



Effective September 1, 2015

Protecting, maintaining and improving the health of all Minnesotans

July 21, 2015

Michael W Fletcher

RE: MDH File Number: BAC13005

Dear Mr. Fletcher:

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] intentionally submitted false or misleading information, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (1); [2] failed, within 30 days, to provide information in response to a written request, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (2); and [3] tattooed a minor, in violation of Minnesota Statutes, section 146B.07, subdivision 2 (b) and section 146B.08, subdivision 3 (3). Therefore, MDH is issuing you a reprimand and a conditional license (when you apply). 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 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)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darcy Miner".

Darcy Miner, Director
Health Regulation Division

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Michael Ward Fletcher
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, 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 13.41, disciplinary actions are public data.
4. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (1), MDH may take any of the disciplinary actions on proof that a technician has intentionally submitted false or misleading information to MDH.
5. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (2), MDH may take any of the disciplinary actions on proof that a technician has failed, within 30 days, to provide information in response to a written request by MDH.
6. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (3), MDH may take any of the disciplinary actions on proof that a technician violated any provision of this chapter.
7. Pursuant to Minnesota Statutes, section 146B.07, subdivision 2 (b), no technician shall tattoo any individual under the age of 18 regardless of parental or guardian consent.

FINDINGS OF FACT

1. On December 20, 2011, Michael Fletcher (Hereinafter "Technician") was issued a temporary body art technician license. The temporary body art technician license expired on December 20, 2012.

2. On August 27, 2012, MDH received an email from an officer with the Mankato Police Department. The email stated Technician was a person of interest in a case where a minor received a tattoo.
3. According to Mankato Police report case number 12-23313, the following incident occurred:
 - a. On August 27, 2012, Technician and a friend picked a minor up from her house.
 - b. From there, they drove to Technician's friend's home.
 - c. Once inside, Technician gave the minor a tattoo on each wrist.
 - d. The minor's boyfriend paid Technician for the tattoos.
 - e. According to State of Minnesota court case number 07-CR-12-3264, in relation to this case, Technician was convicted of tattooing a minor on January 28, 2013.
4. According to State of Minnesota court records, Technician has been convicted of tattooing other minors as well. Reference case number 07-CR-10-4058 and 07-VB-08-2940, Technician was convicted of tattooing minors on July 8, 2008 and January 11, 2011 respectively.
5. On January 31, 2014, Technician's temporary body art technician license was renewed. The temporary license expired on January 31, 2015. In the renewal application, Technician marked "No" on question #9 c: "Have you ever engaged in any of the following acts or conducts? Violated any provision of Minnesota Statutes Chapter 146B."
6. On December 12, 2014, MDH sent a Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than January 12, 2015.
7. On January 14, 2015, MDH received a written response from Technician. In the response, Technician admitted :
 - a. He has been tattooing for the past five years.
 - b. He was not aware he needed a license to tattoo.
 - c. He was not aware he could not tattoo a minor.
 - d. He never tattooed for money.
 - e. He tattooed a minor.

- f. "Eventually it grew to the point where I had frequent requests of people asking me if I could do a cool "design" or "tattoo" on them, I never did it for money or anything, just out of mere fact that it was fun and I enjoyed doing it. So at some point I had tattooed someone that was under the age of 18. I didn't know this was a law or anything and I didn't know I needed a license."
 - g. "At some point of me having no knowledge. But when I found that out I stopped doing that and I asked around to find a job at a tattoo shop so I could do it the right way, and make money doing it. So eventually I got myself an apprenticeship, which is what I am doing now."
8. On January 21, 2015, MDH wrote a letter with more questions to Technician. MDH requested a written response from Technician no later than February 23, 2015. Technician did not respond back to MDH.
 9. On March 13, 2015, MDH sent the same letter with questions to Technician. MDH requested a written response from Technician no later than April 13, 2015. Technician did not respond to MDH's request in time. Instead, MDH received Technician's response on April 20, 2015.
 10. In the letter of response received on April 20, 2015, Technician stated "When I performed the tattoo on August 27, 2012 it was for a friend and I did not get paid for it. It was a favor and I wasn't thinking things through as it was only a favor for a friend. I have since then learned my lesson and will not perform any tattoos unless I am in an established environment, as I am very concerned about the safety of others and myself. When I performed the tattoo for my friend they had provided me an I.D. that said she was over the age of 18. I do not remember whose I.D. she had but it was not of a minor, and I was lead to believe she was an adult as she was dating my friend that was over the age of 18. This is why I accepted an Alford Plea."
 11. On June 1, 2015, MDH received a letter from Technician. In the letter, Technician stated

For this reason it may have appeared that I was intentionally attempting to deceive you, when in actuality I failed to check dates & times."

CONCLUSION

1. In the letter of response received on January 14, 2015, Technician claims he was unaware it was unlawful to tattoo a minor. Technician also stated once he was aware of the law, he stopped tattooing minors. That statement proved to be false as Technician was first convicted of tattooing a minor on July 8, 2008. Technician continued his illegal activities and was later convicted of tattooing minors again on January 11, 2011 and January 28,

2013. Furthermore, when Technician was convicted of tattooing a minor on January 28, 2013, the incident had occurred while he had a temporary body art license. Therefore, Technician intentionally submitted false or misleading information, in violation of Minnesota Statutes, section 146B.08 subdivision 3 (1).
2. MDH received an application for renewal of Technician's temporary body art license on January 23, 2014. In that application, Technician lied that he never engaged in acts that violated any provisions of Minnesota Statutes Chapter 146B. Technician intentionally submitted false information by omitting that he had been convicted three times of tattooing minors, in violation of Minnesota Statutes, section 146B.08 subdivision 3 (1).
 3. MDH sent letters to Technician on January 21, 2015 and March 13, 2015. MDH requested a written response from Technician no later than February 23, 2015 and April 13, 2015 respectively. MDH did not receive a timely response from Technician. Therefore, technician failed, within 30 days, to provide information in response to a written request, in violation of Minnesota Statutes, section 146B.08 subdivision 3 (2).
 4. Technician was convicted of tattooing a minor, in violation of Minnesota Statutes, section 146B.07 subdivision 2 (b) and section 146B.08, subdivision 3 (3).

DETERMINATION

1. Technician will be issued a conditional body art technician license, with the following conditions:
 - Technician will comply with all requirements of Minnesota Statutes, Chapter 146B;
 - The license will be conditional for a period of not less than two years;
 - Technician shall not tattoo a minor. A determination that Technician has tattooed 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;
 - Technician will not be allowed to supervise temporary body art technicians;
 - A supervisor is expected to be knowledgeable about safe body art procedures and the state statutes that govern the practice of body art. MDH has determined that Technician violated provisions of body art chapter and that Technician demonstrated a careless disregard for the health, welfare, or safety of a client. Therefore, Technician may not supervise temporary technicians for two years and MDH will deny all applications that list Technician as a supervisor during this period.
 - After a period of not less than two years, Technician may request the conditional status be removed from his license. To do so, Technician must:
 - Submit a written response 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.