'mayor@albanyny.gov'; Brian Shea (bshea@albanyny.gov); 'Tom Keefe (tomk@nycap.rr.com)'; David Galin (dgalin@albanyny.gov); 'Bill Kelly'
Subject: RE: 372 New Scotland Ave

Robert –

Needless to say, I am very disappointed in your response to my letter of last month indicating that you have reached the conclusion there is nothing the buildings dept can do to address the signs in front of 372 New Scotland Avenue that advertise chiropractic services (and included Mr. Kohl's name as a licensed chiropractor) although Mr. Kohl has forfeited his license to practice as a result of pleading guilty to sexual assaults....and that you believe Mr. Kohl's practice was (and apparently you believe still is) a legal non-conforming use despite him no longer be licensed to be a chiropractor.

In your email you did not address section 375-4(l)(6)(E) of the current zoning code which unequivocally states:

“E. OBSOLETE SIGNS

Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district.”

I don't believe under any stretch of the imagination, a judge would conclude that the continued placement of a sign for a business that no longer operates on the premises is a pre-existing non-conforming use that the city must allow the owner to post (certainly not protected speech given it is false and misleading and a potential danger to the public).

Even if you and Mr. Kohl could argue a pre-existing non-conforming use that requires the City to apply only the prior code under which this sign was erected – the continued posting of these signs also do not comply with the prior codewhich provided “Any sign, existing on or after the effective date of this chapter, which no longer advertises an existing business conducted or product sole on the premises upon which such sign is located shall be removed.” (section 307-11)

That prior section of the code allowed the administrator to remove a sign that is not used or is abandoned upon written notice to the owner.to remove a sign which is the source of immediate peril to any personto revoke any permit and/or effect the removal of any sign erected thereunder if the sign contains any material misstatement of fact or is otherwise false or misleading.

Below is the excerpt from NYT re Seth Kohl forfeiting his license. Final action to do so was taken by the Board of Professions in February of this year and available on the office of professions public website --- so there can be no doubt that all of the signs are false and misleading – contains a material misstatement of fact...and, under our current and prior code, does not advertise “an existing business” on the premises.

As a result, contrary to your email, it seems to me that the Buildings Dept clearly has the authority to require the removal of the signs....and if the signs are not removed by the owner, both fine the owner and abate the violation.

Additionally, I note that your analysis regarding this being a non-conforming use is otherwise not consistent with the facts....

The prior chiropractor lived in the property – in the upstairs apartment. It was a legal home office as a chiropractor's office and would have been "grandfathered" in as that. Mr. Kohl's use has never been consistent with the potential grandfathering in – because Mr. Kohl has never lived there.

Your presumptions regarding the issuance of the sign permit are wrong.

The permit had been issued in error (clearly admitted by the administration at the time per our former Common Council rep – Tom Nitido at the time) – but the administration did not want to pursue a revocation of that sign permit. It was oversized and not legal at the time.

Nor did they want to enforce the unauthorized use provisions. That does not mean it was legal.

However, more importantly, my understanding is that if a non-conforming use has ceased for 12 months, then the illegal use is no longer grandfathered.

Please confirm that is also your understanding.

If so – below is an excerpt from a NYT.com showing that he was arrested on June 27, 2017 and ceased to operate his office at that time....if not before.

My understanding is that either the DA or NYSED required him to not operate his practice while charges are pending (which may have been the case in NYSED's case before he was actually arrested).

So, minimally, effective June 27, 2018, the only activities allowed there are those authorized in an R-2 district.....which does not include any professional services unless the provider of such services lives on the premises.

Under the circumstances, I think it would be appropriate for the city to send a letter to Mr. Kohl immediately and copy the DA and SED and advise him that he needs to remove the sign per the above-cited provisions relating to obsolete signs.

Then – send a second letter on June 27th letting him know unequivocally that as of June 27th the premises are no longer grandfathered in and the only activities permitted on the premises are those that are authorized under R-2 zoning. (so he can't sell to some unsuspecting soul arguing it can legally be used for a professional office....especially since you have said he now intends to market the property.)

I would appreciate your and Rick reviewing this situation and letting me know what action, if any, you intend to take.

Thanks

Judy

June 27, 2017 11:26 PM

ALBANY - For more than twenty years, inside a quaint looking chiropractic office at the corner of New Scotland Avenue and Rampsey Place in Albany, patients have gone to see Dr. Seth Kohl, asking for relief from sciatica to slipped discs to spinal stenosis.

But according to police, two female patients got more than they were asking for.

"The first victim came forward in August of last year during a chiropractic visit," said Albany Police Spokesman Steve Smith. "We began an investigation and while conducting that investigation we were informed that another patient was touched by the same doctor."

Those women's ages were 64 and 51. Their complaints have led to misdemeanor charges of sexual abuse 2nd degree against Dr. Kohl.

"It was a lengthy investigation," Smith said, "If she (the second alleged victim) didn't come forward, there still would have been an arrest. The doctor committed a crime in the first incident. He did in the second incident too."

Aimed to allow Dr. Kohl to tell his side of the story, News Channel 13 rang the doorbell of his Delmar home Tuesday night, but even though there were two cars parked in the driveway, no one answered the door.

Meanwhile, back at his Albany office, a yellow post-it note stuck to the door notified patients that Tuesday appointments were canceled. At this point, future visits are uncertain.

"Right now we're conducting an investigation to maybe (find) similar incidents," Smith says, "We're asking anybody who may have been victimized to come forward."

After his arraignment, Dr. Kohl was set free on his own recognizance.

January 12, 2018 02:03 PM

ALBANY - An Albany chiropractor was sentenced Friday after pleading guilty back in October to sexually abusing patients.

Seth Kohl received six years of probation.

Prosecutors say he had sexual contact with two patients at Albany Chiropractic on New Scotland Avenue -- one in February, the other in August.

One of the victims was in court for the sentencing and didn't want to hide her face or identity as she spoke.

"I cancelled so many needed doctor's appointments, because how could I trust another healthcare professional when one had already violated me," wondered Dorie Viovannetti. "I began this journey as a victim of sexual assault. I will continue this journey as a survivor of sexual assault."

From: Robert Magee [mailto:rmagee@albanyny.gov]

Sent: Saturday, June 09, 2018 1:40 PM

To: 'judydoeschate@nycap.rr.com'

Cc: Richard LaJoy

Subject: 372 New Scotland Ave

Hi Judy,

Rick and I talked about this issue on Friday and I've done some digging. According to our records, 372 New Scotland Ave has been operated as a physician's office since 1967 so it's likely that the use as such was grandfathered in, especially given that a chiropractor's office would not have been an approved home occupation without BZA approval under the pre-ReZone rules. The owner also produced a certificate of completion from 1997 from the buildings department with respect to the sign after he was cited for it. That the we approved the sign 21 years ago undermines the building department's ability to sustain a code enforcement action with respect to the sign. This approval would also bolster a conclusion that the current use was grandfathered in (in that the question of legal use would presumably have arisen and been resolved in Mr. Kohl's favor when the sign was applied for). As such there's much the buildings department can do to address the underlying problem of Mr. Kohl practicing as a chiropractor without a license.

My hope is that NYSED will have tools more appropriate to resolving the matter and, in any event, the Kohls have expressed to Rick that they are preparing the property for sale.

Robert Magee, Deputy Corporation Counsel

City of Albany

Department of Law

(518) 434-5995 • (518) 434-6015 Fax

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Friday, September 28, 2018 12:23 PM
To: 'Christopher Spencer'
Cc: Bradley Glass; 'Al DeSalvo'; 'Richard LaJoy'; Brian Shea; David Galin; 'Kathy Sheehan'; tomk@nycap.rr.com; rimagee@albany.ny.gov; 'Bill Kelly'; Judy Doesschate
Subject: 372 New Scotland Avenue - Change in Use of nonconforming Chiropractic office zoned R-2
Importance: High

Chris –

I learned late yesterday from Rick LaJoy that your office approved the operation of a business at 372 New Scotland Avenue that requires a “tattoo and /or body piercing artist certification” and that Rick issued a CO for the operation of this business. I am not sure how I am finding this out just now although I have made several inquiries previously regarding this property and zoning and code violations and permitting (in May 2018 and other times before and after) and was told on Sept. 10, 2018 that nothing had been issued regarding zoning or permitting, and all I was told Wednesday in response to my inquiries was the zoning compliance certificate that allowed the operation of an “Office” (based upon a unsubstantiated claim that the “office closed in mid September 2017”) Despite my inquiries, no one told me a CO had been issued for this tattoo parlor until late yesterday – which expands this non-conforming “Office” use (which was not entitled to be “grandfathered” in) to a “Personal or Business Services” use.

This decision is a complete violation of our zoning code, a detriment to our neighborhood that has potential consequences for years to come, and I ask that you immediately rescind it.

This property is zoned R-2.

Ms. Cronin is licensed by the County of Albany as a “tattoo and/or body piercing artist” and is registered as a “tattoo shop” at 1525 Western Avenue where she provides the same kinds of services that she plans to provide at 372 New Scotland Avenue.

The USDO section 375-3(C)(4)(iii) makes it clear that the provision of tattoo services is a “personal or business service” by mentioning under “personal or business service” that they are regulated by the NYSDOH and Albany County Department of Health pursuant to County Local Law 4, of 1999.

In our conversation Wednesday evening, I sought your confirmation that any possible legal nonconforming use was limited to an “Office” as outlined in your August 9th letter and would not allow the operation of a licensed tattoo parlor, and was shocked that you said “you need to look at the allowable uses in the “higher category.”

You implied that because an “Office” use was in the same general use category as a “Personal Service” use, a “Personal Service” use would also be grandfathered in if the “Office use” was grandfathered in. Although you did not tell me that your office actually already issued a CO for this “Personal Service use,” I assume this is the logic that you used when your office approved the CO.

If so, it is a clear violation of the zoning code, and sets a horrific precedent for our entire city and undermines all the work we did to establish a new zoning code.

As I noted Wednesday, an “Office” is permitted as of right in a MU-NE zone, but a “Personal or Business Service” is required to obtain a CUP in order to operate in an MU-NE zone.

That clearly demonstrates that a “Personal or Business Service” use is considered a more intense use than an office.... not a less intense level of use that might allow a change in the nonconforming use under our USDO.

We carefully designated certain parts of New Scotland Avenue to be MU-NE or R-1 or R-2 expressly to limit the types of commercial enterprises that could be located in this predominantly

residential neighborhood. The provision of "Personal or Business Services" was expressly **not allowed** on most of this stretch of New Scotland Avenue and was carefully limited to the commercial district between Quail and Ontario, and the bank and gas station immediately adjoining that district. The chart clearly requires that someone in an MU-NE zone that wants to operate a "Personal or Business Service" would need to go before the Planning Board and meet the special criteria in the code to justify the operation of business. Notably, this would also require notice to neighbors and other individuals who have requested such notice – which did not happen here. These specific zoning decisions and heightened level of review for the placement of "Personal and Business Services" in certain areas also clearly demonstrates that this use is a more intense level of use – not the same level of use that allows for this change in the nonconforming use.

Additionally, it is important to note that the provision of tattoo services has many environmental and health impacts that a chiropractor's office does not. A chiropractor's office does not engage in invasive procedures which involve the piercing of the skin and the potential exposure to a variety of infectious diseases; a tattoo shop does. The operation of a chiropractor's office does not result in the disposal of contaminated waste that includes blood and related waste; a tattoo shop does. A chiropractor's office does not use needles or sharps and require the special disposal of such by-products of the business; a tattoo shop does. A chiropractic office does not require special waste disposal services to remove waste from the property; a tattoo shop does. These facts, along with the fact a Tattoo shop cannot operate in a MU-NE zone without meeting the special criteria necessary to obtain a CUP, but an Office use does not require such proof, make it impossible for the City of Albany to determine that the operation of a tattoo shop at this location is the same or a "less intense" use of this property.

When we adopted the USDO, we clearly did not intend every place where an "Office" use is allowed, to also allow a "Personal or Business Service" – which includes shoe repairs, laundromats, dry cleaning businesses, barber shops, beauty parlors, print shops, mailing businesses, sign shops, and tattoo parlors amongst other more intrusive businesses to operate that are not compatible with an R-2 zone.

A "Personal or Business service" and an "Office" are NOT equal and should not be treated equal.

Moreover, this is a clear violation of the provisions of the USDO which expressly states: "**No nonconforming use may be converted to a different nonconforming use unless the Board of Zoning Appeals determines** that the alternative use is in the same or a less intense land use category based on Table 375-3-1(Permitted Use Table)."

Consequently, your office lacked the authority to make this determination allowing for the conversion of this nonconforming use to a different nonconforming use.

That authority exists with the Board of Zoning Appeals, not with your office.

This review by the Board of Zoning Appeals is a sensible process and provision of our code. Had your office sent this matter to the Board of Zoning Appeals, I, and my neighbors, would have been notified of the potential change in use and could have educated your office and the Board on this history regarding this not being a legal nonconforming use – and on why this is not the same level of use – and we would be provided with an opportunity to protect our neighborhood and quality of life from "creeping commercialization" and had an opportunity to be heard as anticipated in the USDO when there are going to be significant deviations from the zoning code.

Additionally, 375-5(A)(5) makes it clear that the overall intent of the USDO is not to allow for expansions of non-conforming uses, but to reduce the number or extent of nonconformities when there are any changes to the structure or its uses. The approval of this change in use – which, presumably would allow this property to be used for any of the "Personal or Business Services" uses in the USDO from here on as long as it is a continuing use – is clearly in violation of this tenet.

The "higher category" you referred to in our conversation yesterday appears to be the category for "Offices and Services"

Under the logic of allowing any business that fits within the higher category to operate wherever *any of the uses* in that general category have been a legal nonconforming use, would result in a determination not only that “Personal or Business Services” which include the operation of a shoe repair shop, dry cleaning business, laundromat, barber shop, beauty parlor, printing and mailing business, sign shop, or any kind of tattoo parlor on the premises (amongst other businesses), it would also allow funeral homes and trade schools to be considered a legal nonconforming use simply because an “Office” has been established as a nonconforming use.

Taking another example, with “Retail” as the “higher category,”– and following the same logic and analysis, if someone has established a small retail shop as a legal nonconforming use – your decision would set the precedent for the owner to convert the simple retail use to a convenience retail shop, adult retail shop or a controlled substance dispensary....all uses listed under “Retail.”

Under the same logic, if someone has a legal nonconforming 2 family residence in an R-1M zone, your decision sets the precedent for them convert it to any of the “household living” categories – which would include multi-family residences of 3, 4 or more units. So, someone owning property in a R-1 district that happened to be a nonconforming 2 unit would be entitled to alter it to have 3, 4 or more units as of right.

This is not what was intended when we carefully crafted the new zoning code to limit uses in certain areas.

It will undermine and destabilize residential neighborhoods.

It is how you wind up with small houses being squeezed amongst commercial buildings along Central Avenue.

That is not what we envisioned or planned when we approved the new zoning code and it is not what the residents here want.

And, in any case, whatever determinations you have made regarding the conversion of this property to another nonconforming use should be rescinded and treated as a nullity as that is a decision that needs to be made by the Board of Zoning Appeals.

I want to reiterate that although the applicant pointed out in her application that she was a licensed RN, **nothing in what she is providing in the way of services requires licensure as a nurse.** That assertion is based upon my 23 years of working in the NYSDOH Counsel’s office where one of my areas of expertise was professional misconduct issues, and the “corporate practice of a profession” – which included determinations of what professional licenses are required to perform specific services (i.e., administration of medicine, performance of abortions, ordering of lab tests, issuance of prescriptions, placement of catheters, performance of phlebotomy, etc.)...and determinations of what kinds of services required a business to be licensed as a hospital, health clinic, nursing home, home health service, etc.

Ms. Cronin is not providing “medical services” as Rick relayed to me yesterday.
That would require her to be licensed as a physician, which she is not.

Furthermore, corporations (except for PC’s – professional corporations) that are not licensed by the NYS DOH as a hospital, nursing home, or health care clinic cannot provide medical services and cannot hold themselves out as providing medical services.

Similarly, corporations cannot provide professional nursing services unless they are a hospital, nursing home, health care clinic, home care agency, or visiting nurses agency licensed by either the NYSDOH or NYSSSED. Ms. Cronin is operating this office as “Colour Cosmetic Studio, Inc. and is not licensed by the NYSDOH – hence, she cannot legally provide either medical or nursing services at this location.

Additionally, if Ms. Cronin is performing services that require a nursing license, then she would be required to perform such services under the supervision of a physician....and under physician's orders. As such, if she claims she is providing professional services, she should be able to produce a signed agreement of supervision by a licensed physician AND produce evidence that she has doctor's orders for the services she is providing to her clients.

Consequently, Ms. Cronin is not providing a "professional service." She just happens to be a nurse who is providing services that require licensure as a "tattoo and/or body piercing artist" (which, she conveniently did not mention in her application although I have confirmed with the Albany County DOH that she is certified as a tattoo and/or body piercing artist" for the same business out on Western Avenue) and as a licensed esthetician (which also is **not a "profession"** – it is a type of service licensed by the NYS Department of State in the same way people who provide services in beauty parlors are licensed).

As a result, the services she is providing is not a "professional service" and does not otherwise fit within the definition of other services listed in your August 9th letter for the operation of an "office" and should not be recognized as a legal nonconforming use.

I appreciate the fact that you have indicated you will be looking into the lapse in the use of this building for over a year as an office and also strongly believe that would also be an appropriate basis for rescinding the CO for this business. Mr. Kohl was arrested on June 27, 2017 and immediately stopped providing services at this location. There were never any signs of any patients visiting him after that date and he was rarely on the premises following that date. His visits seemed to be related solely to the upkeep of the property.

As I have noted previously, I also believe your finding that Mr. Kohl's practice was a legal nonconforming use is in error. The chiropractor who operated on the premises prior to Mr. Kohl lived in the upstairs apartment with his girlfriend. As such, it was a legal home-office use, not a nonconforming use. I would appreciate your providing me with copies of all documentation you relied on in making such a determination.

Finally, I want to address the sign issue.

As I noted back in May of 2018, the sign on the premises is an obsolete sign and was required to be removed last year.

The sign continues to be an obsolete sign and must be removed.

An obsolete sign according to our USDO is:

"Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district."

The retention of the sign at this location was clearly a violation of the USDO once Mr. Kohl was arrested and stopped seeing patients on the premises in June of 2017.

Once Mr. Kohl's license was suspended in September of 2017, and then he surrendered his license in January of 2018, there was no basis whatsoever for the sign to be retained. There was NO existing business being conducted on the premises throughout this time.

I note that this provision of the USDO does not place a time limit which has to be met before a sign becomes obsolete. It requires removal when the sign no longer advertises an existing business.

The fact that Mr. Kohl kept the sign up in violation of the USDO does not make it a "legal sign." It was illegal and is illegal and should have been removed and the owner should be required to remove it now. It currently advertises nothing. People cannot simply erect blank billboards or signs on their premises and pretend they are not a "sign" requiring a permit.

I also note that the code provides that 375-4(l) applies to the erection or continuation of all signs located outside of a structure.

At this point, since Ms. Cronin cannot use a sign that advertises chiropractic services, she will need to “erect” a new sign. A new sign requires a new permit – and compliance with the code. The sign is also not subject to grandfathering because nonconforming signs can only be “maintained” – they cannot be redesigned or altered “in any way.”

Thus, the sign should be removed as an obsolete sign, and, if Ms. Cronin desires to install a sign on her premises (if she is allowed to continue the illegal nonconforming use) then she should be required to apply for a variance to erect such a sign.

I want to note that when Mr. Kohl erected the excessively large sign that is there now, my husband and I contacted our Alderman because the sign was clearly out of compliance with the code provisions at the time. The City readily admitted it had made an error in issuing the sign permit in violation of the code. However, since Mr. Kohl relied on the city’s issuance of the permit it was not willing to force the removal of the sign because of the likely liability issue to the city.

In other words, this was never a legal nonconforming sign. It was a sign that was allowed to remain in place in violation of the code – a code that simply was not enforced through the years. The lack of prior enforcement of the code does not make an illegal nonconformity a legal non-conformity.

This is part of the reason I contacted the City to have it removed last year when it became obsolete – to remove a sign that should never have been permitted in the first place.

I also want to note that since Mr. Cronin will be required to expend money to alter the sign to advertise her own business, she will lack the equity argument that Mr. Kohl had - i.e. relying on the city’s issuance of an inappropriate sign permit.

However, it is appropriate for the city to advise Ms. Cronin immediately that the sign is obsolete and must be removed, and that if she wants a sign she needs to apply for a variance so that she does not have a new sign made that cannot be erected.

Ms. Cronin also lacks an equity argument when it comes to her request for a compliance certificate and change of use CO:

Ms. Cronin stated in her application that the chiropractic office closed in mid September 2017, when it actually closed in June 2017.

Her website for the same business at 1525 Western Avenue makes it clear that she is performing tattoos and uses the term “tattoo” repeatedly – a fact she omitted from her applications to the City of Albany.

She also implied that she was providing medical services (by using the term “paramedical”) which she is not authorized to provide.

She also emphasized that she was a licensed RN and a licensed esthetician – - which, along with “paramedical” gives the impression that she is providing professional services as a nurse – which she is not authorized to do independently without a supervising physician agreement (and probably not even then since she is not a licensed Nurse Practitioner), and especially not as a corporation without the corporation being licensed by the NYSDOH as a clinic.

At the same time she mentions her RN licensure, and esthetician license, she explicitly failed to mention that she is certified as a tattoo and/or body piercing artist – a license that is most relevant to the work she is performing and for the proper categorization of her business.

She also fails to mention that her work requires her also to register as a tattoo shop under the Albany County Law – although the business she operates (or operated) at 1525 Western Avenue performing the same services she plans to perform at 372 New Scotland Avenue is registered in such a manner. Thus, she is fully aware of the licensure requirements for the work she is performing and chose to omit this fact from her applications – while mentioning other licenses.

The USDO expressly lists tattoo parlors under “personal and business services” and says that they are subject to regulation under the NYSDOH and Albany County Law. Thus, the omissions

from her application regarding her licensure as a tattoo artist and a tattoo shop are significant material facts she chose to leave off her application.

Further, I want to note that Albany County Law 4, 1999, provides

"When a tattoo shop is hereafter constructed or remodeled, or when an existing structure is converted for use as a tattoo shop, properly prepared plans and specifications for such construction, remodeling or alteration showing the layout; including work area, sinks, counters and storage areas, fixtures, toilet facilities and waiting area, drawn in ¼ inch scale, shall be submitted to the Department for review and approval before construction is started."

When I called the Albany County Department of Health earlier this week, I was advised that Ms. Cronin was licensed and registered at 1525 Western Avenue – but had not submitted any applications to be registered at 372 New Scotland Avenue. Thus, any construction or remodeling that is going on at 372 New Scotland Avenue at this time is being done so in violation of the that she obtain approval from the County DOH as it is an "existing structure" being "converted for use as a tattoo shop."

Again, I am asking that you immediately require Ms. Cronin to remove the sign in front of 372 New Scotland Avenue as an obsolete sign, and rescind all decisions made that appear to allow the operation of this business at 372 New Scotland Avenue as the determinations were not made in a manner consistent with the USDO and are based upon incorrect assumptions, representations, and interpretations of the USDO.

I want to further note that I am very concerned about the potential impact of this decision as a unwanted precedent for many other properties in the City and especially along New Scotland Avenue. The City of Albany has long been lax in its enforcement of the code when it comes to home office uses and the conversion of many residential properties to an "Office" use. This precedent, and the potential use of the argument that all other uses within the category of "Office and Services" are permitted nonconforming uses if a simple nonconforming "Office" use is established can dramatically change the landscape along New Scotland Avenue and other parts of the city, and undermine our neighborhoods and the entire intention of the USDO.

I thank you in advance for your consideration of these comments, and look forward to your determination.

Sincerely,
Judy Doesschate

From: Richard LaJoy [mailto:rlajoy@albanyny.gov]
Sent: Thursday, September 27, 2018 2:52 PM
To: 'Judy Doesschate'; 'Al De Salvo'
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Judy,

[Here is what was applied for in the change of use.](#)

Paramedical micropigmentation services to restore the Areola/Nipple complex after Mastectomy and other surgery; cosmetic enhancement and reconstructive micropigmentation to restore the color and shape to missing eyebrows, eyelash line and lips; restorative micro-pigmentation to the scalp known as Simulated hair Follicle (SMP); and micropigmentation to correct and diminish

scars and vitiligo. Also, the offices will provide esthetician skin care. This will not be a retail business and will be by appointment only. Services will be provided by a NYS Licensed Registered Nurse and a NYS Licensed Esthetician.

Rick

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Thursday, September 27, 2018 2:02 PM
To: Richard LaJoy; 'Al De Salvo'; Bradley Glass; Christopher Spencer
Cc: Zach Powell; Joshua Gold
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Thank you.

Initially they did some yard work, then I saw someone scraping windows, but after that the blinds were pulled down regularly.

So, I have no way of knowing.

What was the change of tenant permit about?

What is the date of the application?

I am concerned she is putting money into renovations that she is not authorized to provide on the premises.

From: Richard LaJoy [mailto:rlajoy@albanyny.gov]
Sent: Thursday, September 27, 2018 1:04 PM
To: 'Al De Salvo'; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell; Joshua Gold
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

Al,

I am going to send our Senior Inspector over there to see what is going on. If there is any work happening that requires a permit we will deal with it.

Rick

From: Al De Salvo [mailto:ads@nycap.rr.com]
Sent: Thursday, September 27, 2018 12:53 PM
To: Richard LaJoy; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2
Importance: High

Judy—Can you answer Rick? You mentioned that there is a dumpster there and that work is going on. If electrical or plumbing work (e.g. new, professional sinks) are happening I would guess a permit is needed....

From: Richard LaJoy [mailto:rlajoy@albany.ny.gov]
Sent: Thursday, September 27, 2018 12:34 PM
To: 'Al De Salvo'; Bradley Glass; 'Judy Doesschate'; Christopher Spencer
Cc: Zach Powell
Subject: RE: 372 New Scotland Avenue -Chiropractic office zoned R-2

There is a Change of Tenant permit in our system but there is no permit for any work.

What kind of work is being done?

Rick

AFFADAVIT of Thomas K. Keefe Regarding 372 New Scotland Avenue

I, Thomas Keefe, being duly sworn, depose and state:

1. I purchased 380 New Scotland Avenue with my wife in 1987 and have lived there for the past 31 years.
2. When I moved into 380 New Scotland Avenue, a single chiropractor provided services at 372 New Scotland Avenue and occupied the upstairs apartment with a woman I understood to be his girlfriend; there were no other tenants in the building.
3. There was one small, barely noticeable sign to indicate there were professional offices there.
4. The impact of this on my and my family's life was minimal.
5. The City Directory shows that the only "occupant" of 372 New Scotland Avenue from 1985 through at least 1992 was "New Scotland Chiropractic Office;" although there had been other various residents listed with Dr. Kalmut Rosenblatt (a physician); Dr. Howard Serling (a podiatrist) and Dr. Ted Cohen (a podiatrist) for years before that.
6. The cessation of the listing of a different tenant at 372 New Scotland in 1985 was likely due to the fact the chiropractor providing services on the premises was also the upstairs tenant, thereby converting the nonconforming "professional office use" to a "home professional office use."
7. When Seth Kohl purchased 372 New Scotland Avenue in 1989 (he continued to use the name "New Scotland Chiropractic Office") and installed an over-sized lit sign, I objected to my then Common Council member, Tom Nitido, noting that the sign and Mr. Kohl's use were not allowed in an R-2 district. Mr. Nitido advised me and my wife, that the city buildings department readily admitted they made an error in issuing the sign permit for the oversized sign in our residential area, but were not going to rescind it nor abate the non-conforming use.
8. The main entrance of 380 New Scotland Avenue faces 372 New Scotland Avenue, and my driveway is directly across from the driveway for 372 New Scotland Avenue.
9. From 1989 through June of 2017 when Seth Kohl was arrested, I observed his routines. He parked in the driveway directly opposite mine at the beginning of most weekdays, and his car was usually gone by the time I got home at 5 or 6 PM.
10. His wife would generally come to the office in the same car to serve as his receptionist. As a result, him and his "employees" had little impact on parking on Ramsey or New Scotland.
11. However, at one point, there was a major brooha in the neighborhood when Mr. Kohl put up a sign saying something like "parking for patients only" in front of his office on New Scotland.
12. Since Ramsey Place is narrowed considerably by New Scotland Avenue, parking is not permitted in the immediate vicinity of the office on Ramsey Place.
13. As a result, a lot of his clients would park in his driveway.

14. I retired in September of 2016 and spend most of my time at home and coming and going by car or on foot several times a day – so I have been generally aware of the activity at 372 New Scotland Avenue since my retirement.
15. On or about June 27, 2017, when Mr. Kohl was arrested, a yellow sticky note was put on the front door of his office saying the office was closed.
16. That note remained there for at least a week – when it was either removed or blown away.
17. I did not see any evidence of Mr. Kohl, his wife, or their car in the driveway or any place in the area for at least several weeks after that.
18. The only car I saw in the driveway for a long time after that was for Mr. Kohl's very nice, upstairs tenant.
19. Eventually, Mr. Kohl returned to the property to perform some maintenance on occasion mostly lawn mowing or snowblowing.
20. Those were the only times I saw Mr. Kohl until late August of 2018 when I noticed he was putting out a lot of trash.
21. I saw no evidence of clients visiting him, parking in the driveway or him being there from the time he was initially arrested in June of 2017.



Thomas K. Keefe

Sworn to before me, this 25th day of October, 2018



JUDY L. DOESSCHATE
NOTARY PUBLIC-STATE OF NEW YORK
No. 02DO6259352
Qualified in Albany County
My Commission Expires April 09, 2020

From: Suzanne Sullivan <Suzanne.Sullivan@nysed.gov>
Sent: Thursday, November 01, 2018 1:20 PM
To: judydoesschate@nycap.rr.com
Subject: RN Practice

Please find below information from the New York State Nursing Board Office on RN Practice and Cosmetic Procedures.

Medical Cosmetic/Dermatological Procedures

RNs may perform cosmetic procedures to treat dermatologic conditions pursuant to a valid order from a qualified physician, nurse practitioner or PA who has examined the patient. These procedures may include:

- Light treatments, such as topical photodynamic Therapy (PDT); infrared light; magenta light; UVB light and UVS light.
- Use of ablative lasers (approved by the FDA) in skin peels or removal of the superficial dermal layer.
- Non-ablative lasers (intense pulsed light, long pulsed dye laser, sclerotherapy for telangiectasia, laser hair removal or tattoo removal and non-invasive radio frequency procedures).
- Peels/topical treatments.
- Injectable treatments (using FDA approved products) such as Botox, absorbable dermal fillers and sclerotherapy of superficial veins.

Tattooing

Public Health Law Article 4A requires persons engaged in tattooing to be permitted by the New York State Department of Health. **It is not within the scope of practice of RNs or LPNs to engage in tattooing (including micropigmentation).**

Ear Piercing

Ear piercing for cosmetic purposes may be performed by unlicensed persons.

Sincerely,
The Nursing Board Office

Confidentiality Notice

This email including all attachments is confidential and intended solely for the use of the individual or entity to which it is addressed. This communication may contain information that is protected from disclosure under State and/or Federal law. Please notify the sender immediately if you have received this communication in error and delete this email from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Attachment K

Copy of New York State Department of Health Website Re Tattooing Regulations and health and safety concerns. (https://www.health.ny.gov/community/body_art/)



Body Art - Tattooing and Body Piercing

Statewide health regulations for tattooing and body piercing are currently being developed by the New York State Department of Health under the statutory authority of [Public Health Law Article 4A](#). The law authorizes the Commissioner of Health to develop regulations establishing operating standards, fees, fines and penalties for failure to abide by the regulations. The law requires tattoo and body piercing operators to obtain a permit in order to operate a tattoo or body piercing studio and for all tattoo and piercing artists to obtain an individual permit.

Until the new regulations are in place, local regulations, if any, apply. For more information on regulations in your area, contact your [county or city health department](#).

Risks associated with tattooing and body piercing

Tattooing and body piercing carry risks of infection and bloodborne disease transmission as well as allergic reactions, prolonged bleeding, swelling, scarring and general discomfort. Existing medical conditions such as allergies, heart disease, diabetes, skin disorders or conditions that affect the immune system may increase the risk of complications from tattooing and body piercing. You may wish to speak with a physician regarding potential health risks before getting a tattoo or body piercing. For more information, go to:

Risks to Consumers

- US Food & Drug Administration (FDA)
 - [Think Before You Ink: Are Tattoos Safe?](#)
 - [A Tattoo for You? Seven Key Questions to Consider](#)

Risks to Tattooists and Piercers

- US Centers for Disease Control and Prevention - The National Institute for Occupational Safety and Health (NIOSH)
 - [Learn how tattooists and piercers can lower the chance of getting or being exposed to a bloodborne disease](#)
 - [Workplace safety and health topics--Bloodborne Infectious Diseases: HIV/AIDS, Hepatitis B Virus and Hepatitis C Virus](#)

Tattooing of minors is against the law

It is violation of [Section 260.21 of New York State Penal Law](#) to tattoo minors under the age of 18, regardless of parental consent. Contact local law enforcement for more information.

If you get a tattoo, make sure that the tattooist

- Washes their hands before tattooing and uses single-use gloves
- Cleans the skin to be tattooed
- Uses a single-use, disposable razor to shave the skin to be tattooed, if needed
- Uses single-use sterile needles and tubes and single-use inks
- Covers the tattooed skin with a bandage and provides aftercare information

Body piercing of minors without written consent of a parent or legal guardian is against the law

Effective October 28, 2012, New York State [Public Health Law Article 4A](#), prohibits body piercing on a person under eighteen (18) years of age unless the person provides the body piercing establishment with written consent from a parent or legal guardian. The parent or legal guardian must sign a [New York State Department of Health consent form \(DOH 5072\)](#) in the presence of the owner of the body art establishment or in the presence of the body artist. Written parental consent is not required for piercing of the ear.

If you get a body piercing, make sure that the piercer

- Washes their hands before piercing and uses single-use gloves
- Cleans the area to be pierced
- Uses a single-use, disposable razor to shave the skin to be pierced, if needed
- Uses sterile needles, clamps, receiving tubes and body jewelry
- Provides aftercare information

Related Links

- US Food & Drug Administration (FDA)
 - [Tattoos & Permanent Makeup: Fact Sheet](#)
 - [Tattoos & Permanent Makeup: Guide to Resources](#)
- New York State Department of Health
 - [Viral Hepatitis](#)
 - [Latex allergy information](#)
 - [Methicillin-Resistant *Staphylococcus Aureus* \(MRSA\)](#)
 - [NYS Safe Sharps Collection Program](#)
 - [Safe Sharps Disposal](#) also available in [Spanish](#) (Booklet, PDF, 118 KB)

Contact Information / Questions or Comments

*Center for Environmental Health
Bureau of Community Environmental Health & Food Protection
Empire State Plaza-Corning Tower, Room 1395
Albany, New York 12237
(518) 402-7600 or (800) 458-1158
e-mail: bcehfp@health.ny.gov
Questions or comments: bcehfp@health.ny.gov
Revised: May 2016*

ALBANY COUNTY DEPARTMENT OF HEALTH

TATTOO AND BODY PIERCING RULES AND REGULATIONS

Section 1. INTENT AND PURPOSE

Pursuant to Local Law No. 4 for 1999, these rules and regulations have been promulgated.

Section 2. DEFINITIONS

The following words and phrases, as used in this local law shall have the indicated meaning:

1. **“ADEQUATE LIGHT”** shall mean that the tattoo and/or body piercing shop be so illuminated as to permit all tattooing and/or body piercing to be clearly visible without obstruction by shadow or darkness.
2. **“ADEQUATE VENTILATION”** shall mean a free and unrestricted circulation of fresh air throughout the tattoo and/or body piercing shop and the expulsion of foul or stagnant air.
3. **“DEPARTMENT”** shall mean the Albany County Department of Health.
4. **“HEALTH OFFICER”** shall mean the Albany County Commissioner of Health or his/her designee.
5. **“MINOR”** shall mean any person under the age of eighteen years.
6. **“PHYSICIAN”** shall mean a doctor of medicine or doctor of osteopathy equivalent licensed under the provision of the Education Law.
7. **“AFTERCARE”** means written instructions given to the client, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information on when to seek medical treatment, if necessary.
8. **“ANTISEPTIC”** means an agent that destroys disease-causing microorganisms on human skin or mucosa.

9. **“BODY PIERCING”** means puncturing or penetration of the skin of a person using pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

10. **“CONTAMINATED WASTE”** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as “Occupational Exposure to Bloodborne Pathogens.”

11. **“DISINFECTION”** means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

12. **“EAR PIERCING”** means the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers’ instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the outer perimeter and lobe of the ear.

13. **“EQUIPMENT”** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a tattoo and/or body piercing shop.

14. **“HANDSINK”** means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

15. **“HOT WATER”** means water which attains and maintains a temperature of at least 100 degrees F.

16. **“INSTRUMENTS USED FOR TATTOOING AND BODY PIERCING”** means hand pieces, needles, needle bars and other instruments that may come in contact with a client’s body or possible exposure to bodily fluids during art procedures.

17. **“INVASIVE”** means entry into the body wither by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

18. **“JEWELRY”** means any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k white or yellow gold, niobium, titanium or platinum, a dense, low-porosity plastic and or which is free of nicks, scratches or irregular surfaces and which has been properly sterilized prior to use.

19. **“LIQUID CHEMICAL GERMICIDE”** means a disinfectant or sanitizant registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, ¼ cup/gal, or 2 tablespoons/quart of tap water).

20. **“PERSON”** means an individual, any form of business or social organization or any other non-governmental legal entity including but not limited to a corporation, partnership, limited liability company, association, trust or unincorporated organization.

21. **“PROCEDURE SURFACE”** means any surface of an inanimate object that contacts the client’s unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure or any associated work area which may require sanitizing.

22. **“SANITIZE/SANITIZATION PROCEDURES”** means a process of reducing the number of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.

23. **“SHARPS”** means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized single use needles, scalpel blades and razor blades.

24. **“SHARPS CONTAINER”** means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the international Biohazard Symbol.

25. **“SINGLE-USE”** means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or

plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

26. **“STERILIZATION”** means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

27. **“TATTOOING”** means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

28. **“TEMPORARY TATTOO AND/OR BODY PIERCING SHOP”** means any place or premise operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

29. **“UNIVERSAL PRECAUTIONS”** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC) as “guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers” in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6 and as “recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures.” In MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

30. **“SHOP CERTIFICATE OF SANITATION”** shall mean the issuance of a document by the Health Officer to a tattoo and/or body piercing shop certifying that said shop, after inspection, was found to be in compliance with the applicable provisions of this local law.

31. **“TATTOO”** shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.

32. **“BODY PIERCING”** shall mean to cut or pass through with a sharp instrument, or to penetrate a part of the body other than the ear for the purpose of applying jewelry for compensation to various parts of the body by means of a piercing device. If the body piercing is offered in conjunction with the sale of jewelry actually being used in connection with the body piercing, then that service shall be deemed to have been provided for compensation.

33. **“PIERCING DEVICE”** shall mean any device used for the piercing of the skin for the purpose of applying jewelry or other objects to the body.

34. **“TATTOO AND/OR BODY PIERCING ARTIST”** shall mean any person who actually performs the work of tattooing and/or body piercing.

35. **“TATTOO AND/OR BODY PIERCING ARTIST CERTIFICATION”** shall mean the issuance by the Health Officer of a written instrument authorizing the person named therein to engage in the practice of tattooing and/or body piercing or to act as a tattoo and/or body piercing artist.

36. **“TATTOO AND/OR BODY PIERCING OPERATOR”** shall mean any person who controls, operates, conducts or manages any tattoo and/or body piercing shop, whether actually performing the work of tattooing or body piercing or not.

37. **“TATTOO AND/OR BODY PIERCING SHOP”** shall mean any room or space where tattooing or body piercing is practiced or where the business of tattooing or body piercing is conducted or any part thereof.

Section 3. **TATTOO AND/OR BODY PIERCING ARTIST CERTIFICATION**

A. No person except a duly licensed physician shall engage in the practice of tattooing or body piercing or act as a tattoo and/or body piercing artist unless such person has a tattoo and/or body piercing artist certification issued by the Health Officer on a form prescribed by the Department. Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system are exempt from the requirements of this local law. Individuals who use ear piercing systems must conform to the manufacturer’s directions on the use and applicable US Food and Drug Administration requirements. The department shall have the

authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ear piercing systems.

B. No holder of any shop certificate of sanitation issued under this local law shall allow a tattoo and/or body piercing artist to perform in such tattoo and/or body piercing shop unless such tattoo and/or body piercing artist is a holder of a valid tattoo and/or body piercing artist certification issued under this section.

C. Artist's certification is to be prominently displayed to the public, at the artist's work station, in every facility where the artist practices. The artist certification shall not be transferable from one person to another.

D. Any person desiring to engage in tattooing or body piercing or act as a tattoo and/or body piercing artist shall submit an application for a tattoo and/or body piercing artist certification to the Health Officer in the form prescribed by the Department.

E. Each applicant shall be required to take and pass an examination prescribed by the Department before an initial tattoo and/or body piercing artist certification will be issued.

F. The applicant shall be required to demonstrate, by examination, knowledge of the provisions of this local law, including those relating to aseptic technique designed to prevent the spread of infection and contagious disease by tattooing or body piercing practices.

G. Records of all such certifications shall be kept on file by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop employing the person to whom a certification as a tattoo and/or body piercing artist has been issued.

H. A tattoo and/or body piercing artist certification shall expire on December 31 of each year, renewable annually in December for the period next commencing January one.

Section 4. **SHOP CERTIFICATE OF SANITATION**

A. No person shall operate a tattoo and/or body piercing shop unless such person has registered such shop with the Health Officer and has received a shop certificate of sanitation from the Health Officer on a form prescribed by the Department. Shops in which piercing of the lobe or outer perimeter

of the ear only using a single pre-sterilized single use stud earring are exempt from the requirement of this local law.

B. No shop certificate of sanitation shall be issued or renewed unless the shop has been inspected and found to be in compliance with the applicable provisions of this local law.

C. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Department (see 11E).

D. The shop certificate of sanitation shall expire on December 31 of each year renewable annually in December for the period next commencing January one.

E. The applicant shall pay a reasonable fee as set by the Department for each shop Certificate of Sanitation.

F. A permit for a body art establishment shall not be transferable from one place or person to another.

G. A current body art establishment permit shall be posted in a prominent and conspicuous area where it may be readily observed by clients.

Section 5. PLAN REVIEW CONSTRUCTION OR PRE-OPERATIONAL INSPECTION

A. Floor Plan

1. When a tattoo shop is hereafter constructed or remodeled, or when an existing structure is converted for use as a tattoo shop, properly prepared plans and specifications for such construction, remodeling or alteration showing the layout; including work area, sinks, counters and storage areas, fixtures, toilet facilities and waiting area, drawn in 1/4 inch scale, shall be submitted to the Department for review and approval before construction is started.

2. All construction, remodeling, or alterations shall be done in accordance with approved plans.

3. Plans and specifications shall be accompanied by an application on a form provided by the Department along with the appropriate application fee.

B. When a tattoo shop is hereafter constructed or remodeled, or when an existing structure is converted for use as a tattoo shop, a final construction or pre-operational inspection shall be requested by the owner or operator and conducted by the Department prior to the opening of the shop to determine compliance with previously approved plans and all applicable requirements of this Article.

Section 6. **GENERAL PHYSICAL ENVIRONMENT**

A. Tattoo and body piercing shops must have adequate light and ventilation and all walls and ceilings shall be smooth and easily cleaned. Walls and ceilings are to be painted a light color.

B. The floor of the tattoo and/or body piercing shop shall be of impervious material. The floor shall be swept and wet-mopped daily. Floors, walls, or ceilings shall not be swept or cleaned while tattooing or body piercing is in operation.

C. Convenient, clean and sanitary toilet and hand washing facilities with hot and cold running water with soap and single-service towels or hand drying devices shall be made accessible to customers.

D. The tattoo and/or body piercing operator shall provide for the proper and safe disposal of all types of waste products.

E. The building and equipment shall be maintained in a state of good repair at all times. The shop premises shall be kept clean, neat, and free of litter and rubbish.

F. At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable and kept clean.

G. All instruments and supplies shall be stored in clean, dry and covered containers.

H. Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

I. All establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of tattoo and body piercing procedures. The facility permit holder shall also post in public view the name, address, and phone number of the Albany County Department of Health, and the procedure for filing a complaint.

J. Certified tattoo and/or body piercing artists may not set up temporary tattoo and/or body piercing shops at fairs, festivals or expositions unless written approval is obtained from the Health Officer.

Section 7. **WORK ROOM**

A. Each tattoo and/or body piercing shop shall have a work room separate and apart from a waiting room or any room or rooms used as such. The work room shall not be used as a corridor for access to other rooms. Patrons or customers shall be tattooed and/or body pierced only in said work room.

B. Work tables shall be provided for each tattoo and/or body piercing artist. The surface of all work tables shall be constructed of metal or other material which is smooth, light colored, non-absorbent, corrosive-resistant, and easily sanitized.

C. Sterilizers shall be located away from work stations or areas frequented by the public.

D. Each tattoo and body piercing shop or temporary location shall be equipped with hand-washing facilities for its personnel with unobstructed access to the tattoo and body piercing area such that artists can return to the tattoo and body piercing without having to touch anything with their hands. Hand-washing facilities shall be equipped with hot and cold or tempered running water, soap, single-service towels or other approved hand-drying devices, and a refuse container. Such facilities shall be kept clean and in good repair.

E. Smoking shall be prohibited in the tattoo area. Consumption of alcoholic beverages shall be prohibited in tattoo studios or temporary locations.

F. The tattoo studio or temporary location shall be kept free of rodents and vermin and protected from infestation by insects.

G. The sinks or basins shall be for the exclusive use of the tattoo and/or body piercing artist for washing hands and preparing customers for tattooing or body piercing. They shall be equipped with wrist-action controls, soap, a United States Environmental Protection Agency (EPA) approved or hospital grade germicidal solution, individual hand brushes, and fingernail files for each tattoo and/or body piercing artist.

H. Cabinets for the storage of instruments, dyes, pigments, carbon and stencils shall be provided for each tattoo and/or body piercing artist and shall be maintained in a sanitary manner.

I. All sewage, including liquid wastes, shall be disposed of in a public sewer or, in the absence thereof, in a manner satisfactory to the Department.

J. Only articles considered necessary to the routine operation and maintenance of the body piercing work area shall be permitted in the facility.

K. No live bird, turtle, snake, dog, cat or other animal shall be permitted in any area used for the conduct of body piercing operations or in the immediate open adjacent areas, including the main waiting area and the public access to the toilet room.

L. The water supply shall be adequate, of a safe and sanitary quality, from an acceptable source, and shall meet the requirements of the New York State Sanitary Code (10 NYCRR Part 5) and the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR Part 72).

M. A copy of printed instructions (see 8F) shall be posted in a conspicuous place in the work room, clearly visible to persons being pierced.

Section 8. OPERATION STANDARDS – CLIENT RECORDS

A. For each patron, proper records of tattoos and/or body piercing administered shall be maintained by the holder of a shop Certificate of Sanitation.

B. A record of each patron shall be prepared prior to any procedure being performed and shall include the patron's name, signature, address, age, the date tattooed or body pierced, the design of the tattoo, if applicable, the location of the tattoo and/or body piercing on the patron's body, and the

name and location of the tattoo and/or body piercing artist who performed the work.

C. The records shall be entered in ink or indelible pencil in a bound book kept solely for this purpose. This book shall be available at a reasonable time for examination by the Health Officer and shall be preserved for at least three (3) years from the date of the last entry therein. The signature of the patron shall be in the bound book record.

D. Before tattoo and/or body piercing administration, there shall be a discussion conducted with the patron on the risks involved in the tattoo and/or body piercing requested, and its possible health complications. An information form, as prescribed by the Department, shall be signed and dated by both the tattooist/body piercer and the patron. The information form shall advise the client to consult a physician at the first sign of infection or swelling, and shall contain the name, address, and phone number of the establishment. One copy of each form shall be retained at the tattoo and/or body piercing shop and the other copy shall be given to the patron. The tattoo and/or body piercing artist must also explain aftercare instructions and have the patron initial the consent form to indicate that he or she has received written aftercare instructions.

E. In order for the operator/technician to properly evaluate the client's medical condition for receiving a tattoo and body piercing procedure and not violate the client's rights or confidential medical information, the following information shall be given to the operator or artist:

1. History of diabetes;
2. History of hemophilia (bleeding);
3. History of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;
4. History of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
5. History of epilepsy, seizures, fainting or narcolepsy; and
6. Medications taken, such as anticoagulants which thin the blood and/or interferes with blood clotting.

F. There shall be printed instructions, as approved by the Department, given to each body piercing patron on the increased risk of infections resulting from the piercing of mucous membrane tissue, specifically the piercing of the genital area, tongue and nipple. Such printed instructions shall also include information for the patron on the care of the body opening caused by piercing as a precaution to prevent infection, and to consult a private

physician immediately who, in turn, may immediately notify the Albany County Department of Health or advise the patient to do so should an infection become evident. Information should also be provided with reference to the security or snugness of certain jewelry to prevent accidental ingestion or lodging in body cavities.

G. Nothing in this section shall be construed to require the operator to perform tattoo and/or body piercing procedure upon a client.

H. The records of the written consents shall be kept on file for three years by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop in which the tattoo and/or body piercing was performed.

I. Written consent for body piercing of minors, when legally permissible and required (i.e., parental consent is not required for piercing the ear lobe using a pre-sterilized single use stud and clasp ear piercing system), shall be obtained from at least one parent or legal guardian. The writing shall be notarized and filed in person at the tattoo and/or body piercing shop. Proof of age shall be determined upon presentation of two forms of valid identification. Valid identification shall include: a picture driver's license, picture sheriff's identification or birth certificate.

Section 9. TATTOOING AND BODY PIERCING PROCEDURES

A. A tattoo and/or body piercing artist shall not tattoo and/or body pierce any person who is under the apparent influence of drugs or intoxicating liquor.

B. The use of tobacco in any form while engaged in tattoo and/or body piercing procedures is prohibited. The use of tobacco will be restricted to designated areas acceptable to the Commissioner, where no contamination hazard will result and so as to conform to Article 13E of the New York State Public Health Law.

C. Each tattoo and/or body piercing artist shall wear clean outer garments and footwear, maintain a high standard of personal cleanliness, and conform to hygiene practices while on duty.

D. The tattoo/body piercing artist shall keep fingernails clean and neatly trimmed. The artist shall not wear excessive cosmetics or excessive jewelry,

deemed by the Department to interfere with proper hand washing techniques, while engaged in tattoo and/or body piercing procedures.

E. No person with any disease in a communicable form or suspected of having such a disease shall engage in tattoo and/or body piercing. Such diseases include, but are not limited to, the common cold, influenza, tuberculosis, scabies, impetigo, syphilis, chicken pox, mumps, hepatitis, infections on arms, sore throat or jaundice of the skin or sclera.

F. The health officer may require from a tattoo and/or body piercing artist who is found to have a disease in communicable form, or suspected of having such a disease, a statement signed by a duly licensed physician stating that the person is free from communicable diseases before granting permission to resume operations.

G. Any substance applied to the area to be tattooed or body pierced should be dispensed from a container in a sanitary manner that prevents contamination of the original container and its contents, preferably from single-use collapsible metal or plastic tubes. Containers which require that the substance be removed by hand (e.g., a tub from which the substance is removed with the use of a tongue depressor) are prohibited. The application may be spread by the use of gauze but not directly with fingers. The applicator shall be used only once and then discarded.

H. Before working on each patron, the fingernails of the tattoo and/or body piercing artist shall be cleaned with an individual nail file. The artist shall clean his/her hands and exposed areas of the arms thoroughly by lathering and vigorously scrubbing for 10-15 seconds using soap. Hands shall be dried by disposable paper towels or other mechanical means.

I. Skin shall be marked with a non-toxic marker prior to cleansing with antiseptic. The area being pierced must be free of sores and lesions.

J. Before performing a tattoo and/or body piercing procedure, the immediate and surrounding area of the skin where the tattoo and/or body piercing procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single-use disposable razors or safety razors with single service blades shall be used and discarded after each use and the reusable holder shall be autoclaved after use. Following shaving, the skin and surrounding area will be washed with soap and water. The washing pad shall be discarded after a single use.

K. In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single-use and disposed of immediately after use in appropriate covered contaminated-waste containers.

L. For all body piercing, a single-use, sterilized disposable surgical piercing needle of the same gauge as the jewelry is required.

M. Only sterilized jewelry or ornaments in new or good condition, and made of acceptable materials, shall be used for piercing. Acceptable metals include implant grade stainless steel, solid 14k-24k gold, niobium, titanium and platinum.

N. When applied, jewelry should be pushed through the skin following the needle, in the same direction as the piercing.

O. Ear piercing guns and ear piercing needles are to be used for piercing ear lobes only. This piercing device may not be used to pierce any other part of the body.

P. Following the cleaning and shaving of the patron's skin, the hands of the tattoo and/or body piercing artist shall again be washed and scrubbed as required by "I" of this section. Disposable gloves shall then be worn by the tattoo and/or body piercing artist. These gloves must be changed if they touch any other person or non-clean surface during tattoo application or body piercing, or if gloves become pierced or torn, and for each new customer.

Q. Before placing the design on the patron's skin or penetrating the patron's skin, the tattoo and/or body piercing artist shall treat the skin area with an EPA approved or hospital grade germicidal solution which shall be applied with cotton or gauze.

R. The use of single-service tissue and sterile hectographic stencils shall be required for applying a tattoo outline to the skin, with the exception of acetate stencils (see 11C). If drawn free-hand, non-toxic markers or other devices as approved by the Department shall be used.

Section 10. DYES AND PIGMENTS

A. In preparing nontoxic dyes or pigments to be used by a tattoo artist, only nontoxic or sterile material shall be used. Single-service or individual

portions of dyes or pigments in clean, sterilized individual containers or single-service containers must be used for each patron.

B. Skin shall be marked with a nontoxic marker prior to cleansing with antiseptic. The area being pierced must be free of sores and lesions. After tattooing, the remaining unused dye or pigment in the single-service or individual containers must be properly discarded.

C. Patrons shall be provided printed warning of the potential physical reactions from the use of certain dyes in a form acceptable to the Department.

D. All inks, dyes, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, yes or pigments or their dilution with potable water is acceptable. Immediately before applying a tattoo, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single use paper or plastic cups or caps. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

Section 11. SANITATION AND STERILIZATION PROCEDURES

A. All non-single use, non-disposable instruments used for tattooing and/or body piercing shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, and soaked in a sanitizing solution.

B. After cleaning, all non-disposable instruments used for tattoo and/or body piercing shall be packed in packages approved for the sterilization unit. Equipment shall be packed individually or as a set, provided such set is intended to be used for a single tattoo procedure. Each package of equipment sterilized shall be monitored for sterilization.

C. Acetate stencils shall be allowed for re-use if sanitation procedures (see definition 22) are performed between uses.

D. All cleaned, non-disposable instruments, including needle tubes, used for tattoo and/or body piercing shall be sterilized in a steam autoclave or dry heat sterilizer (if approved by the Department)(see "K" of this Section). The sterilizer shall be used, cleaned, and maintained (see "E" of this Section)

according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of its sterilization unit must be available for inspection by the Department. If the tattoo and/or body piercing establishment uses all single-use, disposable instruments and products, and utilizes sterile supplies, an autoclave shall not be required.

E. Each holder of a permit to operate a tattoo and/or body piercing establishment shall demonstrate that the sterilizer used is capable of attaining sterilization. Testing shall be monthly, using a biological indicator, such as spore strips or spore suspensions, and verified through an independent laboratory. The testing laboratory's written guidelines for the proper handling and placement of the biological indicator shall be readily available. Sterilizing equipment that fails testing shall be immediately taken out of service. Results of spore test records shall be retained by the operator for a period of three (3) years, and made available to the Department upon request.

F. After sterilization, the instruments used for tattooing/body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

G. All instruments used for tattooing/body piercing shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

H. Each tattoo and/or body piercing shop or temporary location shall maintain sterilization records. The information shall be permanently recorded and made available for examination by an authorized agent in the tattoo and/or body piercing shop for at least two years from the date of the last entry. These permanent records shall be maintained at the studio and shall include the following:

1. date of sterilization;
2. quantity and type of equipment to be sterilized; and
3. name of individual sterilizing the equipment.

I. Sterilized equipment stored in an approved manner shall be considered sterile as long as the integrity of the autoclaving package is intact.

J. If pre-sterilized equipment is used, the tattooist/body piercer shall obtain documentation from the manufacturer that describes the method of sterilization utilized by the manufacturer and the manufacturer's

recommendations for storage and maintenance of sterility. This documentation shall be available for inspection by an authorized agent. The tattooist/body piercer shall follow the manufacturer's instructions for storage and maintenance of sterility.

K. One of the following methods of sterilization shall be used:

1. Autoclave – steam under pressure:

- a. 121 degrees Celsius (250 degrees Fahrenheit) and a pressure of at least 15 pounds per square inch for not less than 30 minutes after the chamber of the autoclave has been evacuated of air and has reached the required temperature; or
- b. as specified in the manufacturer's operator's manual.

2. Dry heat sterilization:

- a. 160 degrees Celsius (320 degrees Fahrenheit) for not less than one hour under atmospheric pressure after the sterilizer has reached the required temperature; or
- b. as specified in the manufacturer's operator's manual.

L. Each person responsible for the sterilization of equipment shall be able to demonstrate to the department's authorized agent the correct sterilization procedures and the proper operation of autoclave and/or dry heat sterilization equipment.

Section 12. REQUIREMENTS FOR SINGLE-USE ITEMS

A. A set of individual, single-use sterile needles shall be used by a tattoo and/or body piercing artist for each new patron. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers, and disposed of by an approved medical waste disposal company.

Section 13. AFTERCARE OF TATTOO AND BODY PIERCING

- A. The completed tattoo and/or body piercing shall be washed with a piece of gauze or cotton saturated with an EPA approved or hospital grade germicidal solution. It shall be allowed to air dry.
- B. After drying, anti-bacterial ointment shall be applied from a collapsible metal or plastic tube and the entire area covered with a piece of sterile gauze, which may, in turn, be covered with a piece of tissue and fastened to the site with adhesive tape.
- C. Clients shall be provided with written after-care instructions / recommendations (see 8D).

Section 14. REPORT OF INFECTION OR ALLERGIC REACTIONS

- A. The tattoo and/or body piercing shop shall provide a written report of any infection, allergic reaction, complications, and/or diseases resulting from the application of a tattoo and/or body piercing to the Albany County Department of Health within five working days of its occurrence or knowledge thereof. The report shall include:
 - 1. the name of the affected client;
 - 2. the name and location of the tattoo and/or body piercing shop or temporary location;
 - 3. the name of the tattooist;
 - 4. the date of the tattoo and/or body piercing;
 - 5. the specific color or colors of the tattoo and, when available, the manufacturer's catalogue or identification number of each color used;
 - 6. the location of the infection and the location on the body where the tattoo and/or body piercing was applied;
 - 7. the name and address of the health care provider, if any; and
 - 8. any other information considered relevant to the situation.
- B. Department shall utilize these reports in their efforts to identify the source of the adverse reaction(s) and to take action to prevent its recurrence.

PDF from NYS Department of State Division of Licensing Services Website – Licensure Requirements for Beauty Salons

What is an “Appearance Enhancement” Business?

An Appearance Enhancement Business is one that provides any or all of the services licensed under Article 27 of the General Business Law (Cosmetology, Esthetics, Nail Specialty, Natural Hair Styling or Waxing). You must obtain a license to own, control or operate an Appearance Enhancement Business in New York State. This is required regardless of whether you are a sole proprietor, partner, shareholder, officer or independent contractor (Area Renter). An Appearance Enhancement Business license does not allow you to provide customer services. Each person who provides service must be licensed by the Department of State in his or her respective discipline. Additionally, as a licensed Appearance Enhancement Business, you cannot permit the practice of Barbering at your business location without first obtaining a Barber Shop license (Article 28 of the General Business Law). Apprentice Barbers must be sponsored by a licensed master Barber (not a licensed Natural Hair Stylist) and cannot be employed by an Appearance Enhancement Business.

What is an “Area Renter”?

An Area Renter is a licensed operator who works in an Appearance Enhancement Business but who is not employed by the owner. If you are an Area Renter, you are an independent contractor and must obtain an Area Renter license in addition to your operator's license. An Area Renter's license alone does not allow you to provide customer services.

What are the general requirements for Appearance Enhancement Business and Area Renter licenses?

Appearance Enhancement Business and Area Renter applicants must:

- be at least 18 years old;
- comply with all federal, state and local health and safety laws, rules, regulations and codes, including the Americans with Disabilities Act; and
- operate the business or rent at the location listed on the license.

An Appearance Enhancement Business and Area Renter must maintain a surety bond; accidental and professional liability insurance policies, each in the minimum amount of \$25,000 per occurrence and \$75,000 in the aggregate; or a general liability policy in such amounts. You must submit evidence of this requirement at the time of your application. In addition, evidence of such must be maintained on the premises.

An Appearance Enhancement Business must maintain a Wage Bond as described below.

Wages legally due to workers and other providers of nail services of:

- At least \$25,000 if you employ the equivalent of two to five full time individuals who provide nail specialty services
- At least \$40,000 if you employ the equivalent of six to ten full time individuals who provide nail specialty services
- At least \$75,000 if you employ the equivalent of 11 to 25 full time individuals who provide nail specialty services
- At least \$125,000 if you employ the equivalent of 26 or more full time individuals who provide nail specialty services.

The liability coverage may be obtained by purchasing a bond in favor of the people of the State of New York; accidental and professional liability or general liability insurance; or a combination of the previous options provided that the coverage amounts are satisfied. You must provide evidence of this requirement at the time of your application. In addition, evidence of such must be maintained on the premises.

What are the ventilation requirements if my appearance enhancement business offers nail services?

The New York State Department of State requires all Appearance Enhancement Businesses offering nail services to provide ventilation to capture and exhaust harmful contaminants, fumes and particles away from clients and workers. To obtain Information pertaining to these requirements and time frames for compliance please

visit: <http://www.dos.ny.gov/licensing/appearance/nailsalons.html>

What should I do if I close my shop?

You should notify this department of shop closure. An Appearance Enhancement Business may be closed by downloading the Business Closing Form (DOS-1960) from our website and mailing the completed form to our office. There is no fee for the notification of closure. When a shop closes it will cancel all Area Renter licenses associated with it; any Area Renter associated with the closed shop must apply for a new Area Renter license to be associated with a new shop. You may also submit this request online.

What do I do if the shop I'm renting in closes?

When the Appearance Enhancement Business you rent from closes it will cancel your Area Renter license. You must apply for a new Area Renter license to be associated with a new business. You may also submit this request online.

What is the fee, term of licensure?

A nonrefundable, \$60 application fee must be submitted with the application. Licenses are issued for full four-year terms, automatically expiring four years after the effective date.

Child Support Statement

A Child Support Statement is mandatory in New York State (General Obligations Law) regardless of whether or not you have children or any support obligation. Any person who is four months or more in arrears in child support may be subject to having his or her business, professional and driver's licenses suspended. The intentional submission of a false written statement for the purpose of frustrating or defeating the lawful enforcement of support obligations is punishable under §175.35 of the Penal Law. It is a class E felony to offer a false instrument for filing with a state or local government.

PRIVACY NOTIFICATION

Do I need to provide my Social Security and federal ID numbers on the application?

Yes, if you have a social security number or Federal ID number, you are required to provide this number. If you do not have a social security number or Federal ID number, please provide a written explanation. The Department of State is required to collect the federal Social Security and Employer Identification numbers of all licensees. The authority to request and maintain such personal information is found in §5 of the Tax Law and §3-503 of the General Obligations Law. Disclosure by you is mandatory. The information is collected to enable the Department of Taxation and Finance to identify individuals, businesses and others who have been delinquent in filing tax returns or may have underestimated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. It will be used for tax administration purposes and any other purpose authorized by the Tax Law and may also be used by child support enforcement agencies or their authorized representatives of this or other states established pursuant to the Title IV-D of the Social Security Act, to establish, modify or enforce an order of support, but will not be available to the public. A written explanation is required where no number is provided. This information will be maintained in the Licensing Information System by the Director of Administration and Management, at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

September 10, 2018 email from Rick LaJoy, Director of Buildings and Regulatory Compliance, RE No inquiries or action regarding 372 New Scotland Avenue

From: Richard LaJoy [mailto:rlajoy@albanyny.gov]
Sent: Monday, September 10, 2018 12:25 PM
To: 'Judy Doesschate'
Subject: RE: 372 New Scotland Avenue

I have not heard from anyone. Rob was dealing with Seth though.

Rick

From: Judy Doesschate [mailto:judydoesschate@nycap.rr.com]
Sent: Monday, September 10, 2018 12:17 PM
To: Richard LaJoy
Subject: 372 New Scotland Avenue

Hi Rick –

Have you or anyone else in Buildings/Codes/Planning received any inquiries regarding the zoning for 372 New Scotland Avenue and its possible grandfather status?

Any inquiries regarding building permits or anything else related to this property?

It was on the market and now appears to be sold.

I had reached out to the listing real estate agent to make sure he knew this was not zoned as “mixed-use” as advertised – that only a “home occupation” would be allowed.

Any alleged claim to a “grandfather status” also ended June 27, 2018 or before.

Seth Kohl stopped using this property for his practice June 27, 2017 or before.

That is when he was arrested for sexually molesting patients.

He also had his license suspended over a year ago – so was completely prevented from using this property for that purpose since then.

He also sold the property to his wife in August of 2017 – shortly after he was served with a lawsuit for his assault on a patient.

Since any eligibility for “grandfather” status ends within a year of a property not being used for non-conforming use, this property clearly is no longer grandfathered in.

Thanks,
Judy

ATTENTION: This email came from an external source. Please do not open attachments or click on links from unknown senders or unexpected emails.

Confidentiality Notice: This fax/e-mail transmission, with accompanying records, is intended only for the use of the individual or entity to which it is addressed and may contain confidential and/or privileged information belonging to the sender, including individually identifiable health information subject to the privacy and security provisions of HIPAA. This information may be protected by pertinent privilege(s), e.g., attorney-client, doctor-patient, HIPAA etc., which will be enforced to the fullest extent of the law. If you are not the intended recipient, you are hereby notified that any examination, analysis, disclosure, copying, dissemination, distribution, sharing, or use of the information in this transmission is strictly prohibited. If you have received this message and associated documents in error, please notify the sender immediately for instructions. If this message was received by e-mail, please delete the original message

Attachment O

Zoning Compliance Certificate Application – With Unsigned, Unsworn Statement from
Unknown person re prior 372 New Scotland Avenue Use and Description of Business

No Other Proof Submitted (Per Response to October 2, 2018 FOIL Request)

Attachment P

ZONING COMPLIANCE CERTIFICATE APPLICATION

Part 1. Application Notes

Use this form to apply for either type of zoning compliance certificate. Check the box below to indicate which level is being requested:

- ☒ **Basic Zoning Compliance Certificate:** Identifies the Zoning District in which a property is located, gives a general description of that Zoning District, and provides a determination as to whether the current use of the property is a permitted, conditional or nonconforming use.
- ☐ **Detailed Zoning Compliance Certificate:** The information for the basic Zoning Compliance Certificate, plus the property's compliance with the applicable development standards of the USDO, and any current Zoning violations.

Note: The City does not inform the primary point of contact or property owner about any changes affecting the development potential or status of the subject property after a zoning compliance certificate is issued.

Part 2. Property Information

Property Address: 372 New Scotland Avenue Tax ID #: 75.35-2-6

Part 3. Property Owner Information

Property Owner(s) Name(s): Karen Kohl

Mailing Address: 112 Devon Rd, Delmar, NY 12054

Phone No.: _____ E-mail: _____

Part 4. Applicant Information

Applicant Name: Kathleen Cronin-Carr Company Name: _____

Mailing Address: 1525 Western Ave, Suite 2 Albany, NY 12203

Phone No.: 518-491-1556 E-mail: CroninKathleen60@gmail.com

Part 5. Description of Request

Describe in sufficient detail the current use of the property: See Attachment for detailed description of current use of property and intended use by the Applicant.

Part 6. Submittal Requirement Checklist

	Required Document	Hard Copies	Electronic Submission (.pdf) (Required Document Name)
	A. Required for Basic Zoning Compliance Certificate Applications		
<input type="checkbox"/>	Zoning Compliance Certificate Application	1	ZCC
<input type="checkbox"/>	Any additional information determined to be necessary by the Chief Planning Official	1	[Document Name]
<input type="checkbox"/>	Application fee as established in the Albany Fee Schedule (\$50) – payable to <i>Treasurer, City of Albany</i>		
	B. Required for Detailed Zoning Compliance Certificate Applications		
<input type="checkbox"/>	Zoning Compliance Certificate Application	1	ZCC
<input type="checkbox"/>	Survey (A boundary and topographical survey, sealed by an Engineer or Surveyor)	1	Survey [YYYY]-[MM]-[DD]
<input type="checkbox"/>	Any additional information determined to be necessary by the Chief Planning Official	1	[Document Name]
<input type="checkbox"/>	Application fee as established in the Albany Fee Schedule (\$100) – payable to <i>Treasurer, City of Albany</i>		

ATTACHMENT TO ZONING COMPLIANCE CERTIFICATE APPLICATION
FOR 372 NEW SCOTLAND AVENUE

The premises has most recently been used as a chiropractic office. The practice closed mid-September, 2017. The Applicant is presently under contract to purchase the premises, and wishes conduct here business from the prior chiropractic offices. The services Applicant will offer are as follows: Para-medical micropigmentation services to restore the Areola/Nipple complex after Mastectomy and other surgery; cosmetic enhancement and reconstructive micropigmentation to restore the color and shape to missing eyebrows, eyelash line and lips; restorative micro-pigmentation to the scalp known as Simulated Hair Follicle (SMP); and micropigmentation to correct and diminish scars and vitiligo. Also, the offices will provide esthetician skin care. This will not be a retail business and will be by appointment only. Services will be provided by a NYS Licensed Registered Nurse and a NYS Licensed Esthetician.

FOIL Request relating to 372 New Scotland Avenue submitted on October 2, 2018

I am requesting electronic copies of any and all records, photos and materials in the possession of the City of Albany or its agents relating to 372 New Scotland Avenue, Seth or Karen Kohl, Attorney Laurence Navinsky, Kathleen Cronin or Kathleen Cronin-Carr, and any prior and subsequent owners, occupants, and operators of any business at 372 New Scotland Avenue, including, but not limited to, any emails and scanned copies of any other staff notes, correspondence or other materials and other documents: any permits, certificate or other ruling applications as well as any responses to such applications, including the issuance of such permits, certificates or rulings issued in response to such correspondence or applications, and any documentation that might have been relied upon in issuing such permits, responses, etc. including, but not limited to any documentation relevant to finding a continuing legal non-conforming use, and any records of any kind relating to any construction or changes occurring on such premises, including the application for and issuance of any permits or other permits, denials, or considering of such permits - including occupancy, zoning, use, sign and other related determinations. Such documents may exist in the Mayor's office, Corporation Counsel, Buildings and Codes and the Planning Department as well as other city offices, agencies, and agents of the city..

ATTACHMENT Q

Carol Carpenter
21 Ramsey Place
Albany, New York 12208

Re: 372 New Scotland Avenue
BZA Appeal

Mr. Berkley and Members of the Zoning Board of Appeals:

I, Carol Carpenter, being duly sworn, depose and say:

1. I own and have resided at 21 Ramsey Place since 1977 – 41 years.
2. I am also a partial owner of the single family home at 370 New Scotland Avenue, located immediately next to 372 New Scotland Avenue.
3. My family moved into 370 New Scotland Avenue in 1961 when I was 11 years old and I resided there until I moved away after college (1972) but my parents continued to reside there until their deaths in 1992 and 2014. I visited regularly (monthly) until I moved around the corner in 1977.
4. In 1964, I started babysitting on a daily or weekly basis, depending on their need for a babysitter, for Dr. Robert and Linda Rosenblatt's children at 372 New Scotland Avenue and was inside the residence there repeatedly over the course of several years and was in both the first floor and the upstairs where the bedrooms were located. Oftentimes, if I wasn't available to babysit, my sister would then babysit for the Rosenblatt's.
5. From (1962 to at least 1969) Dr. Rosenblatt and his family lived on the first and second floors of 372 New Scotland Avenue.
6. It was a one-family residence with a Dr.'s office in the basement, with a gated separate entrance on the left side of the residence, with outside stairs to the basement. The gate had a spring on it to insure the gate remained closed at all times, which would slam shut with a loud noise, when closed.
7. There was no office in the main part of the house, all of the years that I babysat for the Rosenblatt's.
8. Dr. Kalmon Rosenblatt (Robert Rosenblatt's father) used the basement office to see patients daily. They would enter from the gate by the left side of the house in front, and use a staircase on the left side immediately next to my family's home, to get to the office. This side entrance is very visible from the bay windows in my family's home. We were also very able to hear the gate as it was opened & slammed shut by its spring. My entire family were also patients of Dr. Kalmon Rosenblatt's family doctor practice, so we were all in the basement office numerous times until his death.
9. Dr. Kalmon Rosenblatt was alone in his office when he died in 1971. My mother noticed patients coming, but not being able to gain access to Dr. Rosenblatt's office, although Dr. Kalmon Rosenblatt's car was there, and knew something was wrong and called for help.
10. After Dr. Kalmon Rosenblatt died, Dr. Howard Serling, a podiatrist, purchased the home and used the basement office to see patients.
11. Dr. Howard Serling seemed to disappear in the late 1970's or early 1980's and I recall things being in legal limbo for a while, but I do not recall the circumstances.

ATTACHMENT R

12. I do not know when the first floor of 372 New Scotland started being used as a podiatrist or chiropractor's office, but it was long after the adoption of the 1966 zoning code.

13. I am adamantly opposed to the conversion of 372 New Scotland Avenue for use as a beauty and tattoo parlor, salon or studio. This is a dramatic change in the use from any of the past uses.

14. I am also opposed to the continuing illegal non-conforming use of the first and second floors as a professional office. The only legal office use was the basement.

14. At most, 372 New Scotland Avenue has had only one person providing professional services on the premises, throughout all the years & practices, and while Seth Kohl had his practice there. I am not aware of any of the owners of the businesses having another employee or provider on the premises.

15. I am also not aware of Mr. Kohl having any true employee. His wife came to the office periodically, maybe a few times a week and provided receptionist services. They parked in the driveway of the residence that can only accommodate 2 cars.

16. There is no other parking in the area for customers of the new business to park. Parking is not permitted alongside of the building because Ramsey Place is so narrow there. Ramsey Pl, where it narrows down, was previously labeled, "Fire Lane No Parking" on both sides of Ramsey Pl, where it is so narrow for about the 1st 175'. Customers also cannot park in front of 372 New Scotland because it blocks visibility for people exiting Ramsey Place. So customers will have to park in front of other homes – which already are regularly used by residents in 2 family homes and parents dropping off children at the school a half block away. Additionally, many of Dr Seth Kohl's patients have parked in my family's private drive-way or blocked us in or prevented us from getting in, due to their lack of consideration for someone else's property. As each of the households increase the number of cars per household, this will become an even larger issue with the street parking, due to so many of the homes having shared or No driveways, and the alternate side parking, on New Scotland Ave. We already have people that are going to visit someone on New Scotland Ave, or possibly working at the Parson's Home across from Ramsey Pl, parking past 21 Ramsey Pl, due to the inability of even finding a space on New Scotland Ave, or Ramsey Pl., which is also alternate parking, and usually already has a car in front of each house.

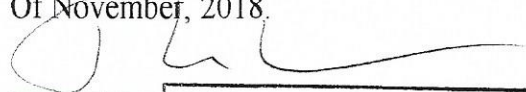
17. I am a licensed real estate broker for over 37 years.

18. We are planning to sell 370 New Scotland Avenue in the near future.

19. I state unequivocally that having this beauty and tattoo parlor operate next door to my property at 370 New Scotland Avenue will significantly impact my ability to market 370 New Scotland to families and other people who would be inclined to purchase a sizable one-family home and will require me to sell the property for significantly less than I would get for it if 372 New Scotland was used as a doctor's office or a one or two family home.

20. I am also upset and appalled that the City approved this change of use without giving me any advance notice of the change of use and without submitting it to the Board of Zoning Appeals as required by the City's code.

Sworn to before me this 25 day
Of November, 2018.



THOMAS K. KEEFE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02KE6354990
Qualified in Albany County
My Commission Expires February 27, 2021

Signed,



Carol Carpenter

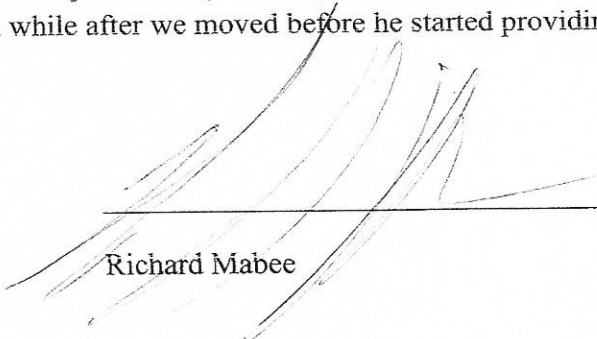
Richard Mabee
94 Woodlawn Avenue
Albany, New York 12208

Re: 372 New Scotland Avenue, BZA Appeal

Mr. Berkley and Members of the Board of Zoning Appeals.

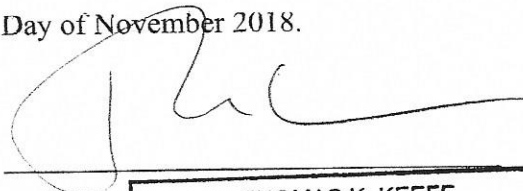
I, Richard Mabee, residing at 94 Woodlawn Avenue, Albany, NY, being duly sworn, depose and say:

1. I am the son-in-law of Howard Serling a podiatrist, who owned 372 New Scotland Avenue for more than 10 years during the 1970s and early 1980s.
2. I resided at 372 New Scotland Avenue from late July 1979 through the early October 1983.
3. When I moved into 372 New Scotland Avenue, Ted Cohen provided podiatric services on the first floor.
4. Ted Cohen stopped providing podiatric services and moved out shortly after my father-in-law transferred title to the property to his parents, Charles and Sarah Serling, on October 22, 1982. I do not recall the exact timing of when Dr. Cohen moved out, but I recall it being during the winter, not long after a my father-in-law transferred the title to his parents.
5. The professional office at 372 New Scotland Avenue was vacant from the time Mr. Cohen moved out until after my wife and I moved out in October of 1983.
6. After Donald Tumonis purchased the property in 1983, he allowed us to remain on the premises for a while. I believe he gave us 90 days to move.
7. When we moved out, Donald Tumonis had not yet started providing chiropractic services at 372 New Scotland Avenue and it took him a while after we moved before he started providing chiropractic services there.


Richard Mabee

Sworn to before me this 25

Day of November 2018.


THOMAS K. KEEFE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02KE6354990
Qualified in Albany County
My Commission Expires February 27, 2021

ATTACHMENTS

MARY ALICE MAYNES
3 RAMSEY PLACE
ALBANY, NEW YORK 12208

November 24, 2018

Albany Zoning Board of Appeals
200 Henry Johnson Blvd. 1st Floor Suite 3
Albany, New York 12210

RE: 372 New Scotland Avenue

Dear Mr. Berkley;

I live across Ramsey Place from 372 New Scotland Avenue; my house is the third house on the west side of Ramsey. My family and I moved here in 1968. When I first moved here Dr. Rosenblatt and his family lived at 372 New Scotland and the doctor had an office where he saw patients.

When Dr. Rosenblatt died in 1971, Dr. Serling and his wife purchased 372 New Scotland and Dr. Serling had his podiatry office there and they lived there for at least a while. After Dr. Serling, a chiropractor lived there and had a chiropractic office at 372 New Scotland. I did not have much contact with him. After that, Dr. Seth Kohl had his chiropractor office at the property, but he did not live at 372 New Scotland Avenue.

This is a wonderful residential neighborhood and I want it to stay residential. In the fifty years I have lived here I have seen the encroaching commercialization of New Scotland and I do not like it. I am opposed to the operation of any business at 372 New Scotland Avenue. I understand that a professional who lives at the property would be allowed to open a professional office. At least that would encourage the homeowner professional to be a good neighbor and be an asset to our neighborhood day and night and weekends as well.

I am not able to attend the public hearing due to a temporary medical condition but in the event, there are further public proceedings regarding 372 New Scotland Avenue I hope to be able to speak in person.

Sincerely,

A handwritten signature in cursive script that reads "Mary Alice Maynes".

Mary Alice Maynes

ATTACHMENT

Deeds for 372 New Scotland Avenue:

From Katherine Rosenblatt to Howard and Suzanne Serling; October 22, 1971

From Howard Serling to Charles and Sarah Serling; October 22, 1982

From Charles and Sarah Serling to Donald and Jean Tumonis; September 1, 1983

From "Donald A. Tumonis, **residing at 372 New Scotland Avenue**, Albany, New York, 12208, and Jean S. Tumonis," to "Donald A. Tumonis, **residing at 372 New Scotland Avenue**, Albany, New York 12208; May 26, 1988.

From "Donald A. Tumonis, residing at 372 New Scotland Avenue, Albany to Seth and Karen Kohl; February 2, 1989

From Seth and Karen Kohl to Karen Kohl; August 24, 2017

33

This Indenture

LINER 2035 PAGE 1037

Made the 22nd day of
October Nineteen Hundred and Seventy-One
Between KATHERINE M. ROSENBLATT, residing at 700 Cortland Street,
Albany, New York (a/k/a Katherine E. Rosenblatt)

part Y of the first part, and

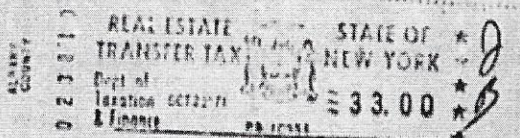
HOWARD A. SERLING and SUZANNE SERLING, residing at RD 1, Voorheesville,
New York

Witnesseth that the party of the first part, in consideration of One-
lawful money of the United States, paid by the parties of the second part, do es hereby grant and release unto the
parties of the second part, their and assigns forever, all

that tract or parcel of land, situate in the City and County of Albany,
State of New York, and known and described as follows:
BEGINNING at a point in the southerly line of New Scotland Avenue, at
the intersection of the easterly line of Ramsey Place and running
thence southerly along the easterly line of Ramsey place one hundred
fifty-two eighteen hundredths (152.18) feet; thence easterly at right
angles to Ramsey Place forty-five (45) feet; thence northerly parallel
to the easterly line of Ramsey Place one hundred fifty-four and
seventy-five hundredths (154.75) feet to the southerly line of New
Scotland Avenue, thence westerly along the southerly line of New
Scotland Avenue forty-five and eight hundredths (45.08) feet to the
point or place of beginning being lot "C" as laid down on a map of
property owned by Goldsmith C. Stephens and made by E.P. Neuschwander,
surveyor in May, 1913 and filed in the Albany County Clerk's Office
November 27, 1914 as map No. 314 closet 2, drawer 45 Said premises
are to be conveyed subject to the following restrictions as set forth
upon the map of said property above mentioned, and which are as
follows:

Restrictions: That no house or building shall be erected nearer the
street line than the building line indicated (i.e. porch, bay or stoop
included). Second, that this plan is restricted to one dwelling house
to a lot as mapped. Third, that no flat house apartment house or ten-
ement house or any house with a flat roof, shall be erected thereon.
Fourth, that no old building or buildings shall be moved thereon.
Fifth, that no lot shall be devoted to trade or manufacturing pur-
poses. Sixth, that there shall be no malt or spirituous liquors manu-
factured or offered for sale on these premises.

BEING the same premises conveyed by Mary Connery to Kalmon
Rosenblatt and Katherine E. Rosenblatt by warranty deed dated the 25th
day of August, 1942 and recorded in the Office of the Albany County
Clerk on the 1st day of May, 1945. The said Katherine E. Rosenblatt
being the same Katherine M. Rosenblatt who is the grantor herein.
The said Kalmon Rosenblatt died a resident of the City and County of
Albany, New York on the 12th day of June, 1971.



OCT 22 1971 OCT 22 1971 199 50 *** 37.00

OCT 22 1971
CLERK

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,
To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

And said Katherine M. Rosenblatt covenants as follows:
First, That the parties of the second part shall quietly enjoy the said premises;

Second, That said Katherine M. Rosenblatt will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set her hand and seal the day and year first above written.

In Presence of

Katherine M. Rosenblatt
Katherine M. Rosenblatt

State of New York
County of ALBANY

ss.

On this 22nd day of October
Nineteen Hundred and Seventy-One
before me, the subscriber, personally appeared Katherine M. Rosenblatt

to me personally known and known to me to be the same person described in and who executed the within instrument, and she acknowledged to me that she executed the same.

[Signature]
RICHARD D. SYMAN
Notary Public, State of New York
Qualified in Albany County
Commission Expires March 30, 1973
9921103

Filed

WARRANT WITH LIEN CONVEYANCE

KATHERINE M. ROSENBLATT

TO

HOWARD A. SERLING and
SUZANNE SERLING

Dated, October 22nd, 1971

STATE OF NEW YORK

County of Albany ss.

RECORDED ON THE

2 days of Oct. 21 1971
at 1:22 o'clock P.M.
in LIBER 2035 of DEEDS
at Page 1037 and determined

[Signature]
Notary Public

[Signature]
B-17

U.S. Internal
Revenue Service
Form 5823

FORM 5823 - WARRANTY DEED WITH MORTGAGE & LIEN COVENANT

PREPARED BY NATIONAL LEGAL SUPPLY, INC. (200)

1-19.80

This Indenture,

001529

LIBER 2230 PG 363

Made the 22nd day of
OCTOBER Nineteen Hundred and Eighty-Two
Between
HOWARD A. SERLING

part y of the first part, and

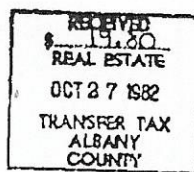
CHARLES SERLING and SARAH SERLING, his Wife,
17 Collins Place, Albany, New York

Witnesseth that the part y of the first part, in consideration of
parties of the second part, lawful money of the United States, & other good & valuable consideration
paid by the parties of the second part, do es hereby grant and release unto the
parties of the second part, their heirs and assigns forever, all

ALL THAT tract or parcel of land, situate in the City and County
of Albany, State of New York, and known and described as follows:

BEGINNING at a point in the southerly line of New Scotland Avenue,
at the intersection of the easterly line of Ramsey Place and running
thence southerly along the easterly line of Ramsey Place 152.18 feet;
thence easterly at right angles to Ramsey Place 45 feet; thence nor-
therly parallel to the easterly line of Ramsey Place 154.75 feet to
the southerly line of New Scotland Avenue, thence westerly along the
southerly line of New Scotland Avenue 45.08 feet to the point or
place of beginning. Being lot "C" as laid down on a map of property
owned by Goldsmith C. Stephens and made by E. P. Neuschwander, sur-
veyor in May, 1913 and filed in the Albany County Clerk's Office on
November 27th, 1914 as map no. 314, Closet 2, Drawer 45.

BEING the same premises conveyed to Howard A. Serling and Suzanne
Serling by Warranty Deed dated October 22nd, 1971 and recorded in
the Albany County Clerk's Office on October 22nd, 1971 in Liber 2035
of Deeds at Page 1037. The said Suzanne Serling died a resident of
Albany County on July 1st, 1975.



RECEIVED
OCT 27 3 22 PM '82
ALBANY COUNTY CLERK'S OFFICE

This conveyance is made and accepted subject to an indebtedness secured by
a mortgage upon said premises held by State Bank of Albany

which mortgage was recorded in the Albany County Clerk's office,
on the 2nd day of November 1979, in Book 2168
of Mortgages at page 265, on which there is an unpaid principal of
Twenty seven thousand eighty nine and 55/100 Dollars,
(\$ 27,089.55---), with interest from Oct. 19th, 1982 19, at the rate
of 10.5 per cent per annum, which said mortgage debt the parties of the second
part hereby assume and agree to pay, as part of the purchase price of the above
described premises, and the parties of the second part hereby execute and
acknowledge this instrument for the purpose of complying with the provisions of
the General Obligations Law, Section 5-705.

Together with the appurtenances and all the estate and rights of the part
of the first part in and to said premises,
To have and to hold the premises herein granted unto the part ien of the
second part, their heirs and assigns forever.

2230 364

And said party of the first part

covenant as follows:

First, That the part ien of the second part shall quietly enjoy the said premises;

Second, That said party of the first part

will forever Warrant the title to said premises.

Third, Subject to the trust fund provisions of section thirteen of the lien law.

In Witness Whereof, The parties hereto have hereunto set their hands and
seals the day and year first above written.

In Presence of



MY APPOINTMENT EXPIRES
NOVEMBER 13, 1985

Howard A. Serling
Howard A. Serling
Charles Serling
Charles Serling
Sarah Serling
Sarah Serling

State of ~~Massachusetts~~ } ss. On this 22nd day of October
County of ~~Johnson~~ } ss. Nineteen Hundred and Eighty-two
before me, the subscriber, personally appeared

HOWARD A. SERLING

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and he HAS acknowledged
to me that he executed the same.

Stanley D. Segal
Notary Public

State of New York } ss. On this 20th day of October
County of Albany } ss. Nineteen Hundred and Eighty-two
before me, the subscriber, personally appeared

Charles Serling and Sarah Serling

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and they acknowledged
to me that they executed the same.

State of New York } ss. Recorded
County of Albany } ss. 10-27-82
On 10-27-82
At 3:32p M. In
book 2230 of
Deeds On
page 363 and examined

Notary Public

STANLEY D. SEGAL
Notary Public, State of New York
Commission Expires March 30, 1983

Deed
WARRANTY WITH MORTGAGE AND LIEU

ALBANY COUNTY CLERK

HOWARD A. SERLING

TO

CHARLES SERLING AND
SARAH SERLING

Dated, October 22nd 1982

Return to:
Stanley B. Segal, Esq.
90 State Street
Suite 1511
Albany, N.Y. 12207

NOV 04 1982

U. S. Internal
Revenue Stamp
Albany

FORM 5301 - Warranty Deed with Lien Covenant

NATIONAL LEGAL SUPPLY, INC.
66 Beaver St., Albany, N.Y. 12207

000747

This Indenture

Made the 1st day of
SEPTEMBER Nineteen Hundred and EIGHTY-THREE
Between

CHARLES SERLING and SARAH SERLING
17 Collins Place, Albany, New York

LIBER 2245:527

parties of the first part, and

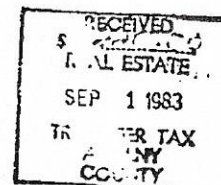
DONALD A. TUMONIS and JEAN S. TUMONIS, his wife
35 Lawnridge Avenue, Albany, New York

Witnesseth that the parties of the first part, in consideration of *party of the second part,*
ONE & x/xx - - - - - Dollar (\$1.00---)
lawful money of the United States, & other good and valuable consideration
paid by the part y of the second part, do hereby grant and release unto the
part y of the second part, his heirs and assigns forever, all

THAT tract or parcel of land, situate in the City and County of
Albany, State of New York, and known and described as follows:

BEGINNING at a point in the southerly line of New Scotland Avenue,
at the intersection of the easterly line of Ramsey Place and running
thence southerly along the easterly line of Ramsey Place 152.18 feet;
thence easterly at right angles to Ramsey Place 45 feet; thence nor-
therly parallel to the easterly line of Ramsey Place 154.75 feet to
the southerly line of New Scotland Avenue, thence westerly along the
southerly line of New Scotland Avenue 45.08 feet to the point or
place of beginning. Being lot "C" as laid down on a map of property
owned by Goldsmith C. Stephens and made by E. P. Neuschwander, sur-
veyor in May, 1913 and filed in the Albany County Clerk's Office on
November 27th, 1914 as Map No. 314, Closet 2, Drawer 45.

BEING the same premises conveyed to Charles Serling and Sarah Serl-
ing, his wife, by deed dated the 22nd day of October, 1982 by Howard
A. Serling, and recorded in the Office of the Albany County Clerk on
the 27th day of October, 1982 in Book 2230 of Deeds at Page 363.



SEP 1 2 17 PM '83
ALBANY COUNTY CLERK
OFFICE OF

LIBER 2245_{PG} 528

Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,
To have and to hold the premises herein granted unto the part y of the second part, and assigns forever.

And said parties of the first part

covenant as follows:

First, That the part y of the second part shall quietly enjoy the said premises;

Second, That said parties of the first part

will forever Warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

In Presence of

Charles Serling
Charles Serling

Sarah Serling
Sarah Serling

State of New York
County of Albany

} ss.

On this 1st day of
September Nineteen Hundred and Eighty-Three
before me, the subscriber, personally appeared
CHARLES SERLING AND SARAH SERLING

to me personally known and known to me to be the same persons described in and who executed the within Instrument, and they acknowledged to me that they executed the same.

Stanley B. Segal
Notary Public

STANLEY B. SEGAL
Notary Public, State of New York
Qualified in Albany County
Commission expires March 30, 1975

Deed

WARRANTY WITH LIEN COVENANT

CHARLES SERLING and
SARAH SERLING, his
wife

TO

DONALD A. TUMONIS

Dated, September 1st 1983

State of New York

County of ALBANY ss.

RECORDED ON THE
1 day of Sept. 1983
at 217 North R. M.
in LIBER 2245 of DEEDS
at Page 527 and examined
Aug 17 1983

R+R
H Linda Lawenthal
90 State St 1503
Albany NY 12207

SEP 22 1983

FORM 5681 DEED - QUIT CLAIM

Published by NATIONAL LEGAL SUPPLY, INC., Albany, N. Y. 12207

007600

This Indenture,

Nineteen Hundred and

Made the Twenty day of
Eighty-Eight

Between

DONALD A. TUMONIS, residing at 372 New Scotland Avenue, Albany,
New York, 12208, and JEAN S. TUMONIS, residing at

LIBER 2365 PAGE 565

parties of the first part, and

DONALD A. TUMONIS, residing at 372 New Scotland Avenue, Albany,
New York, 12208,Witnesseth that the parties of the first part, in consideration of
parties of the second part, party of the second part,
ONE Dollar \$1.00lawful money of the United States and other good and valuable consideration
paid by the parties of the second part, does hereby remise, release and quitclaim
unto the parties of the second part, his heirs and assigns forever, allTHAT tract or parcel of land, situate in the City and County
of Albany, State of New York, and known and described as
follows:BEGINNING at a point in the southerly line of New Scotland
Avenue, at the intersection of the easterly line of Ramsey
Place and running thence southerly along the easterly line of
Ramsey Place 152.18 feet; thence easterly at right angles to
Ramsey Place 45 feet; thence northerly parallel to the
easterly line of Ramsey Place 154.75 feet to the southerly
line of New Scotland Avenue; thence westerly along the
southerly line of New Scotland Avenue 45.08 feet to the point
or place of beginning. Being lot "C" as laid down on a map
of property owned by Goldsmith C. Stephens and made by E.P.
Neuschwander, surveyor in May, 1913 and filed in the Albany
County Clerk's office on November 27th, 1914 as Map No. 314,
Drawer 45.BEING the same premises as conveyed by Charles Serling and
Sarah Serling to Donald A. Tumonis and Jean S. Tumonis, his
wife, by deed dated September 1, 1983 and recorded in the
Albany County Clerk's Office on September 1, 1983 in Liber
2245 of Deeds at Page 527.STATE OF NEW YORK
COUNTY OF ALBANYRecorded In DEEDS
As Shown hereon and
ExaminedGUY D. BAQUIN
ALBANY COUNTY CLERKRECEIVED
\$1.00
REAL ESTATE
JUN 10 1988TRANSFER TAX
ALBANY
COUNTY

R.K.

Levinthal & Kirschen
610 Broadway
Albany, N.Y. 1220788.01 AS 2 01 MAY
ALBANY COUNTY CLERK
OFFICE OF THE CLERK
100 STATE ST.

2365-566

Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,

To have and to hold the premises herein granted unto the part of the second part, his heirs and assigns forever.

That, in Compliance with Section 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seal the day and year first above written.

In Presence of

DONALD A. TUMONIS

JEAN S. TUMONIS

State of New York
County of ALBANY

On this 16th day of May
Nineteen Hundred and Eighty-Eight

before me, the subscriber, personally appeared

DONALD A. TUMONIS

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and he acknowledged
to me that he executed the same.

NOTARY PUBLIC

STATE OF ALBANY
COUNTY OF ALBANY

On this 17 day of May 1988, before me, the subscriber, personally appeared JEAN S. TUMONIS, to me personally known and known to me to be the same person described in and who executed the within Instrument, and she acknowledged to me that she executed the same.

NOTARY PUBLIC

This Indenture

005171

Made the 25th day of
 FEBRUARY Nineteen Hundred and Eighty-Nine
 Between DONALD A. TUMONIS, residing at 172 New Scotland Avenue,
 Albany, New York 12208

LIBER 2384 PAGE 685

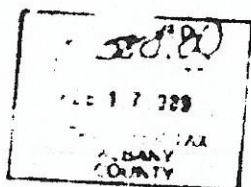
of the first part and
 party
 BETH and KAREN KOML, his wife, residing at 31 Oakwood Road, Glenmont,
 New York

parties of the second part.
 Witnesseth that the party of the first part in consideration of
 ONE and 00/100ths of the Dollar \$1.00
 lawful money of the United States, and other good and valuable consideration
 paid by the parties of the second part do hereby grant and release unto the
 part 100 of the second part their heirs

BEING: at a point on the westerly line of New Scotland
 Avenue, at the intersection of the easterly line of Ramsey Place
 and running thence southerly along the easterly line of Ramsey
 Place 152.18 feet; thence easterly at right angles to Ramsey
 Place 45 feet; thence northerly parallel to the easterly line of
 Ramsey Place 134.75 feet to the southerly line of New Scotland
 Avenue, thence westerly along the southerly line of New Scotland
 Avenue 45.08 feet to the point or place of beginning. Being lot
 "C" as laid down on a map of property owned by Goldsmith C.
 Stephens and made by E.P. Neuschwander, surveyor in May, 1913 and
 filed in the Albany County Clerk's office on November 27th, 1914
 as Map No. 314, Drawer 45.

BEING the same premises as conveyed by Charles Serling and Sarah
 Serling to Donald A. and Jean S. Tumonis by Deed dated September
 1, 1983 and recorded in the Albany County Clerk's office on
 September 1, 1983 at Book 2245 of Deeds at page 527, also the
 same premises conveyed by Donald A. and Jean S. Tumonis to Donald
 A. Tumonis, by Deed dated the 26th day of _____, 1988 and
 recorded in the Albany County Clerk's office on June 10, 1988 at
 Book 2365 of Deeds, page 565.

THAT tract or parcel of land, situate in the City and County of Albany,
 State of New York, and known and described as follows:



STATE OF NEW YORK)
 COUNTY OF ALBANY)

Recorded in DEEDS
 As Shown Herein and
 Examined
 10
 TERRY G. CLARK
 ALBANY COUNTY CLERK

DEED 2384 PAGE 686

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

To have and to hold the premises herein granted unto the part 1st of the second part. their heirs and assigns forever

And said party of the first part

covenant as follows

First, That the parties of the second part shall quietly enjoy the said premises

Second, That said party of the first part

will forever Warrant the title to said premises

Third, That in Compliance with Sec. 11 of the Lien Law the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written

Donald A. Tumonis
DONALD A. TUMONIS

IN PRESENCE OF

State of New York
County of Albany

On this 2nd day of FEB,
Nineteen Hundred and Eighty Nine

before me the subscriber personally appeared
DONALD A. TUMONIS

to me personally known and known to me to be the same person described in and who executed the within instrument and he to me that he executed the same

Murray S. Carr

Tax Map No.

Tax Billing Address

*Notary Public, State of New York
Qualified in Albany County
1/2/89*

Deed

WARRANTY WITH LIFE COVENANT

DONALD A. TUMONIS

TO

SETH and KAREN EOWL, his wife

Done Feb 2, 1989
State of New York

COUNTY OF

ALBANY

RECORDED ON THE

day of APR 19
at 11:00 A M
in LIBER of DEEDS
at PAGE and examined

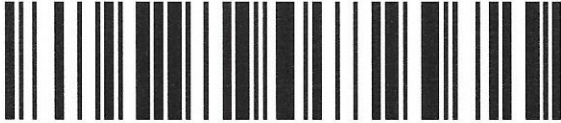
David J. Brown
61 Columbia St.
Albany, NY 12210



ALBANY COUNTY – STATE OF NEW YORK
BRUCE A. HIDLEY COUNTY CLERK
16 EAGLE STREET, ALBANY, NEW YORK 12207

COUNTY CLERK'S RECORDING PAGE

THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



INSTRUMENT #: R2017-20294

Receipt#: 20170167879

Clerk: SC

Rec Date: 08/24/2017 01:21:02 PM

Doc Grp: D

Descrip: DEED

Num Pgs: 3

Rec'd Frm: KOHL, KAREN

Party1: KOHL SETH G

Party2: KOHL KAREN G

Muni: ALBANY CITY

Recording:

Cover Page	5.00
Recording Fee	30.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 Residential/Agricu	116.00
RP5217 - County	9.00

Sub Total: 185.00

Transfer Tax
Transfer Tax - State 0.00

Sub Total: 0.00

Total: 185.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****

Transfer Tax #: 689

Transfer Tax

Consideration: 0.00

Total: 0.00

Record and Return To:

KAREN G KOH.
112 DEVON RD
DELMAR NY 12054

Bruce A. Hidley
Albany County Clerk

THIS PAGE CONSTITUTES THE CLERK'S
ENDORSEMENT, REQUIRED BY SECTION 316-a (5)
& 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK.

Prepared By:

Mr. Seth G. Kohl
112 Devon Road
Delmar, New York 12054

After Recording Return To:

Mrs. Karen G. Kohl
112 Devon Road
Delmar, New York 12054

)
)
)
)
)
)
)
)
)
) **TAX PARCEL ID #:** 75.35-2-6

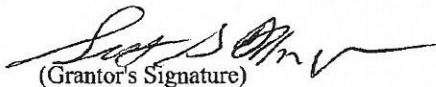
QUIT CLAIM DEED

BE IT KNOWN BY ALL, that Mr. Seth G. Kohl, ("Grantor"), a married male whose address is 112 Devon Road, Delmar, New York 12054, hereby **REMISES, RELEASES AND FOREVER QUITCLAIMS TO** Mrs. Karen G. Kohl ("Grantee"), whose address is 112 Devon Road, Delmar, New York 12054, all right, title, interest and claim to the following real estate property located at 372 New Scotland Avenue in the City/Township of Albany, located in the County of Albany and State of New York and ZIP code of 12208, to-wit:


Property having Lot No. , with the Section No. , and property beginning at 483 Converted Re.

FOR A VALUABLE CONSIDERATION, in the amount of \$1.00 dollars, given in hand and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged as of 08/18/2017.

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the above described property unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever; so that neither Grantor nor Grantor's heirs, administrators, executors, successors and/or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any party thereof.


(Grantor's Signature)

Mr. Seth G. Kohl
(Grantor's Printed Name)


(Grantee's Signature)

Mrs. Karen G. Kohl
(Grantee's Printed Name)

STATE OF NEW YORK

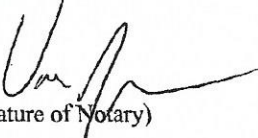
COUNTY OF ALBANY

)
) SS.
)

The foregoing Quit Claim Deed was acknowledged before me on AUGUST 24, 2017 by Mr. Seth G. Kohl, who is personally known to me or who has produced a valid driver's license and/or passport as identification, and such individual(s) having executed aforementioned instrument of his/her/their free and voluntary act and deed.

IN WITNESS THEREOF, to this Quit Claim Deed, I set my hand and seal.

Signed, sealed and delivered in the presence of:


(Signature of Notary)

(Printed Notary Name) Albany, New York

My Commission expires: DECEMBER 28, 2019

WILLIAM J. LYNCH
Notary Public, State of New York
Qualified in Albany County
Reg. No. 01LY6334977
Commission Expires December 28, 2019



ALBANY COUNTY – STATE OF NEW YORK
BRUCE A. HIDLEY COUNTY CLERK
16 EAGLE STREET, ALBANY, NEW YORK 12207

COUNTY CLERK'S RECORDING PAGE
THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



INSTRUMENT #: R2018-20588

Receipt#: 20180255770
Clerk: TR
Rec Date: 09/13/2018 08:47:29 AM
Doc Grp: D
Descrip: DEED
Num Pgs: 4
Rec'd Frm: COLOUR COSMETIC

Party1: KOHL SETH G
 KOHL KAREN G
Party2: COLOUR COSMETIC STUDIO INC
Muni: ALBANY CITY

Recording:

Cover Page	5.00
Recording Fee	35.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00

Sub Total: 315.00

Transfer Tax
Transfer Tax - State 800.00

Sub Total: 800.00

Total: 1115.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****

Transfer Tax #: 1082
Transfer Tax

Transfer Tax - State 800.00

Total: 800.00

Record and Return To:

SASE/NAVIASKY LAW FIRM

THIS PAGE CONSTITUTES THE CLERK'S
ENDORSEMENT, REQUIRED BY SECTION 316-a (5)
& 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK.

Bruce A. Hidley
Albany County Clerk

3
11b

1703-84547

WARRANTY DEED
with Lien Covenant

This Indenture, Made this 6th day of September, Two Thousand Eighteen

BETWEEN **Seth G. Kohl and Karen G. Kohl**, residing at 372 New Scotland Avenue,
Albany, New York 12208

Parties of the first part, and

Colour Cosmetic Studio, Inc., with an address of 54 Eton Road, Bronxville,
New York 10708

Party of the second part.

WITNESSETH that the parties of the first part, in consideration of -----ONE
and 00/100-----DOLLAR (\$1.00) lawful money of the United States, and other good and
valuable consideration paid by the party of the second part, do hereby grant and release unto the
party of the second part, their heirs and assigns forever

SEE SCHEDULE "A" ATTACHED

Subject to any and all enforceable covenants, conditions, restrictions and easements of record
appearing in the chain of title and affecting the same.

BEING the same premises conveyed by Donald A. Tumonis to Seth G. Kohl and Karen
G. Kohl by Warranty Deed dated February 2, 1989 and recorded in the Albany County Clerk's
Office on February 17, 1989 in Book 2384 of Deeds at page 685.

Being the same property that was conveyed by Seth G. Kohl to Karen G. Kohl by
Quitclaim Deed recorded in the Albany County Clerk's Office on August 24, 2017 as Instrument
No. R2017-20294. Said deed contained such defects as to have been ineffective. Seth G. Kohl
joins in the execution of this deed to convey what interest, if any, he may still hold by virtue of
the said defective Quit Claim Deed.

Together with the appurtenances and all the estate and rights of the parties of the first part
in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, her heirs and
assigns forever.

And the parties of the first part covenant as follows:


First, that the party of the second part shall quietly enjoy the said premises;


Second, that said party of the first part will forever Warrant the title to said premises;

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

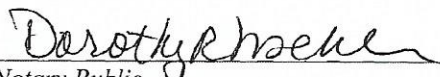
In Presence of

 LS
Seth G. Kohl

 LS
Karen G. Kohl

STATE OF NEW YORK}
COUNTY OF ALBANY} ss.:

On this 6 day of September in the year Two Thousand Eighteen, before me, the undersigned, a Notary Public in and for said State, personally appeared, **SETH G. KOHL and KAREN G. KOHL** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

DOROTHY R. TISCHLER
Notary Public, State of New York
No. 01TI4866775
Qualified in Albany County
Commission Expires Aug. 04, 2022

Issued By

CHICAGO TITLE INSURANCE COMPANY

Schedule A

COMMITMENT FOR TITLE INSURANCE

No: 1803-86-567

LEGAL DESCRIPTION

ALL THAT tract or parcel of land, situate in the City and County of Albany, State of New York, and known and described as follows:

BEGINNING at a point in the southerly line of New Scotland Avenue, at the intersection of the easterly line of Ramsey Place and running thence southerly along the easterly line of Ramsey Place 152.18 feet; thence easterly at right angles to Ramsey Place 45 feet; thence northerly parallel to the easterly line of Ramsey Place 154.75 feet to the southerly line of New Scotland Avenue, thence westerly along the southerly line of New Scotland Avenue 45.08 feet to the point or place of beginning. Being lot "C" as laid down on a map of property owned by Goldsmith C. Stephens and made by E.P. Neuschwander, surveyor in May, 1913 and filed in the Albany County Clerk's office on November 27th, 1914 as Map No. 314, Drawer 45.

This Commitment is valid only if Schedule B is attached.

Excerpts From Polk City Directory for 372 New Scotland Avenue

1966

70 Fila Richd H • IV9-5155
72 ROSENBLATT KALMON PHYS
IV2-8510
ROSENBLATT ROBT 482-5331

--RAMSEY PL BEGINS
80 PINSONNEAULT MICHL 489-6342
84 DELEHANTY ERNESTINE M MRS •

42

1971

370 Fila Richd H • 489-5155
372 Rosenblatt Kalmon phys 482-8510
Vacant

RAMSEY PL BEGINS
380 Welch Harold F • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1972

370 Fila Richd H • 489-5155
372★Serling Howard A podiatrist •
434-3653

RAMSEY PL BEGINS
380 Welch Harold F • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1973

370 Fila Richd H • 489-5155
372 Serling Howard A podiatrist •
438-6849

RAMSEY PL BEGINS
380 Welch Harold F • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1974

370 Fila Richd H • 489-5155
372 Serling Howard A podiatrist •
438-6849
RAMSEY PLACE INTERSECTS

RAMSEY PL BEGINS
380 Welch Harold F • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1975

370 Fila Richd H • 489-5155
372 Serling Howard A podiatrist •
438-6849
Sandler Alan podiatrist
RAMSEY PLACE INTERSECTS

RAMSEY PL BEGINS
380 Welch Harold F • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1976

370 Fila Richd H • 489-5155
372 Serling Howard A podiatrist 438-6849
★Lynch Mary Anne
RAMSEY PLACE INTERSECTS

RAMSEY PL BEGINS
380 Welch Flora K • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1977

370 Fila Richd H • 489-5155
372 Serling Howard A podiatrist 438-6849
★Mills Catherine 482-1585
RAMSEY PLACE INTERSECTS

RAMSEY PL BEGINS
ZIP CODE 12208
380 Welch Flora K • 489-2275
384 Delehanty Ernestine M Mrs •
489-0246

1979

370 Fila Richd H • 489-5155
372 Cohen Ted podiatrist 438-6849
★Serling Gail K
RAMSEY PLACE BEGINS

RAMSEY PL BEGINS
ZIP CODE 12208
380 Welch Flora K • 489-2275
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

1981

370 Fila Richd H • 489-5155
372 Cohen Ted podiatrist 438-6849
Mabee Richd 482-3544
RAMSEY PLACE BEGINS

RAMSEY PL BEGINS
ZIP CODE 12208
380 Welch Flora K • 489-2275
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

1982

(not published)

1983

370 Fila Richd H • 489-5155
372 Vacant
Mabee Richd 482-3544
RAMSEY PLACE BEGINS

RAMSEY PL BEGINS
ZIP CODE 12208
380 Welch Flora K • 489-2275
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

1984

(not published)

1985

370 Fila Richd H • 489-5155
372 Albany Chiropractic Office 438-2021

RAMSEY PL BEGINS
ZIP CODE 12208
380 No Return
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

1986

370 Fila Richd H • 489-5155
372 Albany Chiropractic Office 438-2021
RAMSEY PLACE BEGINS

RAMSEY PL BEGINS
ZIP CODE 12208
380★Meior J
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

1988

372 Albany Chiropractic Office 438-2021

RAMSEY PL BEGINS
ZIP CODE 12208
380★Meyers Geo 438-8899
384 Delehanty Ernestine • 489-0246
Elliott Pennie E • 489-0246

Attachment ✓

Old Albany Zoning Code Provisions Relevant to 372 New Scotland

§ 375-7. Definitions.

OFFICE — Any space used in a primarily clerical or professional nature, such as but not limited to an insurance, government, real estate, legal, medical or architectural use.....

HOME OCCUPATION — A business, profession, occupation or trade conducted by the occupant of a dwelling unit or accessory structure and which is incidental and secondary to the use of the dwelling unit....

NONCONFORMING USE — A use of a lot or a structure which was lawful at the time it was established or at the time of the adoption of this chapter, or an amendment thereto, but which does not conform to the current zoning regulations of the district in which it is located. NOTE: A "nonconforming use" shall terminate if discontinued or vacated for more than 180 days. [Amended 1-23-2006 by Ord. No. 01.11.06]

§ 375-90. Discontinuance of a nonconforming use.

A. Except as herein provided, no nonconforming use may be reestablished after it has been discontinued or vacated for a period of 180 days or more. [Amended 10-6-2005 by Ord. No. 65.91.05]...

E. Structural alteration. No structure devoted in whole or in part to a nonconforming use shall be structurally altered unless the use shall conform to the use regulations of the zoning district in which it is located.

F. Enlargement of structure. No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner which would enlarge the nonconforming portion. No such enlargement shall create any new parking, yard or bulk nonconforming use.

§ 375-64. R-2A One- and Two-Family Residential District.

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Two-family detached dwellings.
- (3) Houses of worship.

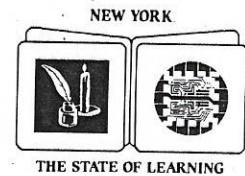
B. Accessory uses shall be as follows:

- (1) Detached garages.
- (2) Home occupations.
- (3) Storage sheds.
- (4) Swimming pools. [Added 3-15-1999 by Ord. No. 62.121.98]
- (5) Solar collection equipment. [Added 10-6-2008 by Ord. No. 2.12.08]

C. Special permit uses shall be as follows:

....

ATTACHMENT W



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12230

OFFICE OF THE PROFESSIONS
DIVISION OF PROFESSIONAL LICENSING SERVICES

November 14, 2018

**RE: SETH G KOHL
CHIROPRACTIC #005269**

JUDY DOESSCHATE
380 NEW SCOTLAND AVE
ALBANY, NY 12208

Dear JUDY DOESSCHATE:

In response to your recent letter, we have processed your request for certified copies of certain summary disciplinary actions taken by the Board of Regents. The materials have been photo duplicated, certified as true copies and enclosed for your reference.

In accordance with the Freedom of Information Law, there is a fee of **\$.25** per page for photocopied materials. In this case, 20 pages were photocopied. Hence, please remit a check for **\$5.00 (made payable to the New York State Education Department)** and forward it to this office as follows:

D.P.L.S./ PUBLIC INFORMATION UNIT
89 WASHINGTON AVENUE
2ND FLOOR – EAST WING
ALBANY, NY 12234-1000

Furthermore, when submitting reimbursement for these services please make reference to the licensee, his/her profession and license number that is contained in the information that was provided to you, or a photocopy of this letter will suffice.

If we can be of any further assistance in this matter, please do not hesitate to contact us. **PLEASE RETURN THIS HIGHLIGHTED COPY OF THE INVOICE WITH YOUR PAYMENT.**

Sincerely,

Audrey Bell
Audrey Bell

Education Program Assistant 1

ATTACHMENT X



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12230

OFFICE OF THE PROFESSIONS
DIVISION OF PROFESSIONAL LICENSING SERVICES
Public Information Unit
Tel. (518) 474-3817 EXT: 330
Fax (518) 473-0578
E-mail: DPLSDSU@MAIL.NYSED.GOV

STATE OF NEW YORK)

SS:

COUNTY OF ALBANY)

In accordance with the **Civil Practice Law and Rules Article 45**, I, Audrey Bell, Education Program Assistant 1 in the Division of Professional Licensing Services of the New York State Education Department, have caused this certificate to be prepared. I certify that I have legal custody of the official original records of the Division of Professional Licensing Services and I attest that the attached are true and correct copies of the original documents in our files relating to SETH G KOHL.

Witness my hand and the seal of the New York State Education Department this 14 November, 2018.



DATED
11/14/2018

Audrey Bell, Education Program Assistant 1
Professional Licensing Services



X



The University of the State of New York

IN THE MATTER

OF

SETH G. KOHL
(Chiropractor)

ORIGINAL
VOTE AND ORDER
NO. 29959

Upon the report of Regent Wade S. Norwood, a copy of which is made a part hereof, the record herein, under Calendar No. 29959, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (September 12, 2017): That, in the matter of SETH G. KOHL, respondent:

1. The report, findings of facts, conclusions, and recommendation of Regent Wade S. Norwood be accepted;
2. That it is the finding of the Board of Regents that petitioner has set forth a basis demonstrating probable cause to believe that respondent has committed the professional misconduct alleged and the public health, safety and welfare imperatively require emergency action in this matter;
3. That the application for summary suspension be granted; and
4. That respondent's license and registration to practice as a chiropractor in the State of New York be summarily suspended pending the prompt institution, prosecution, and

SETH G. KOHL (29959)

completion of a formal disciplinary proceeding, as provided under 8 N.Y.C.R.R. §17.9, without prejudice to the Department or licensee in said disciplinary proceeding;

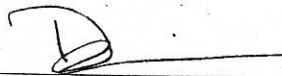
and that the Deputy Commissioner for the Professions be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and SO ORDERED, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Douglas E. Lentivech, Deputy Commissioner for the Professions, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand, at the City of Albany, this 12th day of September, 2017.



DOUGLAS E. LENTIVECH
DEPUTY COMMISSIONER
FOR THE PROFESSIONS

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE

-----X
IN THE MATTER
OF SETH G. KOHL,
CALENDAR NUMBER 29959


AFFIDAVIT

-----X
STATE OF NEW YORK)
SS:
COUNTY OF ALBANY)

I, Konstantine Mitsios, being duly sworn, depose and say:

I am over the age of twenty-one years and am an employee of
the New York State Education Department, Office of Professional
Discipline, 80 Wolf Road, Suite 204, Albany, NY 12205.

On the 12th day of September, 2017, at 3:23 PM. at 372 New
Scotland Avenue, Albany, NY 12208, I personally served the
within **SUMMARY SUSPENSION ORDER** on Seth G. Kohl.


Investigator

Sworn to before me this

12th day of September, 2017

Connie F. Mitchell

CONNIE F. MITCHELL
Notary Public, State of New York
No.: 01M15018171
Qualified in Schoharie County
Commission Expires: 09/20/21

X

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☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage
\$1.82
Total Postage and Fees
\$12.00
Sent to
Fazian T. Habeeb Esq. Marks, O'Neill et al
Street and Apt. No., or P.O. Box No.
530 Saw Mill River Road
City, State ZIP+4®
Albany NY 12208
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark
Here

the State of New York

IN THE MATTER

OF

Seth G. Kohl

CHIROPRACTOR

STATE OF NEW YORK)

SS.:

COUNTY OF ALBANY)

I, Michael Kinley, being duly sworn, deposes and says:

I am over the age of twenty-one years and am an employee of the New York State Education Department, Office of Professional Discipline, 80 Wolf Road, Suite 204, Albany, New York 12205-2643.

On the 13 day of September, 2017, I personally delivered to the Stuyvesant Plaza Post Office the Duplicate Original Vote of the Board of Regents and Order under Calendar No. 29959 and the Report of the Regents Review Committee or Application for Consent or Surrender, or Report of the designated Regent in a summary suspension proceeding as applicable, by Certified Mail - Return Receipt Requested to the respondent herein named at Fazian T. Habeeb, Esq., Marks, O'Neill, O'Brien, Doherty & Kelly, 530 Saw Mill River Road, Albany, NY 12208.

Certified Mail Receipt No: 7015 1520 0001 2066 7289 (Attorney)

The effective date of the Order being the 12 day of September, 2017.

Sworn to before me this

12th day of September, 2017

Connie F. Mitchell

CONNIE F. MITCHELL
Notary Public, State of New York
No.: 01MI5018171
Qualified in Schoharie County
Commission Expires: 09/20/21

X

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE
STATE BOARD FOR CHIROPRACTIC

-----X
IN THE MATTER

of the

Disciplinary Proceeding

against

APPLICATION
TO SURRENDER
LICENSE

SETH G. KOHL

CAL. NO. 30120

who is currently licensed to practice as
a chiropractor in the State of New York.
-----X

SETH G. KOHL states:

That on or about January 20, 1988, I was licensed to practice
as a chiropractor in the State of New York, having been issued
license number 005259 by the New York State Education Department.

I am currently inactive with the New York State Education
Department to practice as a chiropractor in the State of New York,
however, I was last registered from an address at New Scotland
Chiro, 372 New Scotland Avenue, Albany, New York 12208.

That I have been charged with two (2) specifications of
professional misconduct, a copy of which is annexed hereto, made
a part hereof, and marked as Exhibit "A".

X

SETH G. KOHL

I am applying to the Board of Regents for permission to surrender my license to practice as a chiropractor in the State of New York on the grounds that I admit guilt to the first specification of professional misconduct, in full satisfaction of all specifications of professional misconduct, charging me with being convicted of committing an act constituting a crime under New York State law (Criminal Sexual Act).

I hereby make this application to the Board of Regents and request that it be granted.

I understand that in the event the application is denied by the Board of Regents, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me. Such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding, and such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

SETH G. KOHL

I agree that in the event the Board of Regents grants my application, an Order may be issued striking my name from the roster of chiropractors in the State of New York without further notice to me. I understand that if and when the Board of Regents grants this application, the entire application shall become a matter of public record.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



Respondent

EXHIBIT "A"

SETH G. KOHL

FIRST SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with having committed an act constituting a crime under New York State law, within the purview and meaning of New York Education law section 6509(5)(a)(i), in that:

1. Respondent, on or about October 27, 2017, in the Albany City court, Albany, New York, was convicted of two (2) counts of Sexual Abuse in the second degree, class A misdemeanors, in violation of New York State Penal law section 130.60(1).
2. The underlying facts are that Respondent had sexual contact with female patients [REDACTED] and [REDACTED] during chiropractic treatment.

SECOND SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing unprofessional conduct and with conduct in the practice of his profession as a chiropractor which evidences moral unfitness to practice, within the purview and meaning of New York Education law section 6509(9) and 8 NYCRR section 29.1(b)(5), in that:

Respondent while practicing his profession as a chiropractor, at his private practice, Albany Chiropractic - New Scotland Chiro, 372 New Scotland Avenue, in Albany, New York, committed the following:

X

- a) Respondent, on or about February 6, 2017, provided chiropractic care to female patient [REDACTED] and during that chiropractic care fondled her groin area; placed his finger inside patient [REDACTED] vagina; and placed his hand on patient [REDACTED] breast, all without any medical or professional justification.
- b) Respondent, in or about 2016, provided chiropractic care to female patient [REDACTED] and during that chiropractic care rubbed the breasts of patient [REDACTED] and rubbed the groin area of patient [REDACTED], all without any medical or professional justification.
- c) Respondent, in or about August of 2016, provided chiropractic care to female patient [REDACTED] and during that chiropractic care rubbed the genitals of patient [REDACTED]; caressed and kissed the breast of patient [REDACTED]; and told patient [REDACTED] that he loved her body and that he wanted her body, or words to that effect, all without any medical or professional justification.
- d) Respondent, in or about 2014-2015, provided chiropractic care to female patient [REDACTED] and during that chiropractic care, massaged the breasts of patient [REDACTED] without any medical or professional justification.

X

e) Respondent, in or about October, 2012, provided chiropractic care to female patient [REDACTED] and during that chiropractic care slowly rubbed the lower back of patient [REDACTED] in a sexual manner without any medical or professional justification.

f) Respondent, beginning in or about August, 2013, provided chiropractic care to female patient [REDACTED] and during that chiropractic care, massaged the bare breasts of patient [REDACTED] and rubbed the top of patient [REDACTED] vaginal area back and forth, all without any medical or professional justification.

g) Respondent, in or about the fall of 2015, provided chiropractic care to female patient [REDACTED] and during that chiropractic care massaged both bare breasts of patient [REDACTED] without medical or professional justification.

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE
STATE BOARD FOR CHIROPRACTIC

-----X
IN THE MATTER

of the

Disciplinary Proceeding

against

SETH G. KOHL

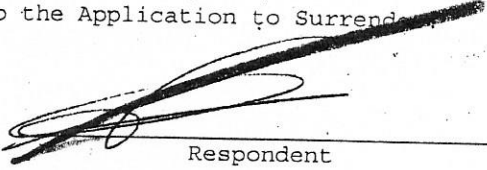
APPLICATION
TO SURRENDER
LICENSE

CAL. NO. 30120

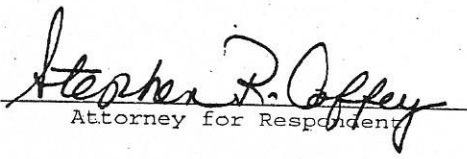
who is currently licensed to practice as
a chiropractor in the State of New York.
-----X

The undersigned agree to the Application to Surrender

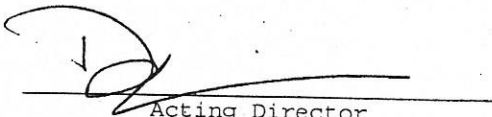
Dated: 11/27, 2017


Respondent

Dated: 11/30, 2017


Attorney for Respondent

Dated: 12/6, 2017


Acting Director
Office of Professional Discipline

MFS:djk

X

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☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$ 1.49

Total Postage and Fees \$ 7.62

Sent To Seth G. Kohl, Chiropractor 30120
New Scotland Chiro
372 New Scotland Avenue
Albany, NY 12208

Street and A/City, State, Z.

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Certified Mail Fee \$ 3.45

Extra Services & Fees (check box, add fee where appropriate)

☒ Return Receipt (hardcopy) \$ 2.75

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$ 1.42

Total Postage and Fees \$ 7.62

Sent To Stephen R. Coffey, Esq. 30120
O'Connell & Aronowitz
54 State Street
Albany, NY 12207

Street and A/City, State, Z.

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

The University of the State of New York

IN THE MATTER
OF
Seth G. Kohl
CHIROPRACTOR

STATE OF NEW YORK)
SS.:
COUNTY OF ALBANY)

I, Michael Kinley, being duly sworn, deposes and says:

I am over the age of twenty-one years and am an employee of the New York State Education Department, Office of Professional Discipline, 80 Wolf Road - Suite 204, Albany, NY 12205-2643.

On the 21 day of February, 2018, I personally delivered to the Stuyvesant Plaza Post Office the Duplicate Original Vote of the Board of Regents and Order under Calendar No. 30120 and the Report of the Regents Review Committee or Application for Consent Order or Surrender, or Report of the designated Regent in a Summary Suspension proceeding as applicable, by Certified Mail - Return Receipt Requested to the respondent herein named at New Scotland Chiro 372 New Scotland Avenue Albany, NY 12208. And Stephen R. Coffey, Esq. O'Connell & Aronowitz 54 State Street Albany, NY 12207.

Certified Mail Receipt No: 7016 3010 0001 1776 6668 (Respondent)
Certified Mail Receipt No: 7016 3010 0001 1776 6675 (Attorney)

The effective date of the Order being the 26 day of February, 2018.

Sworn to before me this
21st day of February, 2018.

Connie F. Mitchell
CONNIE F. MITCHELL
Notary Public, State of New York
No.: 01M15018171
Qualified in Schoharie County
Commission Expires: 09/20/21

Michael Kinley
MICHAEL KINLEY

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Stephen R. Coffey, Esq. O'Connell & Aronowitz 30120 54 State Street Albany, NY 12207</p> <p>2. Article Number (Transfer from service label)</p> <p>9590 9402 3357 7227 2156 86</p> <p>7016 3010 0001 1776 6675</p> <p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>A. Signature</p> <p><i>[Signature]</i></p> <p>B. Received by (Printed Name)</p> <p><i>[Signature]</i></p> <p>C. Date of Delivery</p> <p><i>2/23/18</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p><i>FEB 23 2018</i></p> <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (\$500)</p> <p><i>Kohl</i></p> <p>Domestic Return Receipt</p>

Seth G Kohl

RA 02/13/18 ~~0005~~ 70-005269

X

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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1. Article Addressed to:

Seth G. Kohl
Chiropractor
30120
New Scotland Chiro
372 New Scotland Avenue
Albany, NY 12208



9590 9402 3357 7227 2161 71

2. Article Number (Transfer from service label)

7016 3010 0001 1776 6666

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Karen Kohl* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

Karen Kohl ☐ Date of Delivery

03/13/18

D. Is delivery address different from item 1? ☒ Yes
If YES, enter delivery address below: ☐ No

DELMAR, NY

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
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| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

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Extra Services & Fees (check box, add fee as appropriate)	\$ 2.15	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$ 1.42	
Total Postage and Fees	\$ 7.62	

Sent To: Seth G. Kohl, Chiropractor, 30120
 Street and Apt. No.: New Scotland Chiro
 City, State, ZIP+4®: 172 New Scotland Avenue
 Albany, NY 12208

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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OFFICIAL USE

Certified Mail Fee	\$ 3.45	Postmark Here
Extra Services & Fees (check box, add fee as appropriate)	\$ 2.15	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$ 1.42	
Total Postage and Fees	\$ 7.62	

Sent To: Stephen R. Coffey, Esq., 30120
 Street and Apt. No.: O'Connell & Aronowitz
 City, State, ZIP+4®: 54 State Street
 Albany, NY 12207

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

The University of the State of New York

X-----X

IN THE MATTER
 OF
 Seth G. Kohl
 CHIROPRACTOR

X-----X

STATE OF NEW YORK)
 SS.:
 COUNTY OF ALBANY)

I, Michael Kinley, being duly sworn, deposes and says:

I am over the age of twenty-one years and am an employee of the New York State Education Department, Office of Professional Discipline, 80 Wolf Road - Suite 204, Albany, NY 12205-2643.

On the 20 day of February, 2018, I personally delivered to the Stuyvesant Plaza Post Office the Duplicate Original Vote of the Board of Regents and Order under Calendar No. 30120 and the Report of the Regents Review Committee or Application for Consent Order or Surrender, or Report of the designated Regent in a Summary Suspension proceeding as applicable, by Certified Mail - Return Receipt Requested to the respondent herein named as New Scotland Chiro 372 New Scotland Avenue Albany, NY 12208. And Stephen R. Coffey, Esq. O'Connell & Aronowitz 54 State Street Albany, NY 12207.

Certified Mail Receipt No: 7016 3010 0001 1776 9027 (Respondent)
 Certified Mail Receipt No: 7016 3010 0001 1776 9034 (Attorney)

The effective date of the Order being the 25 day of April, 2018.

Sworn to before me this
 20th day of April, 2018

Connie F. Mitchell

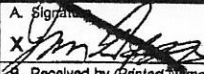

CONNIE F. MITCHELL
 Notary Public, State of New York
 No.: 01M15018171
 Qualified in Schoharie County
 Commission Expires: 09/20/21

MICHAEL KINLEY

X

Seth Kohl 70-005259

RA 021318

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none">■ Complete Items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Jim DeGuzi</u> C. Date of Delivery <u>4/23/18</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>																
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 9590 9402 2491 6306 1215 86																	
<p>2016 3010 0001 1776 9034</p>	<p>3. Service Type</p> <table border="0"><tr><td><input type="checkbox"/> Adult Signature</td><td><input type="checkbox"/> Priority Mail Express®</td></tr><tr><td><input type="checkbox"/> Adult Signature Restricted Delivery</td><td><input type="checkbox"/> Registered Mail™</td></tr><tr><td><input type="checkbox"/> Certified Mail®</td><td><input type="checkbox"/> Registered Mail Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Certified Mail Restricted Delivery</td><td><input type="checkbox"/> Return Receipt for Merchandise</td></tr><tr><td><input type="checkbox"/> Collect on Delivery</td><td><input type="checkbox"/> Signature Confirmation™</td></tr><tr><td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td><td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td></tr><tr><td><input type="checkbox"/> Insured Mail</td><td></td></tr><tr><td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td><td></td></tr></table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt																

X



The University of the State of New York

IN THE MATTER

OF

SETH G. KOHL
(Chiropractor)

ORIGINAL
VOTE AND ORDER
NO. 30120

Upon the application of SETH G. KOHL, under Calendar No. 30120, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (February 13, 2018): That the application of SETH G. KOHL, respondent, for permission to surrender respondent's license to practice as a chiropractor in the State of New York be granted; and that the Deputy Commissioner for the Professions be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

X

SETH G. KOHL (30120)

IN WITNESS WHEREOF, I, Douglas E. Lentivech, Deputy Commissioner for the Professions, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand, at the City of Albany, this 13th day of February, 2018.

A handwritten signature in black ink, appearing to be 'D. Lentivech', written over a horizontal line.

DOUGLAS E. LENTIVECH
DEPUTY COMMISSIONER
FOR THE PROFESSIONS

X



The University of the State of New York

IN THE MATTER

OF

SETH G. KOHL
(Chiropractor)

AMENDED
ORIGINAL
VOTE AND ORDER
NO. 30120

Upon the application of both respondent SETH G. KOHL and the Office of Professional Discipline, under Calendar No. 30120, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (April 10, 2018): That the joint application by both petitioner and respondent in this matter to amend the Application to Surrender respondent's License that was previously submitted to the Board of Regents and granted by the Board of Regents on February 13, 2018 is granted, said previously submitted Application to Surrender License is deemed amended, on the consent of both parties, to show that respondent's correct license number is "005269" and to delete the reference in such submitted Application to license number "005259", said previously submitted Application by respondent to Surrender his License otherwise remains in effect, the Vote & Order dated February 13, 2018 regarding respondent shall continue to be effective, and this Vote & Order shall be effective *nunc pro tunc* on and as of the effective date of the Vote and Order that was issued with respect to the February 13, 2018 determination of the Board of Regents in this matter; and that the Deputy Commissioner for the Professions be empowered to execute, for and on behalf of

X

SETH G. KOHL (30120)

the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Douglas E. Lentivech, Deputy Commissioner for the Professions, for and on behalf of the State Education Department and the Board of Regents, do hereunto set my hand, at the City of Albany, this 10th day of April, 2018.



DOUGLAS E. LENTIVECH
DEPUTY COMMISSIONER
FOR THE PROFESSIONS

LOCAL LAW NO. 4 FOR 1999

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK REGULATING TATTOOING AND BODY PIERCING

Introduced: 7/12/99

By Mr. Domalewicz:

BE IT ENACTED by the Legislature of the County of Albany as follows:

Section 1. Legislative Intent and Purpose.

This Legislature finds that the practice of tattooing and body piercing involves the alteration or penetration of the skin, which, if done improperly, can lead to potential health risks. Therefore, the purpose of this law pursuant to the County's exercise of its inherent power to protect the public health, safety and general welfare of its citizens is to establish County wide minimum standards for the regulation of tattoo and/or body piercing shops in municipalities within Albany County which are not requiring tattoo shops or body piercing shops to comply with the requirements herein and in municipalities with less stringent standards regulating tattoo shops or body piercing shops than are established by this local law. The promulgation of such County wide minimum standards shall not be construed as authorizing the practice of tattooing or body piercing in any locality within Albany County where such practice may be currently banned.

Section 2. Definitions.

The following words and phrases, as used in this local law shall have the indicated meaning:

(a) "Adequate light" shall mean that the tattoo and/or body piercing shop be so illuminated as to permit all tattooing and/or body piercing to be clearly visible without obstruction by shadow or darkness.

(b) "Adequate ventilation" shall mean a free and unrestricted circulation of fresh air throughout the tattoo and/or body piercing shop and the expulsion of foul or stagnant air.

(c) "Department" shall mean the Albany County Department of Health.

(d) "Health Officer" shall mean the Albany County Commissioner of Health or his/her designee.

(e) "Minor" shall mean any person under the age of eighteen years.

(f) "Shop certificate of sanitation" shall mean the issuance of a document by the Health Officer to a tattoo and/or body piercing shop certifying that

said shop, after inspection, was found to be in compliance with the applicable provisions of this local law.

(g) "Tattoo" shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.

(h) "Body piercing" shall mean to cut or pass through with a sharp instrument, or to penetrate a part of the body other than the ear for the purpose of applying jewelry for compensation to various parts of the body by means of a piercing device. If the body piercing is offered in conjunction with the sale of jewelry actually being used in connection with the body piercing, then that service shall be deemed to have been provided for compensation.

(i) "Piercing device" shall mean any device used for the piercing of the skin for the purpose of applying jewelry or other objects to the body.

(h) "Tattoo and/or body piercing artist" shall mean any person who actually performs the work of tattooing and/or body piercing.

(i) "Tattoo and/or body piercing artist certification" shall mean the issuance by the Health Officer of a written instrument authorizing the person named therein to engage in the practice of tattooing and/or body piercing or to act as a tattoo and/or body piercing artist.

(j) "Tattoo and/or body piercing operator" shall mean any person who controls, operates, conducts or manages any tattoo and/or body piercing shop, whether actually performing the work of tattooing or body piercing or not.

(k) "Tattoo and/or body piercing shop" shall mean any room or space where tattooing or body piercing is practiced or where the business of tattooing or body piercing is conducted or any part thereof.

(l) "Single Use" shall mean products or items that are intended for one-time, one-person use and are disposed of after use on each patron including, but not limited to, cotton swabs or balls, tissues or paper products, paper cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

Section 3. Tattoo and/or Body Piercing Artist Certification.

- a. No person except a duly licensed physician shall engage in the practice of tattooing or body piercing or act as a tattoo and/or body piercing artist unless such person has a tattoo and/or body piercing artist certification issued by the Health Officer on a form prescribed by the Department. The applicant shall pay a reasonable fee as set by the Department for each tattoo and/or body piercing artist certification. Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear

piercing system are exempt from the requirements of this local law. Individuals who use ear piercing systems must conform to the manufacturer's directions on the use and applicable US Food and Drug Administration requirements. The Department shall have the authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ear piercing systems.

- b. No holder of any shop certificate of sanitation issued under this local law shall allow a tattoo and/or body piercing artist to perform in such tattoo and/or body piercing shop unless such tattoo and/or body piercing artist is a holder of a valid tattoo and/or body piercing artist certification issued under this section.
- c. Any person desiring to engage in tattooing or body piercing or act as a tattoo and/or body piercing artist shall submit an application for a tattoo and/or body piercing artist certification to the Health Officer in the form prescribed by the Department.
- d. Each applicant shall be required to take and pass an examination prescribed by the Department before an initial tattoo and/or body piercing artist certification will be issued.
- e. The applicant shall be required to demonstrate, by examination, knowledge of the provisions of this local law, including those relating to aseptic technique designed to prevent the spread of infection and contagious disease by tattooing or body piercing practices.
- f. Records of all such certifications shall be kept on file by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop employing the person to whom a certification as a tattoo and/or body piercing artist has been issued.
- g. A tattoo and/or body piercing artist certification shall expire on December 31 of each year, renewable annually in December for the period next commencing January one.

Section 4. Shop Certificate of Sanitation.

- a. No person shall operate a tattoo and/or body piercing shop unless such person has registered such shop with the Health Officer and has received a shop certificate of sanitation from the Health Officer on a form prescribed by the Department. The applicant shall pay a reasonable fee as set by the Department for each shop certificate of sanitation.
- b. No shop certificate of sanitation shall be issued or renewed unless the shop has been inspected and found to be in compliance with the applicable provisions of this local law.

- c. The shop certificate of sanitation shall expire on December 31 of each year renewable annually in December for the period next commencing January one.

Section 5. General Physical Environment.

- a. Tattoo and body piercing shops must have adequate light and ventilation and all walls and ceilings shall be smooth and easily cleaned. Walls and ceilings are to be painted a light color.
- b. The floor of the tattoo and/or body piercing shop shall be of impervious material. The floor shall be swept and wet mopped daily. Floors, walls, or ceilings shall not be swept or cleaned while tattooing or body piercing is in operation.
- c. Convenient, clean, and sanitary toilet and hand washing facilities with hot and cold running water with soap and single use towels or hand drying devices shall be made accessible to customers.
- d. The tattoo and/or body piercing operator shall provide for the proper and safe disposal of all types of waste products.
- e. The building and equipment shall be maintained in a state of good repair at all times. The shop premises shall be kept clean, neat, and free of litter and rubbish.

Section 6. Work Room.

- a. Each tattoo and/or body piercing shop shall have a work room separate and apart from a waiting room or any room or rooms used as such. The work room shall not be used as a corridor for access to other rooms. Patrons or customers shall be tattooed and/or body pierced only in said work room.
- b. The work room shall be equipped with hot and cold running water and necessary sinks and basins.
- c. The sinks or basins shall be for the exclusive use of the tattoo and/or body piercing artist for washing hands and preparing customers for tattooing or body piercing. They shall be equipped with wrist-action controls, soap, a United States Environmental Protection Agency (EPA) approved or hospital grade germicidal solution, individual hand brushes, and fingernail files for each tattoo and/or body piercing artist.
- d. The tattoo and/or body piercing artist's hands shall be washed and then dried by individual paper towel, napkin, or mechanical means. In addition, disposable gloves shall be worn.

- e. Cabinets for the storage of instruments, dyes, pigments, carbon, and stencils shall be provided for each tattoo and/or body piercing artist and shall be maintained in a sanitary manner.
- f. Work tables shall be provided for each tattoo and/or body piercing artist. The surface of all work tables shall be constructed of metal or other material which is smooth, light colored, non-absorbent, corrosive-resistant, and easily sanitized.
- g. Certified tattoo and/or body piercing artists may not set up temporary facilities at fairs, festivals or expositions unless written approval is obtained from the Health Officer.
- h. Smoking and the consumption of alcoholic beverages are prohibited in the work room.

Section 7. Operation Standards - Records

- a. For each patron, proper records of tattoos and/or body piercings administered shall be maintained by the holder of a shop certificate of sanitation.
- b. A record of each patron shall be prepared prior to any procedure being performed and shall include the patron's name, signature, address, age, the date tattooed or body pierced, the design of the tattoo, if applicable, the location of the tattoo and/or body piercing on the patron's body, and the name of the tattoo and/or body piercing artist who performed the work.
- c. The records shall be entered in ink or indelible pencil in a bound book kept solely for this purpose. This book shall be available at a reasonable time for examination by the Health Officer and shall be preserved for at least three years from the date of the last entry therein. The signature of the patron shall be in the bound book record.
- d. Before tattoo and/or body piercing administration, there shall be a discussion conducted with the patron on the risks involved in the tattoo and/or body piercing requested, and its possible complications. The patron shall fill out and sign an information form as prescribed by the Department. One copy of each form shall be retained at the tattoo and/or body piercing shop and the other copy shall be given to the patron. The tattoo and/or body piercing artist must also explain aftercare instructions and have the patron initial the consent form to indicate that he or she has received written aftercare instructions.

Section 8. Operation Standards - Consent

- a. Written consent for tattooing or body piercing of minors, when legally permissible, shall be obtained from at least one parent or legal guardian. The writing shall be notarized and filed in person at the tattoo and/or body

piercing shop. Proof of age shall be determined upon presentation of two forms of valid identification. Valid identification shall include: a picture driver's license, picture sheriff's identification or birth certificate.

- b. The records of the written consents shall be kept on file for three years by the holder of the shop certificate of sanitation for the tattoo and/or body piercing shop in which the tattoo and/or body piercing was performed.

Section 9. Tattooing and Body Piercing Procedures

- a. There shall be printed or mimeographed instructions, as approved by the Department, given to each patron or customer on the care of the skin after tattooing or body piercing as a precaution to prevent infection.
- b. A tattoo and/or body piercing artist shall not tattoo and/or body pierce any person who is under the apparent influence of drugs or intoxicating liquor.
- c. Each tattoo and/or body piercing artist must wear a clean outer garment.
- d. Tattoo and/or body piercing artists who are experiencing symptoms such as diarrhea, vomiting, fever, rash, productive cough, jaundice or draining (or open) skin infections such as boils, impetigo or scabies must refrain from tattooing or body piercing activities.
- e. The Health Officer may require from a tattoo and/or body piercing artist found to have any disease in communicable form or suspected of having such a disease, a certificate signed by a duly licensed physician stating that the person is free from communicable diseases before permission to resume operation as a tattoo and/or body piercing artist is granted.
- f. Before working on each patron, the fingernails of the tattoo and/or body piercing artist shall be cleaned with an individual nail file and the hands thoroughly washed and scrubbed with hot running water, soap, and individual hand brush.
- g. The tattoo and/or body piercing artist's hands shall be dried only with the use of a disposable towel or other mechanical means.
- h. When necessary to shave the area to be tattooed or body pierced, only single use sterilized and disposable safety razors shall be used.
- i. Following the cleaning and shaving of the patron's skin, the hands of the tattoo and/or body piercing artist shall again be washed and scrubbed as required by paragraph g of this section. Disposable gloves shall then be worn by the tattoo and/or body piercing artist.
- j. Before placing the design on the patron's skin or penetrating the patron's skin, the tattoo and/or body piercing artist shall treat the skin area with an

EPA approved or hospital grade germicidal solution which shall be applied with sterile cotton or sterile gauze. Only sterile petroleum jelly (petrolatum) shall be applied to the area to be tattooed or body pierced and only from single use collapsible metal or plastic tubes. The application may be spread by the use of sterile gauze but not directly with the fingers.

- k. The use of single use tissue and sterile hectographic stencils shall be required for applying a tattoo outline on the skin. Multi-use stencils shall be prohibited. If drawn free hand, non toxic markers or other devices as approved by the Department shall be used.

Section 10. Dyes or Pigments

- a. In preparing nontoxic dyes or pigments to be used by a tattoo artist, only nontoxic or sterile material shall be used. Single use or individual portions of dyes or pigments in clean, sterilized individual containers or single use containers must be used for each patron.
- b. After tattooing, the remaining unused dye or pigment in the single use or individual containers must be properly discarded.
- c. All dyes or pigments used in tattooing shall be from batches certified by the Federal Food and Drug Administration. (For informational purposes, see Chapter 51, Federal Food, Drug and Cosmetic Act; 21 U.S.C. Section 301 et seq.)

Section 11. Single-Use Disposable Needles and Sterilization.

- a. A set of individual, single-use disposable sterilized needles shall be used by a tattoo and/or body piercing artist for each new patron.
- b. Sterilization of equipment and devices as required by the Health Officer shall be accomplished by holding in an autoclave for 30 minutes at 15 pounds pressure at a temperature of 250 degrees Fahrenheit or 121 degrees Celsius.
- c. As determined by the Health Officer, equipment and devices may be sterilized by using dry heat sterilization accomplished by 320 degrees Fahrenheit (160 degrees Celsius) for not less than one hour under atmospheric pressure after the sterilizer has reached the required temperature.
- d. Equipment and devices which are unable to be sterilized in an autoclave or via dry heat sterilization shall be cleaned and sterilized with an EPA approved or hospital grade germicidal solution before each use.

Section 12. After Care of Tattoo and Body Piercing

- a. The completed tattoo and/or body piercing shall be washed with a piece of sterile gauze or sterile cotton saturated with an EPA approved or hospital

grade germicidal solution from a single use container. It shall be allowed to air dry.

- b. After drying, anti-bacterial ointment shall be applied from a collapsible metal or plastic tube and the entire area covered with a piece of sterile gauze, which may, in turn, be covered with a piece of tissue and fastened to the site with adhesive tape.

Section 13. Enforcement - Revocation - Penalties.

The Albany County Department of Health is hereby authorized to promulgate such rules and regulations necessary to ensure compliance with this local law. The Health Officer is hereby vested with the authority to enforce the provisions of this local law. If the Health Officer determines after a hearing conducted pursuant to the provisions of the Albany County Sanitary Code that a violation of this local law has occurred, the Health Officer may suspend or revoke any tattoo and/or body piercing artist certification or shop certificate of sanitation issued under this local law and/or a civil penalty may be imposed in an amount not to exceed that set forth in Section 309(1)(f) of the Public Health Law.

Section 14. Severability.

If any provision of this local law is held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions.

Section 15. Effective Date.

This local law shall take effect immediately.

**Excerpt from Colour Cosmetics Website as of November 15, 2018 showing
Nora Quinn also certified as a “Micropigmentation Specialist” –
but not a nurse**

www.colourcosmeticstudio.com

~
CREDENTIALS & TRAINING

Kathleen Cronin, RN, CPCP

**Registered Professional Nurse since 1980
Master trained Micropigmentation Specialist
CPCP**

**CERTIFIED PERMANENT MAKEUP PROFESSIONAL
SOFTAP PERMANENT MICROPIGMENTATION INSTRUCTOR**

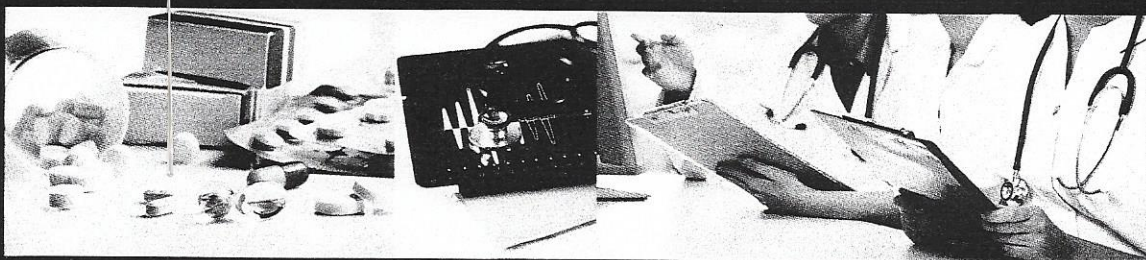
&

Nora Quinn, AAS

**NYS Lic. Esthetician
Certified Micropigmentation Specialist**

ATTACHMENT 2

Legal Manual for New York Physicians



Fourth Edition
Volume Two

Editors

Patrick Formato, Esq.
Joel M. Greenberg, Esq.
Donald R. Moy, Esq.



New York State
Bar Association



Medical Society of the
State of New York

RESOURCES

The OIG's website, www.oig.hhs.gov, contains all compliance guidance the OIG has issued thus far for various sectors of the health care industry, including the *Compliance Guidance for Physician Practices*.

The OIG's advisory opinions regarding application of the anti-kickback law and safe harbors may be found at www.oig.hhs.gov.

The OIG's provider self-disclosure protocol is located at www.oig.hhs.gov.

The federal physician self-referral law and all its related regulations can be viewed through the Physician's Resource Center on CMS's website at www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html.

CMS transmittals are available at www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals.

CMS manuals are available at www.cms.gov/Regulations-and-Guidance/Guidance/Manuals.

Medicare national coverage determinations can be found at www.cms.gov/Center/Special-Topic/Medicare-Coverage-Center.html.

The National Government Services website, which, among other resources, provides local coverage determinations, fee schedules, forms and the *Medicare Monthly Review*, can be accessed at www.ngsmedicare.com.

The Advanced Medical Technology Association's Code of Ethics is available at www.advanced.org.

The Pharmaceutical Research and Manufacturers of America's Code on Interactions with Healthcare Professionals is available at www.phrma.org.

The New York State Stark regulations are available online through the DOI at www.health.ny.gov/regulations/nyerr/title_10; search for Part 34.

The New York State Office of the Medicaid Inspector General's website is at www.omig.ny.gov.

CHAPTER THIRTY-EIGHT

CORPORATE PRACTICE OF MEDICINE AND FEE SPLITTING

Judy L. Doesschate, Esq.
Andrew B. Roth, Esq.

ATTACHMENT AA

[38.0] OVERVIEW

In New York State, general business corporations are not permitted to employ physicians for the purpose of providing medical services or to arrange for the provision of medical services.¹ Nor may any person receive any portion of a physician's fee unless that person lawfully contributed to the provision of medical services. These prohibitions against the corporate practice of medicine and fee splitting are intended to ensure that medical decisions are based exclusively upon the sound and independent judgment of licensed medical professionals without interference or influence from unlicensed persons or entities and that a physician's loyalty remains with his or her patients and is unaffected by improper financial influence.

Although some entities (e.g., hospitals, diagnostic and treatment centers and health maintenance organizations (HMOs)) are authorized by law to provide medical services, certain other entities and arrangements (e.g., management service organizations, preferred provider organizations, networks and multidisciplinary practices) are not so authorized and, consequently, often present corporate practice of medicine and fee-splitting issues.

This chapter discusses the bases for the prohibitions against the corporate practice of medicine and fee splitting, the exceptions to those prohibitions, the repercussions of violating the related laws and the application of these prohibitions to various arrangements practitioners may consider entering.

[38.1] BASES FOR PROHIBITIONS AGAINST CORPORATE PRACTICE OF MEDICINE AND FEE SPLITTING

The prohibition against the corporate practice of medicine is based on the statutory provision that an unlicensed person may not practice medicine or use the title "physician."² The prohibition is reinforced by various other provisions that restrict businesses from engaging in the practice of medicine.³ For example, a business corporation "may not include as its purposes or among its purposes the establishment or maintenance of a hospital or facility providing health related services" unless it has the approval of the Public Health and

¹ The law provides for certain exceptions, discussed below in § 38.2.

² See N.Y. Education Law § 6522 (Educ. Law).

³ In *In re Coop. Law Co.*, 198 N.Y. 479 (1910), the Court of Appeals explained that a corporation cannot practice a profession because the practice of a profession is "a personal right, limited to a few persons of good moral character, with special qualifications ascertained and certified after a long course of study, both general and professional, and a thorough examination by a state board appointed for the purpose," and a corporation cannot fulfill these requirements. *Id.* at 483. The Court further noted that a corporation may not employ licensed professionals to practice the profession, as doing so would permit it to do indirectly what it cannot do directly.

applies to
all
professions

Planning Council annexed to its certificate.⁴ A similar restriction exists for not-for-profit corporations.⁵ Furthermore, the law expressly prohibits any person or entity from engaging in any business for profit that includes the referral or recommendation of any person to a physician, hospital or health-related facility for any form of medical care or treatment.⁶

The prohibition against the corporate practice of medicine is further reinforced by the prohibition against fee splitting. Violation of these laws subjects a physician to charges of professional misconduct. Specifically, a physician is guilty of professional misconduct if he or she permits

any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee practicing under the supervision of a licensee. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment, or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article twenty-eight of the public health law or article thirteen of the mental hygiene law.⁷

Likewise, a physician is subject to professional misconduct charges if he or she has

directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit of other valuable consideration as a

- 4 N.Y. Business Corporation Law § 201(e) (BCL).
- 5 N.Y. Not-for-Profit Corporation Law § 404(4) (Not-for-Profit Corp. Law).
- 6 N.Y. Public Health Law § 4501(1) (PHL). Upon the enactment of PHL art. 45, the legislature stated that

[m]edical referral services, organized as profit making enterprises within this state, have been found to be engaged in the practice of medicine, have been sharing fees received for referrals with doctors and hospitals to whom patients are referred, have been otherwise compensating doctors and hospitals for accepting patients referred to them, have been giving medical advice by telephone to persons seeking referrals and have been advertising their services, all in violation of the standards of ethics and public policy applicable to the practice of medicine.

PHL § 4500.

7 Educ. Law § 6530(19).

commission, discount or gratuity, in connection with the furnishing of professional care or service.⁸

An exception exists for physicians practicing "as partners, in groups or as a professional corporation or as a university faculty practice corporation" and pooling or sharing fees among individual professional members or employees of the group practice.⁹

The prohibition against fee splitting is related to the state anti-kickback law,¹⁰ which prohibits physicians from "offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or in connection with the performance of professional services."¹¹

❖ Does the prohibition against fee splitting apply to both persons and corporations?

Only persons licensed under the Education Law are subject to the prohibition against fee splitting, but a corporation might be sanctioned for engaging in a fee-splitting arrangement if it unlawfully employs physicians or makes arrangements for medical services. In *State v. Abortion Information Agency, Inc.*,¹² in which a corporation charged patients a flat fee for making arrangements with a hospital to perform an abortion and then paid the hospital a discounted fee for the services, the court ordered the dissolution of the corporation for engaging in fee splitting, among other things.

❖ What are some examples of cases in which persons or entities have been found guilty of engaging in the corporate practice of medicine or illegal fee splitting?

In *United Calendar Manufacturing Corp. v. Huang*,¹³ a corporation that employed physicians and provided them with equipment and office space in exchange for 30 percent of the revenues received by the physicians was found to have engaged in illegal fee splitting. In *Katz v. Zuckermann*,¹⁴ the court declared that an agreement between a physician and technicians who

⁸ Educ. Law § 6531.

⁹ See § 38.2 below.

¹⁰ See chapter 37 of this manual for an in-depth discussion of the anti-kickback laws.

¹¹ Educ. Law § 6530(18).

¹² 37 A.D.2d 142, 330 N.Y.S.2d 927 (1st Dep't 1971), *aff'd*, 30 N.Y.2d 779, 334 N.Y.S.2d 174 (1972).

¹³ 94 A.D.2d 176, 463 N.Y.S.2d 497 (2d Dep't 1983).

¹⁴ 126 Misc.2d 135, 481 N.Y.S.2d 271 (Sup. Ct., Queens Co. 1984); *aff'd* 119 A.D.2d 732, 501 N.Y.S.2d 144 (2d Dep't 1986).

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performed EEG and ECHO tests in exchange for 50 percent of the money received from such tests constituted illegal fee splitting. In *Okerke v. State of New York*,¹⁵ a physician was found guilty of professional misconduct for engaging in illegal fee splitting with a pregnancy counselor at the Eric Women's Center, an unlicensed facility, because he paid her on the basis of the fees collected from patients she referred to him. And in *Accident Claims Determination Corp. v. Durst*,¹⁶ the court held that a corporation that arranged for medical examinations for clients of insurance companies was engaged in the illegal practice of medicine. And in *State Farm v. Mallela*,¹⁷ the New York Court of Appeals held that an insurance carrier could withhold no-fault payments for professional services provided by a company owned and controlled by nonphysicians, and therefore considered to have been fraudulently incorporated.

[38.2] EXCEPTIONS

As noted previously, certain entities are exempt from the corporate practice of medicine and fee-splitting prohibitions. Specifically, physicians are expressly permitted to practice medicine and share fees through partnerships, professional corporations and university faculty practice plans.¹⁸ However, these types of entities are subject to other statutes, which should be followed carefully to ensure the arrangement remains within the protections of the exemptions for such entities. Other exceptions include hospitals, HMOs¹⁹ and employee health/school health programs.

❖ What are some examples of other laws, related to the corporate practice of medicine and fee splitting, to which partnerships, professional corporations and university faculty practice plans are subject?

As one example, each member of a professional corporation must practice his or her profession as part of the group.²⁰ Thus, a physician who does not actively practice medicine as part of the professional corporation's practice is not entitled to share in any fees from the corporation. As another example, the Not-for-Profit Corporation Law authorizes medical schools and teaching hospitals to keep a portion of the fees generated by faculty members through a faculty practice plan. The courts have held, however, that this authority does

not extend to faculty members' private practice income.²¹ These provisions imply that other types of organizations or arrangements involving income sharing will violate the corporate practice of medicine and fee-splitting prohibitions.²²

❖ Are limited liability companies and limited liability partnerships encompassed within the exceptions to the prohibitions against the corporate practice of medicine and fee splitting?

Although not specifically mentioned as exceptions in the statute, professional service limited liability companies and registered limited liability partnerships clearly may practice medicine and employ physicians without violating the corporate practice of medicine prohibition, provided that each of the partners/shareholders is a licensed physician.²³ Such entities may also share fees and profits among their partners/shareholders without violating the fee-splitting prohibition as long as the physicians are actively involved in the practice.²⁴

❖ Can employee leasing companies employ physicians and engage in the practice of medicine?

A professional employee organization (PEO) registered with the Department of Labor is expressly authorized to serve as the employer of record for professionals who are co-employed by a client.²⁵ As the employer of record, the PEO is responsible for all payroll and benefits administration for its clients. However, a PEO is not authorized to engage in the practice of medicine or to split fees with physicians, and the client remains responsible for compliance with all applicable licensing, registration and certification requirements.

❖ How can a physician ensure that payments to employees and other professionals comply with the fee-splitting prohibition?

A physician may pay employee salaries without violating the fee-splitting prohibition, provided the physician does not make an employee's salary a percentage of, or otherwise dependent on, the income or receipts of the practice or a portion thereof, unless the employee is licensed to practice medicine.²⁶

¹⁵ See *Outrich v. Trs. of Columbia Univ.*, 308 A.D.2d 405, 764 N.Y.S.2d 448 (1st Dep't 2003).

¹⁶ Not-for-Profit Corp. Law § 1412.

¹⁷ See N.Y. Limited Liability Company Law art. 12; N.Y. Partnership Law art. 8-B.

¹⁸ Public Law §§ 6530(19), 6531.

¹⁹ N.Y. Labor Law art. 31.

²⁰ *Id.*

¹⁵ 129 A.D.2d 373, 518 N.Y.S.2d 210 (3d Dep't 1987).

¹⁶ 224 A.D.2d 343, 638 N.Y.S.2d 69 (1st Dep't 1996).

¹⁷ 4 N.Y.3d 313, 794 N.Y.S.2d 700 (2005).

¹⁸ See Educ. Law §§ 6530(19), 6531.

¹⁹ PHL § 4410(1).

²⁰ BCL § 1507.

The law does not allow the sharing of fees between professionals and non-professionals.²⁷

A physician may share fees with a professional subcontractor or consultant authorized to practice medicine.²⁸ However, arrangements with professional subcontractors must be structured carefully to ensure that they do not merely attempt to circumvent the prohibition against referrals for a fee or other consideration or violate the prohibition against physician self-referrals.²⁹

❖ **Does the exception applicable to hospitals extend to other health care entities?**

A *hospital* is defined as a facility or institution engaged principally in providing services by or under the supervision of a physician for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition. This definition encompasses a wide range of health care entities, including general hospitals, public health centers, diagnostic and treatment centers, nursing homes and more.³⁰

The courts have recognized the ability of such licensed facilities not only to hold themselves out as practicing medicine but also to charge fees and split fees with licensed professionals.³¹ Thus, once approved by the New York State Department of Health (DOH) to operate under Public Health Law article 28, such facilities may employ physicians and charge patients fees for medical services provided in the facility.³²

❖ **How are HMOs excepted from the prohibitions against the corporate practice of medicine and fee splitting?**

“[T]he provision of comprehensive health services directly or indirectly, by a health maintenance organization . . . shall not be considered the practice of the profession of medicine by such organization.”³³ A not-for-profit medical or dental expense indemnity corporation or hospital service corporation orga-

nized under the Insurance Law is expressly permitted to employ physicians and enter into contracts with (1) partnerships and medical corporations organized under PHL article 44, (2) HMOs possessing a certificate of authority pursuant to PHL article 44, (3) professional corporations and (4) other groups of physicians, to practice medicine on its behalf for persons insured under its contracts or policies.³⁴ Accordingly, HMOs licensed in accordance with the applicable statutes can employ physicians, arrange for medical services and share professional fees with the employee physicians.

❖ **What is the scope of the exception applicable to employee health and school health programs?**

A corporation or similar business entity may pay a physician or nurse to staff its employee health service or to handle medical emergencies. Similarly, a school may hire a physician or a nurse to perform student health examinations or to be available when a student is sick. In such cases, the corporation or the school is not deemed to be practicing medicine because it is not holding itself out as supplying health care services to the general public or charging fees to those being treated. Of course, such services must be provided by a licensed professional acting within the scope of his or her professional license.

[38.3] REPERCUSSIONS

❖ **What are the criminal and civil penalties for violating the corporate practice of medicine and fee-splitting prohibitions?**

The corporate practice of medicine is one form of the unlicensed practice of medicine. The unlicensed practice of medicine, or aiding and abetting the unlicensed practice of medicine, is a class E felony, punishable by imprisonment from one to four years.³⁵ In addition, operation of an unlicensed medical facility may result in the imposition of a monetary fine and the forfeiture of any profits resulting from such operation.³⁶ Moreover, the state attorney general can sue to stop fraudulent or illegal acts and may seek to dissolve a corporation that violates the corporate practice of medicine and fee-splitting prohibitions.³⁷

- 27 See *Okevike v. State of New York*, 129 A.D.2d 373, 518 N.Y.S.2d 210 (3d Dep't 1987).
- 28 Educ. Law § 6530(19).
- 29 See chapter 37 of this manual for an in-depth discussion of the prohibition against self-referrals.
- 30 PHL § 2801(1).
- 31 See *People v. Woodbury Dermatological Inst.*, 192 N.Y. 454, 85 N.E. 697 (1908); *Albany Med. Coll. v. McShane*, 104 A.D.2d 119, 481 N.Y.S.2d 917 (3d Dep't 1984), *aff'd*, 66 N.Y.2d 982, 499 N.Y.S.2d 376 (1985).
- 32 See *Glassman v. ProHealth Ambulatory Surgery Ctr., Inc.*, 23 A.D.3d 522, 806 N.Y.S.2d 648 (2d Dep't 2005).
- 33 PHL § 4410(1).

- 14 Educ. Law § 6527.
- 15 Educ. Law § 6512; N.Y. Penal Law § 70.00(2)(e), (3), (4). For a class E felony, the court is allowed to impose a sentence of less than one year.
- 16 PHL § 12, 2801-c.
- 17 N.Y. Executive Law § 63; BCL § 1101; see *State v. Abortion Information Agency, Inc.*, 37 A.D.2d 142, 330 N.Y.S.2d 927 (1st Dep't 1971), *aff'd*, 30 N.Y.2d 779, 334 N.Y.S.2d 174 (1972).

❖ **What disciplinary action by the Office of Professional Medical Conduct might a physician face for violating the prohibitions?**

"[P]racticing the profession fraudulently or beyond its authorized scope" is professional misconduct.³⁸ Therefore, if a physician enters into an arrangement in violation of the prohibition against the corporate practice of medicine, he or she may be subject to disciplinary action by the DOH's Office of Professional Medical Conduct (OPMC).

The law also prohibits "[p]ermitting, aiding or abetting an unlicensed person to perform activities requiring a license."³⁹ As noted earlier, fee splitting is considered professional misconduct and thus could also result in disciplinary action.

If the OPMC finds that a physician has committed professional misconduct, it may impose any of a variety of sanctions. These sanctions may be minor, such as a censure or reprimand, or major, such as the revocation or suspension of a physician's medical license.⁴⁰ In addition, the OPMC may impose up to a \$10,000 fine for each violation of professional misconduct and require the physician to perform up to 500 hours of public service.⁴¹

❖ **Can contracts involving the unlawful corporate practice of medicine or fee splitting be upheld?**

Any contract that violates the corporate practice of medicine or fee-splitting prohibition could be found to be illegal, void and unenforceable. In *United Calendar Manufacturing Corp. v. Huang*,⁴² the court held that a contract between a business corporation and various physicians and dentists, which provided that the physicians and dentists must pay the corporation 30 percent of their total fees, was illegal and unenforceable. In denying recovery to the plaintiff under the terms of the contract, the court noted that

[it] is the settled law of this State . . . that a party to an illegal contract . . . cannot ask a court of law to help him carry out his illegal object, nor can such a person plead or prove in any court a case in which he, as a basis for his claim, must show forth his illegal purpose.⁴³

❖ **CORPORATE PRACTICE OF MEDICINE/FEE SPLITTING § 38.3**

This approach—denying parties to an illegal agreement access to the courts to address nonpayment and other violations of the contract—has been followed in several other reported cases.⁴⁴

❖ **What are the repercussions if a violation of the prohibitions also results in liability under the federal False Claims Act or federal anti-kickback statute?**

A physician who violates the corporate practice of medicine and fee-splitting prohibitions could be liable for repayment to the Medicare or Medicaid programs for any false or fraudulent claims submitted pursuant to the illegal arrangement,⁴⁵ as was the case in *Necula v. Glass*.⁴⁶ In *Necula*, the physician entered into a contract with a management company under which the company provided the physician with facilities, supplies, equipment and staff necessary to operate his radiology practice in return for a fixed percentage of the physician's fees. The court found the fee arrangement constituted illegal fee splitting and required the physician to repay the entire amount the practice received under the Medicaid program during the specific period of time that was audited. Although the physician received only approximately 20 percent of the income from the practice, he was liable for repayment of the entire \$213,358 that the practice improperly received from the Medicaid program.

❖ **How are violations of the prohibitions likely to affect reimbursement from insurance companies?**

Most insurance contracts authorize reimbursement only for services properly performed by a licensed individual or entity within the scope of the professional or other license. Insurance companies have relied on the holding in *United Calendar Manufacturing Corp. v. Huang*⁴⁷ to deny payment for services rendered by an unlicensed provider pursuant to an illegal contract. But in 2005, the Court of Appeals expressly held that insurance carriers may withhold payments for medical services provided by a company fraudulently incorporated under New York Business Corporation Law § 81507 (requiring a professional corporation to issue shares only to individuals licensed to practice the profession which the corporation is authorized to practice) and

³⁸ See *LoMagna v. Koh*, 246 A.D.2d 579, 667 N.Y.S.2d 280 (2d Dep't 1998); *Accident Claims Determination Corp. v. Durst*, 224 A.D.2d 343, 638 N.Y.S.2d 69 (1st Dep't 1996); *Hartman v. Bell*, 137 A.D.2d 585, 524 N.Y.S.2d 477 (2d Dep't 1988) (agreement for sale of practice which was based upon future receipts of practice was illegal fee splitting and therefore void and unenforceable).

³⁹ In addition to liability for repayment, other criminal and civil penalties may be imposed under these and other federal laws.

⁴⁰ 231 A.D.2d 457, 647 N.Y.S.2d 501 (1st Dep't 1996).

⁴¹ 94 A.D.2d 176, 463 N.Y.S.2d 497 (2d Dep't 1983).

⁴² See *Empire Magnetic Imaging, Inc. v. Comprehensive Care of N.Y., P.C.*, 271 A.D.2d 472, 705 N.Y.S.2d 652 (2d Dep't 2000).

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1508 (prohibiting non-licensed individuals from being directors or officers of professional corporations), in violation of the corporate practice of medicine doctrine.⁴⁹ Notably, the Court concluded that the carriers “may look beyond the face of licensing documents to identify willful and material failure to abide by state and local law.”⁵⁰ Additionally, if a physician knowingly permits another to engage in the unauthorized practice of medicine, the physician may find his or her medical malpractice insurance carrier will refuse to provide a defense for the provision of such services or to pay any resultant award of damages.⁵¹

[38.4] SPECIFIC APPLICATIONS

Although the preceding sections provide some insight into how the prohibitions against the corporate practice of medicine and fee splitting apply to various arrangements, the following questions and answers address some common applications in the evolving landscape of medical practice.

❖ How might physicians ensure that their lease arrangements do not violate the prohibitions against the corporate practice of medicine and fee splitting?

Medical office buildings have become commonplace throughout the country. Although most merely provide space and facilities appropriate for a medical practice, some provide services such as a receptionist, security, laboratory services and other employees. These arrangements can raise significant issues regarding the corporate practice of medicine, fee splitting, referral for a fee and undue influence over a patient for the gain of the practitioner or a third party.

As noted earlier, the amount of lease payments cannot depend on the income or receipts of the physician practice.⁵² Thus, rent or lease payments should be a fixed amount based upon the fair market value of the premises. The rent also should not depend on the number of referrals the practitioner might make to any other business within the building because a reduction in the rent might be viewed as “consideration” for the referral of patients to such other tenants. Finally, the services a landlord provides to the physician practice and other tenants may be so extensive as to constitute the unlicensed practice of a profession or the establishment of an unlicensed diagnostic and treatment center. The fact that the landlord is a physician does not obviate

these issues. Thus, practitioners should carefully evaluate in light of these issues any lease arrangements that provide more than the standard landlord services.

❖ How might physicians ensure that their arrangements with billing companies and collection agencies do not violate the prohibitions against the corporate practice of medicine and fee splitting?

Although many billing companies currently base their fee on a percentage of the income or receipts of a physician’s practice, such practices constitute illegal fee splitting. As with any service, compensation should be based upon the fair market value of the services without consideration of the actual income or receipts of the practice.

Agencies collecting past-due bills present a slightly different situation. These entities have historically charged their clients a percentage of the fees they collect after referral for nonpayment. Unlike billing companies, the amount of money collected by the collection agency has little, if any, connection to the income and receipts of the overall practice or any discrete portion. Instead, the number of claims referred to the agency and the amounts eventually collected are the result of circumstances generally beyond the control of the practitioner or the collection agency. Furthermore, it would be surprising if the amount eventually collected, and the percentage paid to the collection agency, had any real correlation to the income or receipts of the practice. As such, the DOH has determined that such financial arrangements with collection agencies for the collection of past-due bills will not subject physicians to charges of professional misconduct.⁵³

❖ How might physicians ensure that their arrangements with management service organizations do not violate the prohibitions against the corporate practice of medicine and fee splitting?

The complexities of private practice have grown sufficiently in the past two decades that many physicians have contracted for office management services. Typically companies offering these services are referred to as management service organizations (MSOs). Some may offer limited computer, billing and record-keeping services, while others purport to “purchase” entire physician practices in exchange for a long-term contract providing all aspects of practice management, including hiring and firing employees, developing policy manuals, ordering equipment and supplies and arranging for referrals to laboratories and other providers. Often these arrangements raise corporate practice of medicine and fee-splitting issues.

⁴⁹ *State Farm v. Mallela*, 4 N.Y.3d 313, 794 N.Y.S.2d 700 (2005).

⁵⁰ *Id.* at 321.

⁵¹ See *Chicago Ins. Co. v. Borsody*, 165 F. Supp. 2d 592 (S.D.N.Y. 2001).

⁵² Educ. Law § 6530(19).

⁵³ See Op. Letter of Gen. Counsel of Dep’t of Health (Apr. 17, 1997).

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Of primary concern is whether the MSO is engaged in the corporate practice of medicine, as was found in *Necula v. Glass*.⁵⁴ The use of the management company's trade name, computer programs, policy manuals and employees all are hallmarks of a potentially problematic arrangement insofar as they give the appearance that the company is engaged in the business of providing medical services, even if it is not actually doing so. Because the corporate practice of any profession is illegal without specific statutory authority, any arrangement in which the management company provides other professionals or supervises or otherwise directs the provision of such services may be viewed as the unlawful practice of such profession; and any physician entering into such a contract may be guilty of aiding and abetting the unlawful practice of a profession.

To protect against such allegations, at a minimum, physicians should remain responsible for all aspects of patient care, including all policies and procedures that affect patient care, and the supervision of any professionals or other employees who provide patient care. The physician should also retain exclusive control over all billing and accounting records, all bank accounts and any income generated from the practice.

Arrangements with MSOs also raise professional misconduct issues. Of course, any compensation arrangement with the management company must not be based upon the income or receipts of the practice. Physicians should also ensure that any arrangements between the MSO and other providers do not include provisions that make the costs of goods, supplies or other services dependent upon the referral of patients to such providers, even if such costs would only benefit the MSO. Such arrangements could leave the physician and other providers open to allegations of referral for a fee, kickback or the exercise of undue influence over a patient for the gain of the provider or a third party.⁵⁵ Thus, physicians should examine any arrangements with MSOs and other providers to ensure that patient care and referral decisions are not influenced by financial motivations contrary to the patients' best interests.

❖ **How might corporate practice of medicine issues concerning independent practice associations and preferred provider organizations be avoided?**

Independent practice associations (IPAs) and preferred provider organizations (PPOs) present potential corporate practice of medicine issues because they arrange for medical services. IPAs are specifically recognized under law, and HMOs may contract with such entities to arrange for the provision of health care services, including those provided by professionals, as long as

the IPA complies with the statutory requirements and has been reviewed by the state education, insurance and health departments.⁵⁶ Thus, IPAs are expressly authorized to engage in limited activities that might otherwise be characterized as the unauthorized practice of a profession but must do so in accordance with the oversight of the specified governmental agencies.

On the other hand, the only PPOs that enjoy any express statutory or regulatory authorization are those established pursuant to N.Y. Workers' Compensation Law article 10-A. As such, PPOs, other than workers' compensation PPOs, may not contract directly with licensed providers to perform medical or health-related services and may not be compensated on the basis of a percentage of the income and receipts of the providers they represent. Consequently, arrangements with PPOs must be structured carefully to ensure that the PPO is not directly providing medical services, arranging for such services or holding itself out as being authorized to do so.

⁵⁶ N.Y. Comp. Codes R. & Regs. tit. 10, § 98-1.5.

⁵⁴ 231 A.D.2d 457, 647 N.Y.S.2d 501 (1st Dep't 1996).

⁵⁵ See Educ. Law § 6530(17).

AA

New York State Definition of "Professional Services" (General Business Law §1501 and Education Law Provisions Re: Nursing License is Not License to Practice Medicine)

Business Corporation Law §1501 relating to the ability of professionals to create a "professional service corporation" contains the following definitions:

§ 1501. Definitions....

(b) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those occupations designated in title eight of the education law.

(c) "Professional service" means any type of service to the public which may be lawfully rendered by a member of a profession ***within the purview of his or her profession.*** (emphasis supplied)

List of professions in Education Law Title 8:

Title 8	THE PROFESSIONS
Article 130*	GENERAL PROVISIONS
Sub Art. 1	(6500 - 6505-C) Introductory summary.
Sub Art. 2	(6506 - 6508) State management.
Sub Art. 3	(6509 - 6511) Professional misconduct.
Sub Art. 4	(6512 - 6516) Unauthorized acts.
Article 131	(6520 - 6529) MEDICINE
Article 131-A	(6530 - 6532) DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS, PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS
Article 131-B	(6540 - 6546) PHYSICIAN ASSISTANTS
Article 131-C	(6547 - 6549-B) SPECIALIST ASSISTANTS
Article 132	(6550 - 6556) CHIROPRACTIC
Article 133	(6600 - 6613) DENTISTRY AND DENTAL HYGIENE
Article 134	(6630 - 6636) LICENSED PERFUSIONISTS
Article 135	(6700 - 6714) VETERINARY MEDICINE AND ANIMAL HEALTH TECHNOLOGY
Article 136	(6730 - 6743) PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS
Article 137	(6800 - 6831) PHARMACY
Article 139	(6900 - 6911) NURSING
Article 140	(6950 - 6958) PROFESSIONAL MIDWIFERY PRACTICE ACT
Article 141	(7000 - 7010) PODIATRY
Article 143	(7100 - 7107) OPTOMETRY
Article 144	(7120 - 7128) OPHTHALMIC DISPENSING
Article 145	(7200 - 7212) ENGINEERING, LAND SURVEYING AND GEOLOGY
Article 147	(7300 - 7308) ARCHITECTURE
Article 148	(7320 - 7328) LANDSCAPE ARCHITECTURE
Article 149	(7400 - 7410) PUBLIC ACCOUNTANCY
Article 151	(7500 - 7504) SHORTHAND REPORTING
Article 153	(7600 - 7606) PSYCHOLOGY
Article 154	(7700 - 7710) SOCIAL WORK
Article 155	(7800 - 7807) MASSAGE THERAPY
Article 156	(7900 - 7908) OCCUPATIONAL THERAPY
Article 157	(8000 - 8006) DIETETICS AND NUTRITION
Article 159	(8200 - 8209) SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

NYS Education Law §6909(2) within Article 139 of Title 8 relating the licensure and regulation of the practice of Nursing states:

"2. Nothing in this article shall be construed to confer the authority to practice medicine or dentistry."

ATTACHMENT BB

From: kathleen Cronin, RN [mailto:croninkathleen60@gmail.com]
Sent: Saturday, October 20, 2018 1:12 AM
To: JUDYDOESSCHATE@nycap.rr.com
Subject: 372 New Scotland Ave.

October 19, 2018

Dear Ms. Doesschate,

Please allow me to introduce myself.

My name is Kathleen Cronin, RN. I am your new neighbor at 372 New Scotland Ave. I have been searching for a building for 4 years when this property came up for sale. I put an offer on it right away and closed first week of September. To date, I have invested large sums of money and time updating, cleaning and redecorating this wonderful house.

I did not know until this past week who my neighbors were on the opposite corner where you live. I did meet your husband shortly after closing when I was cleaning up the yards with help from family and friends. I did not know you were his wife. I did not even know who you were or where you lived.

I am sure you could see the overgrowth and I am very happy with the property shaping. Things are coming along and I have more to do to make the grounds pretty again.

I grew up in Albany, and my family has been in Albany since 1850. We are long time Albanians and I grew up off Whitehall Rd, attended St. Teresa of Avila as did my Dad Joe Cronin and all of his brothers. I graduated from Mercy H.S. I went to college to become a nurse and got my nursing degree in 1980. I have worked at both Albany Medical Center Hosp. and St. Peter's Hosp. as well as Syracuse, NYC and Nyack hospitals to name a few. I am a mother of 4 grown college educated and successful children. I am married and have 2 beautiful fur babies now since my children have grown. I love my life, people and all things positive. My close family, all 35 of us, still live in the area and we are very close and loving. We lost our mother to cancer 7 years ago, but the rest of us, including my dad live on.

Sadly, to my unexpected and great distress, I was told this week by Christopher Spencer, Commissioner of Building and Planning, that you were upset about me moving my practice to 372 New Scotland. I did not know who you were and why you were upset. I did not even know you were my new neighbor until I did a search of your name and found you live next door!

I was so taken back that anyone would be upset about my practice moving to NSA, but, I too would be concerned if I thought a "TATTOO Parlor" was going to open up where I live. I can totally understand why you would object. Except, I am not a Tattoo parlor. I am a established and respected RN who provides a vital service with a para-medical micro-pigmentation restorative practice.

Micropigmentation is a field that the government doesn't quite know how to categorize in most United States...so, they lump us into Body Art and call us tattoo artists... we are so very different and the powers that be have not quite caught up with the service we provide. We need to have our own category. That will take time and lot's of education and help from people like you and education. There needs to be a designation for our profession. Nationally and internationally, this is the goal. What we do is a different skill set and requires tremendous education and skill.

I have been given a permit to operate my paramedical micropigmentation practice before I closed on the house. This was issued in August 2018. It was critical that I obtain this permit for use or I would not have purchased this building. The building is zoned non-coforming 2 family with professional space allowed, with the additional C.O. for the upstairs apartment. That apartment was occupied for 15 years until April 2018 by the same tenant. We have no intention to rent the upstairs as my daughter and partner, Nora Quinn will be using the upstairs apartment. I have no desire to be a landlord! No thank you!

My understanding of your concerns are that the area is not zoned for Tattoo Parlors/Shops. I, too, would not want what is perceived as a Tattoo Shop or Parlor in my block either, but what I do is quite different. I would feel the same way you might be feeling if a tattoo parlor would be allowed in my own residential neighborhood. I am anything but that and have never been referred to as such an establishment. The services I provide are so very different and medical reconstructive in nature. I give people back what has been taken...Breast Cancer is the reason I opened my business. I can share that story with you over tea if you like... of lunch or a back yard chat!

ATTACHMENT Cc

Breast cancer invaded my life in a big way. I have been spared so far, but, it is a number's game, and too many people I love have been taken down and out. They not only lose their breasts, they lose their lives, they lose their identity and femininity, they lose their eyebrow and eyelashes, the husbands and significant others lose too... I give them back hope and dignity and confidence ... I give them back some of what they lost. I can not give it all back, but I can help give some back.

I am going to assume perhaps you may not know of this type of work, and felt that if I explained it to you, you would be comfortable with me and my practice as your new neighbor. What I do transforms lives, gives women back what cancer has taken and restores confidence to both women and men.

My work is restorative and my referrals stem from many doctors, nurses, cancer centers and personal referrals. People travel from NYC to see me. Today's client drove from Queens, NY to see me based on a referral. My clients are from all walks of life: doctors, nurses, politicians, neighbors, friends, family, and I bet if I was allowed to name them, at least 1 of them or more would be some you may know or love.

I would like to invite you to meet with me and show you what I do. My practice is of a paramedical reconstructive cosmetic nature. I work on breast cancer survivors recreating the lost areola after mastectomy. I replace eyebrows for women or men who have thinning, sparse or no eyebrows at all. I work with women, men and young adults who have no eyebrow or eyelashes. I am able to restore with a very specialized form of tattoo called Micro-pigmentation. The training I have is extensive and I am highly skilled and trained RN. I am currently seeking a doctor to work with me. We provide skin care for women and men.

I would love to invite you to visit me at my Western Ave. office to see what I do and what my office looks like. Or, we could have lunch or coffee (tea). I would like your support and have you join me in celebration of my open house when I am ready to host. Your support and friendship would be very welcomed. I would love nothing more than to gain your support as we improve the lives of women who have been stricken by cancer, disease, disfigurement, loss. Etc. I love women...my whole life as a nurse has mostly been centered on maternal child health and wellness.

Let's not forget the men... I treat them too!

I hope we can be friends, neighbors and supporters of women and men who need us. Together we are strong. I can use your help and look forward to meeting you.

I will forward the many letters I have received in support of my new office and zoning. I will gather them and forward them to you. I hope you will take the time to read them and reach out to me. I await your response and thank you for taking the time to read my letter.

I respect your desire to protect ward 9 and thank you for your service. I love it as much as you do.

All the best,

Kathleen Cronin, Rn, CPCP

Paramedical Cosmetic Micropigmentation Specialist
Colour Cosmetic Studio, inc.
www.colourcosmeticstudio.com
518-776-0067
518-423-4061 (personal #)

Sincerely,

Kathleen Cronin, RN
Colour Cosmetic Studio, inc.
www.colourcosmeticstudio.com

1525 Western Ave., Suite 2
Albany, NY 12203
518-491-1556

CC

STATE OF NEW YORK
COUNTY AND CITY OF ALBANY

.....
In the Matter of an Appeal before the Zoning
Board of Appeals City of Albany.

372 New Scotland Avenue Albany NY

.....
Donald A. Tumonis being duly sworn deposes and says:

1. I am a Chiropractor and practice at 2450 County House Rd Penn Yan, NY 14527.
2. I purchased 372 New Scotland Avenue Albany New York on or about September 1, 1983 and resided there and operated my Chiropractic practice from the first floor of the property through September 1989.
3. I purchased the property from Charles & Sarah Serling who were the parents of a podiatrist by the name of Howard Serling who had lived in and had a professional office in the premises at some time prior to my purchase.
4. At the time of my purchase the remnants of a podiatrist's office were in the first floor but there was no one practicing in the premises at that time.
5. I sold the property to Dr. Seth Kohl on or about September 1989.



Donald A. Tumonis

SWORN TO ME THIS 23
DAY OF NOVEMBER 2018.

Michele J. Swarthout
NOTARY PUBLIC

Yates County
New York State

MICHELE J. SWARTHOUT
Notary Public, State of New York
Yates County No. 019 W 0002193
Commission Expires Dec. 11, 2018

ATTACHMENT DD