



Effective June 22, 2014

Protecting, maintaining and improving the health of all Minnesotans

May 16, 2014

Mark D. Gripp
Cloud 9 Tattoo & Body Piercing
568 Dodge Avenue NW Suite #A
Elk River, MN 55330

RE: MDH File Number: BAC14011

Dear Mr. Gripp:

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 Cloud 9 Tattoo & Body Piercing, Elk River, an establishment you own, has provided body art services without a body art establishment license, in violation of Minnesota Statutes, section 146B.08 subdivision 3(3) and Minnesota Statutes 146B.02, subdivision 1. MDH has also determined that, as owner and operator of the body art establishment, you failed to maintain proper records for each body art procedure performed, in violation of Minnesota Statutes, section 146B.08 subdivision 3(3) and Minnesota Statutes, section 146B.07 subdivision 4. Therefore, the Department is issuing this reprimand and assessing a civil penalty in the amount of \$1,760. This action 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 accept, please pay the assessed civil penalty by check made payable to "Treasurer, State of Minnesota." 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:

Anne Kukowski, Assistant 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 Anne Kukowski at (651)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Assistant Director of the Health Occupations Program

General Information: 651-201-5000 • Toll-free: 888-345-0823 • TTY: 651-201-5797 • www.health.state.mn.us

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**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Cloud 9 Tattoo & Body Piercing, Elk River
Body Art Establishment**

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline owners of body art establishments for violations of law under Minnesota Statutes, section 214.131, subdivision 2, and 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 also impose, for each violation, a civil penalty not exceeding \$10,000 that deprives the operator of an establishment of any economic advantage gained by the violation and reimburses MDH for costs of investigation.
3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3(3), a violation of any provision in the body art statute is a ground for disciplinary action.
4. Pursuant to Minnesota Statutes, section 146B.02, subdivision 1, effective January 1, 2011, no establishment may provide body art services unless the establishment has a valid establishment license issued by MDH.
5. Pursuant to Minnesota Statutes, section 146B.07, subdivision 4, for each client, the establishment operator shall maintain proper records for each procedure. The records must be kept for three years and must be available for inspection. The record must include the date of procedure, information on the required picture identification showing the name, age, and current address of the client, and the name and license number of the technician performing the procedure.

FINDINGS OF FACT

1. Cloud 9 Tattoo & Body Piercing (hereinafter "Establishment"), a body art establishment, is located at 568 Dodge Avenue NW Suite #A, in Elk River, Minnesota. The license, number 430115, was issued on January 14, 2011 and expired on September 30, 2013:
2. The owner of the establishment is Mark Gripp (hereinafter "Establishment Owner"). The Establishment Owner is a licensed Body Art Technician.

3. On July 3, 2013, MDH sent an Establishment License Renewal Application packet to the Establishment Owner. Enclosed with the packet is a License Renewal Notice with a checklist to complete the renewal process and avoid late fees.
4. On October 1, 2013, MDH sent a letter to Establishment Owner advising that he had failed to renew the establishment license and to cease all body art activities.
5. On March 14, 2014, MDH received a Body Art Establishment Renewal License application. The establishment license was renewed on March 17, 2014.
6. The application was referred to the Investigation and Enforcement Unit (I&E) within the Health Occupations Program. A Notice of Illegal Practice letter was sent to the Establishment Owner on March 26, 2014. The letter advised the Establishment Owner that his establishment license had been expired for a few months now and that the Establishment had been operating without an establishment license since October 1, 2013. In the letter, I&E requested all the informed consent forms for the Establishment since October 1, 2013.
7. On April 28, 2014, the requested informed consent forms were hand delivered to the MDH office.
8. Based on the informed consent forms, 151 body art procedures were performed at the Establishment from October 1, 2013 to May 16, 2014. 28 body art procedures occurred in the month of October 2013, 36 body art procedures occurred in the month of November 2013, 21 body art procedures occurred in the month of December 2013, 23 body art procedures occurred in the month of January 2014, 23 body art procedures occurred in the month of February 2014, and 20 body art procedures occurred from March 1, 2014 to March 16, 2014.
9. All the informed consent forms were missing the name and license number of the technician performing the procedure.

CONCLUSION

1. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.02, subdivision 1 and Minnesota Statutes, section 146B.08 subdivision 3 (3). Body art services were performed in the Establishment between October 1, 2013 and March 16, 2014, a time after which the Establishment's license had expired and before it was renewed on May 17, 2014.
2. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.08 subdivision 3 (3), and Minnesota Statutes, section 146B.07, subdivision 4 (5). A review of the informed consent forms that were submitted by the Establishment shows many forms were without the name and license number of the technician performing the procedure.

DETERMINATION

1. Establishment Owner is hereby reprimanded and assessed a civil penalty in the amount of \$1,760 which deprives him of the economic advantage gained by the violation and reimburses MDH for the costs of the investigation.
 - Technician may pay the \$1,760 civil penalty in monthly installments. The last payment may not be made later than 18 months after the effective date of this action. If the Establishment Owner chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over what time period. The Establishment Owner must send this information to: Health Occupations Program, PO Box 64882, Saint Paul, MN 55164-0882, within 30 days of receipt of this document.
 - Each payment will be made by check to "State of Minnesota, Treasurer", and mailed to Health Occupations Program, PO Box 64882, Saint Paul, MN 55164-0882, or any other address specified by MDH. Each payment is due by the last day of each month; however, the Establishment Owner may prepay at any time.
 - The penalty may be referred to the Minnesota Collection Enterprise (MCE), part of the Minnesota Department of Revenue, or any other source for collection, if the Establishment Owner misses a monthly payment by 14 calendar days after the established deadline. When this Order for a penalty becomes public and MDH refers the matter to MCE, MCE is authorized by Minnesota Statutes, section 16D.17, to obtain a judgment against the Establishment Owner without further notice or proceedings.