



Effective 09/01/14

Protecting, maintaining and improving the health of all Minnesotans

July 25, 2014

Diana L. Eischens

RE: MDH File Number: BAC12074

Dear Ms. Eischens:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) have determined that you: [1] provided body art services without a license, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (3), and Minnesota Statutes, section 146B.03, subdivision 1 (a); and [2] provided body art services in an unlicensed establishment, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (3), and Minnesota Statutes, section 146B.02 subdivision 1. Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$725. 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:

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)201-3727. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy Miner", is written over the word "Sincerely,".

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Diana L. Eischens
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 also impose 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(3), a violation of any provision in the body art statute is a ground for disciplinary action.
4. Pursuant to Minnesota Statutes, section 146B.03, subdivision 1, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.
5. Pursuant to Minnesota Statutes, section 146B.02, subdivision 1, no individual may maintain, own, or operate a body art establishment without an establishment license issued by MDH.

FINDINGS OF FACT

1. On October 18, 2011, MDH received a complaint that Diana L. Eischens (hereinafter "Technician") was providing unlicensed body art services out of her home in Blaine, Minnesota.
2. Technician did not have a body art technician license and her home did not have a body art establishment license.
3. A Notice of Illegal Practice letter was sent to Technician, along with a body art technician license application, on October 21, 2011. MDH requested a response from Technician no later than November 22, 2011.

4. On November 4, 2011, MDH received a phone call from Technician. Technician acknowledged receipt of the letter and application packet from MDH. Technician admitted to tattooing family members at her home.
5. On November 23, 2011, MDH received a phone call from Technician. Technician stated she will be submitting a body art technician license application in along with her body art portfolio which includes a spreadsheet and photographs of her work. Technician included her body art portfolio as proof of experience needed to be "grandfathered" in.
6. On December 14, 2011, MDH received a body art technician license application from Technician. Enclosed with the application was Technician's body art portfolio saved in a CD.
7. A review of the CD shows Technician has provided over 2100 hours of body art services since 2006.
8. Technician was issued a full body art technician-tattoo license on April 5, 2012.
9. Further review of the CD shows Technician provided 288.5 hours of tattoo services to 122 different tattoo procedures in 2011.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because she provided 288.5 hours of unlicensed body art services in 2011 and was not issued a technician's license until April 5, 2012, in violation of Minnesota Statutes, section 146B.03, subdivision 1 (a).
2. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because she provided body art services in an unlicensed establishment, in violation of Minnesota Statutes, section 146B.02, subdivision 1.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$725, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$725 civil penalty in monthly installments of up to 7 months after the effective date of this action. If Technician 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 which time period. Technician 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, technician 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 Technician 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 Technician without further notice or proceedings.