



Effective 11-03-14

Protecting, maintaining and improving the health of all Minnesotans

September 17, 2014

Matthew G. Garcia

RE: MDH File Number: BAC14041

Dear Mr. Garcia:

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 provided body art services, while under a temporary license, without any proper supervision, in violation of Minnesota Statutes, section 146B.08, subdivisions 3(3), Minnesota Statutes, section 146B.03, subdivisions 1(a) and Minnesota Statutes, section 146B.03 subdivision 7. Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$206. This action is authorized pursuant to Minnesota Statutes, sections 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 that reads "Darcy Miner" with a checkmark at the end.

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
Matthew G. Garcia
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 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, subdivisions 1, effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.
5. Pursuant to Minnesota Statutes, section 146B.03, subdivision 7, a temporary license may be issued if a licensed technician agrees to supervise the applicant.
6. Pursuant to Minnesota Statutes, section 146B.01, subdivision 28, "supervision" means the physical presence of a technician licensed under this chapter while a body art is being performed.

FINDINGS OF FACT

1. Matthew G. Garcia (Hereinafter "Technician"), was issued a temporary body art technician-tattoo license on July 18, 2012. Technician's temporary body art technician license expired on July 18, 2013.
2. Technician's temporary body art technician license was renewed on August 29, 2013. Technician's temporary body art technician license expired on August 29, 2014.
3. In the temporary body art technician license application, Technician listed Joshua Strand (Hereinafter "Technician JS") as his supervisor and Good Times Tattoo (Hereinafter "Establishment") in Oak Park Heights as the work place.

4. On August 20, 2014, at approximately 2:20pm, an MDH representative visited the Establishment.
5. Technician was seen providing tattoo services to a client.
6. Technician JS was not in the Establishment when Technician was providing tattoo services. An employee of the Establishment made several phone calls in an attempt to contact Technician JS; however, Technician JS did not answer his phone.
7. On August 27, 2014, Technician was issued a full body art technician-tattoo license.

CONCLUSION

1. Technician failed to comply with the requirements under Minnesota Statutes, section 146B.03, subdivisions 1, and section 146B.03, subdivision 7. A temporary license was issued to the Technician; however, a temporary license is only deemed valid if the tattoo procedure is performed in the presence of and under the supervision of a licensed technician. Technician provided tattoo services on August 20, 2014 outside the physical presence of his supervisor of record.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$206, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$206 civil penalty in monthly installments of up to 2 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.