MINNESOTA MDH DEPARTMENT of HEALTH

Protecting, maintaining and improving the health of all Minnesotans

September 22, 2015

Robert C. Bush

RE: MDH File Number: BAC16008

Dear Mr. Bush:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) has determined that you: [1] were convicted of a felony-level criminal sexual conduct offense, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (13); and [2] demonstrated a willful or careless disregard for health, welfare, or safety of a client, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (10). Therefore, MDH is issuing you a reprimand and issuing you a conditional temporary body art technician license. This is authorized pursuant to Minnesota Statutes, section 146B.08, subdivision 4.

You may either accept the discipline as stated herein or you may appeal. If you wish to appeal the discipline, you must provide a written statement as to which facts are in error and the grounds for your appeal. Your written statement must be received within 30 days from the date this letter is received by you. During that 30-day period, you also have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. Requests for a hearing should be made in writing and must include specific grounds for challenging the Department's decision.

You must provide a written statement of your decision to either accept or appeal the discipline outlined in the enclosed Determination, within 30 days of your receipt of this letter, to:

Gilbert Acevedo, Director of the Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

You may also deliver your request to 85 East Seventh Place, Suite 220, Saint Paul, MN; or fax it to Gilbert Acevedo at (651)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

Darcy Miner, Director
Division of Health Regulation

Enclosure
cc: Gilbert Acevedo, Director of the Health Occupations Program

HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH

A Determination In the Matter of
Robert C. Bush
Body Art Technician

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline body art technicians for violations of law under Minnesota Statutes, section 146B.08, subdivision 3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 4, the types of discipline MDH may impose include refusal to grant a license or any reasonable lesser action.

2. Pursuant to Minnesota Statutes, section 146B.08, subdivision 4 (5), MDH may impose, for each violation, a civil penalty not exceeding $10,000 that deprives the licensee of any economic advantage gained by the violation and that reimburses MDH for costs of the investigation.

3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (10), MDH may take any of the disciplinary actions on proof that a technician demonstrated a willful or careless disregard for the health, welfare, or safety of a client.

4. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (13), MDH may take any of the disciplinary actions on proof that a technician has been convicted of a felony-level criminal sexual conduct offense. "Conviction" means a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by court.

5. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.

FINDINGS OF FACT

1. On July 28, 2015, MDH received a body art technician application from Robert Bush (Hereinafter "Technician"). The application was for a temporary body art-tattooist license.

2. In the application, Technician answered "yes" to question #9 (m), "Been convicted of a felony-level criminal sexual conduct offense."

3. Enclosed with the application were Technician's discharge papers from Mississippi Department of Corrections, State of Mississippi court documents, and Desoto County Sheriff reports regarding the criminal sexual conduct offense.

4. On August 6, 2015, MDH received a new body art technician application from Technician. This time, the application was for a temporary body art-dual license instead of a temporary body art-tattooist license.

5. Along with changing the type of body art technician license from tattooist to dual, Technician also switched to a new supervisor and body art establishment.

6. Enclosed with the application were copies of Technician's body art technician licenses previously held in the city of Minneapolis (in 2008) and in the State of Mississippi (in 2001).

7. Reviewing Desoto County Sheriff report case number #0111261902, the following was noted:

    a. Technician had sexual intercourse with a 15 year old female.

    b. Technician was 22 years old at the time of the incident.

    c. The incident occurred at the 15 year old female's house.

    d. Technician knew the parents of the 15 year old female.

    e. The incident occurred in November of 2001.

8. Reviewing the Mississippi Department of Corrections discharge certificate, the following was noted:

    a. Technician was sentenced to 20 years for sexual battery.

    b. Technician was honorably discharged after serving 3 years with the remaining 17 years suspended.

9. On August 18, 2015, MDH inquired with the city of Horn Lake PD (a city in which Technician formerly resided) regarding past police contacts. Horn Lake PD forwarded 4 short paragraphs of police contacts with Technician. One report was related to providing body art to juveniles. The report read as follows:

    a. "On 6-17-01, I, Officer Anthony was called to Dark Side Tattoo shop on Dancy reference to a violation of tattooing and body piercing. Upon arrival, I spoke to the compl. Mr. Jamie Hall who stated he was informed that an employee of his Robert Bush had just gave a 16 year male juvenile a tattoo and that he also pierced the nipple of a 16 year old female juvenile. I spoke to Mr. Bush who stated he did just do the above said due to he knew both of the juveniles [sic] parents and that the parents did not care. The parents of the juveniles were notified and came to the business. Det. Dodge was also notified and informed

officers to bring all parties involved to the station for further. Charges were filed against Robert Bush for improper body piercing (73-61-3).
Information: The offenses could not be entered in offense section due to the statutes and charges have not been entered in the offense code file yet."

10. On August 21, 2015, MDH sent a letter with questions to Technician. The letter asked Technician why he provided body art to juveniles.

11. On August 24, 2015, MDH received a written response from Technician. In the response, Technician admitted to tattooing the 16 year old male juvenile and piercing the 16 year old female juvenile. Technician rationalized his actions by stating:

    a. It was ok to do a tattoo cover up to juvenile as long as they had parental consent. Bush, however, noted the paperwork was not completed when he started tattooing the juvenile male.

    b. The 16 year old juvenile female was emancipated from her parents.

    c. Technician stated, "I can say with all honesty that I fully realize these situations warranted more diligence to ensure I upheld and adhered to the laws of the state where I practiced. I never set out with the intention of providing any illegally piercings or tattoos to a minor as I had much to lose (my business, license, income, etc.). If I had the chance to do this over I would refrain from providing a service to either of the people as I believe that the decision making process in minor needs more oversight to ensure they do not consent to things which might do them harm. The honest fact of the matter is that when I was younger I was more impulsive. This included not looking into the exact details of the laws in those gray areas as comprehensive as I would now as an older, more experienced man. I was much too swift to provide the service without seeking legal counsel from multiple sources and without contacting those in position of oversight to ask their opinion and expertise in the matters. The events of that day taught me much and remain with me at all times. As a father of three children I can understand why we erect regulations for such procedures."

    d. Technician stated it was an isolated incident and that he has not provided body art to any juveniles since then.

12. In the written response, technician also stated, "I acknowledge that when I was much younger my thought process and level of maturity was negligible. I did not make the best decisions of my life prior to 21...I wish I knew then what I know now. If I could tell my younger self that the circle of friends with whom we surround ourselves influence us more than we know I would. I am glad to say I learned from the error of my way and corrected course so I could provide a positive role model for my children and an upstanding citizen in the community. The temperament and mentality which I once held is completely different than it is now."

13. On August 2001, Technician pled guilty to providing body art to a juvenile and was sentenced to 6 months of probation.

14. An inquiry with the city of Minneapolis and the state of Mississippi shows Technician was issued body art technician licenses respectively in 2008 and 2001. During those years Technician was licensed, Technician was never disciplined for violations of body art statutes/ordinances.

CONCLUSION

1. Technician was convicted of a felony level criminal sexual conduct offense, in violation of Minnesota Statutes, section 146B.08 subdivision 3 (13).

2. Technician pled guilty to providing body art to a juvenile. Specifically, Technician pierced the nipple of a 16 year old juvenile female. Technician's decision to pierce the nipple of a 16 year old juvenile female shows a lack of good judgement on his part and that he did not understand the professional boundaries that exists between a body art technician and a juvenile client. Therefore, Technician demonstrated a willful or careless disregard for the health, welfare, or safety of a client.

DETERMINATION

1. Technician will be issued a conditional temporary body art technician license, with the following conditions:
    - Technician will comply with all requirements of Minnesota Statutes, Chapter 146B;
    - Technician shall not pierce any client under the age of 18 years old during the period of his temporary body art technician license. A determination that Technician pierced a minor may result in the suspension of Technician's right to provide body art services in the State of Minnesota for a period of not less than two year;
    - Upon completion of his temporary body art technician license, Technician may request the conditional status be removed from his licenses. To do so, Technician must submit a written request for removal of the condition to the Director of the Health Occupations Program, Minnesota Department of Health, P.O. Box 64882, Saint Paul MN 55164-0882.