



Protecting, maintaining and improving the health of all Minnesotans

November 8, 2018

Scott Michael Farrell
4Points Body Gallery
4222 Nicollet Avenue
Minneapolis, MN 55409

RE: MDH File Number BAC19027

Dear Scott Farrell,


Based on the facts and law in this matter as described in the enclosed Determination, the Minnesota Department of Health (MDH) has determined that you violated multiple sections of Minnesota Statute 146B. Therefore, the department is issuing you a reprimand and imposing a civil penalty of \$1,310. In addition, your privilege to supervise temporary technicians is restricted. MDH has the authority for this action pursuant to Minnesota Statute, section 146B.08, subsections 4(4) and 4(5).

This decision is final and effective 30 days from the date your legal representative receives it. During that 30-day period, you have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. You shall make requests for a hearing in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send a written hearing request, within 30 days of your receipt of this letter, to:

Catherine Dittberner Lloyd, Manager
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 Ms. Lloyd at (651)201-3839. If you have any questions about this matter, please contact Patricia Jo Forsberg at (651)201-3721.

Sincerely,



Susan Winkelmann, Assistant Division Director
Health Regulation Division

Enclosure

CC: Catherine Dittberner Lloyd, Manager, Health Occupations Program

A Determination in the Matter of

Scott Michael Farrell, Owner/Supervisor 4Points Body Gallery
Body Art Technician 310629

Authority:

1. The Minnesota Department of Health (MDH) has authority to discipline a technician or operator of a body art establishment for violations of law under Minnesota Statute, section 146B.08, subdivision 3.
2. Pursuant to Minnesota Statute, section 146B.08, subdivision 4, the types of discipline MDH may impose includes refusal to grant a license, suspension or revocation of a license, impose a civil penalty, or any reasonable lesser action.
3. Pursuant to Minnesota Statute, section 146B.03, subdivision 1(a), no individual may perform tattooing unless the individual holds a valid tattoo technician license.
4. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(1), the commissioner may take disciplinary action on proof that a technician or operator of an establishment has intentionally submitted false or misleading information.
5. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(3), the commissioner may take disciplinary action on proof that a technician or operator of an establishment violated any provision of this chapter.
6. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(5), the commissioner may take disciplinary action on proof that a technician or an operator of an establishment aided or abetted another person in violating any provision of chapter 146B.
7. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(9), the commissioner may take disciplinary action on proof that a technician or an operator of an establishment engaged in conduct likely to deceive, defraud, or harm the public.

Findings of Fact:

1. Scott Michael Farrell (hereinafter "Supervisor") obtained his Minnesota body art technician license on October 20, 2011. His license expires March 31, 2019.
2. Supervisor is the owner/operator of Minneapolis licensed body art establishment, 4Points Body Gallery, located at 4222 Nicollet Avenue, Minneapolis, Minnesota.
3. Supervisor supervises temporary technicians at the establishment in Minneapolis.

Supervisor has been the supervisor for five licensed temporary body art technicians. Four obtained full licensure prior to October 19, 2018.

4. On August 2, 2018, MDH issued a body art license to a technician (hereinafter "Technician") supervised by Supervisor. In the licensing information provided by Technician, Technician admitted to providing ten body art procedures between January 5, 2018, and February 8, 2018. Technician did not obtain a temporary body art technician license until February 9, 2018.
5. Supervisor completed a document that was submitted with Technician's application attesting that she obtained her temporary license on February 9, 2018. He also corroborates, "I have supervised 'Technician' in her more than 200 hours of experience."
6. Supervisor acknowledged and initialed the ten procedures that were completed while Technician was unlicensed on documentation submitted to MDH for evaluation.
7. MDH sent a Notice of Investigation to Supervisor on October 3, 2018. In Supervisor's response, he acknowledges that he was Technician's supervisor. When asked how many times he has allowed an unlicensed person perform body art under his supervision, he responds, "Zero times." When asked if there were circumstances in which he would allow an unlicensed individual to tattoo under his supervision, he responds, "There are no circumstances in which I would allow this to happen."

Conclusion:

Supervisor violated multiple subsections of Minnesota Statute, section 146B.08, subdivision 3, when he supervised an unlicensed person perform ten body art procedures prior to obtaining temporary licensure. Further, he provided false information to the commissioner when he responded that he did not allow such procedures to happen, after documentation submitted by him and Technician prove that he had.

Determination:

MDH is imposing the following conditions to Supervisor's body art technician license:

1. Supervisor must pay a civil penalty for \$1,310, to reimburse MDH for the costs of investigation and to deprive the licensee of any economic advantage gained by the violations.
 - a. Supervisor may pay the \$1,310 civil penalty in up to twelve monthly installments. If Supervisor chooses to make installments, he must notify MDH in writing about his intentions. He must include how many installments he intends to make, in what amount, and over what period, within 30 days of the effective date of this Determination. Supervisor must send this information to:

Health Occupations Program
Body Art Civil Penalty
PO Box 64882
Saint Paul, MN 55164-0882

- b. Make each payment by check or money order, written to “Minnesota Department of Health,” and mail to the address above.
 - c. Each payment is due by the last day of each month; however, Supervisor may prepay at any time.
 - d. MDH may refer the penalty to the Minnesota Department of Revenue, or any other source for collection, if Supervisor misses a monthly payment by 14 calendar days after the established deadline.
2. Supervisor’s body art technician license is conditioned in the following manner for a period of three years from the effective date of this Determination.
 - a. Supervisor is prohibited from supervising temporary technicians for one year, starting on the date this determination is made effective.
 - b. Temporary technician currently supervised by Supervisor (CF) will not be affected by this Determination.
 - c. After the first year prohibition, Supervisor will be limited to no more than two body art technicians at one time for a period of two years after the prohibition is lifted.
3. Within twelve months of the effective date of this Determination, Supervisor shall successfully complete the following course available online through the University of Minnesota.
 - a. SMIC X104-Sustainable Management: Leadership Ethics (<https://learning.umn.edu/>).
 - b. Technician is responsible for any costs associated with taking the course and must provide MDH with a certificate demonstrating successful completion of the course.
4. Upon completion of the conditions in paragraphs one, two and three of this Determination, Supervisor may petition MDH, in writing, for an unconditional license. Supervisor must send the request to:

Health Occupations Program, Investigation and Enforcement Unit
PO Box 64882
Saint Paul, MN 55164-0882