



Effective 3-31-15

*Protecting, maintaining and improving the health of all Minnesotans*

January 28, 2015

Dwayne Holt

RE: MDH File Number: BAC12117

Dear Mr. Holt:

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] engaged in conduct likely to harm the public, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (9); and [2] demonstrated a willful or careless disregard for health, welfare, or safety of a client, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (10). Therefore, MDH is issuing you a reprimand and refusing to grant or renew licensure (should 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 black ink, appearing to read "Darcy Miner", with a checkmark at the end.

Darcy Miner, Director  
Division of Health Regulation

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM  
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of  
Dwayne Daniel Holt  
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 (9), MDH may take any of the disciplinary actions on proof that a technician has engaged in conduct likely to deceive, defraud, or harm the public.
5. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (10), MDH may take any of the disciplinary actions on proof that a technician has demonstrated a willful or careless disregard for the health, welfare, or safety of a client.

**FINDINGS OF FACT**

1. On November 4, 2011, Dwayne Holt (Hereinafter "Technician") was issued a full body art technician license. Technician's full body art license expired on March 31, 2013.
2. According to Shakopee Police report case number 12008834, the following incident occurred:
  - a. On June 23, 2012, Technician was working at (Hereinafter "Establishment") At approximately 7:05pm, Technician started a tattoo on a 20 year old female customer (Hereinafter known as "Client 1"). At this time, Technician, Client 1, and another employee, were present at the Establishment.

- b. At approximately 9pm, [redacted] left, leaving Technician and Client 1 as the only ones left inside the Establishment.
- c. At 9:20pm, while in the middle of the tattoo, Technician advised Client 1 he wanted to go buy beer at the liquor store before it close. Technician further advised Client 1 she had to go to the liquor store with him as he could not leave her alone and unattended at the Establishment.
- d. Client 1 rode in Technician's car as he drove to the liquor store. The trip to the liquor store took about 5 minutes. After buying beer, Technician and Client 1 returned to the Establishment.
- e. Once back inside the Establishment, Technician locked the front doors and continued on with the tattoo. At approximately 9:40pm, the tattoo was completed.
- f. When Client 1 asked how much the tattoo was, Technician answered back he did not want money and that Client 1 could pay in other ways. Technician stated Client 1 could not leave until they drank the beer he recently purchased.
- g. Technician then took Client 1 to the backroom where piercing procedures are done.
- h. There, Technician pushed Client 1 down to a table and placed a new earring onto her belly button.
- i. Client 1 advised Technician she needed to leave as she had friends waiting for her.
- j. Technician would not allow Client 1 to leave until they consumed the beer he purchased.
- k. Technician inquired Client 1's interest in nipple piercing. Technician than lifted up his shirt and showed his pierce nipple. Technician asked Client 1 to touch his left nipple earring.
- l. Technician then grabbed Client 1's breast, specifically the nipple area, from the outside of her shirt.
- m. Technician also unzipped his pants and pulled out his penis in front of Client 1. Technician then grabbed Client 1's hand and placed it on his penis.
- n. Technician commented to Client 1 that he has to take the hoop clasp out from his penis whenever he urinates.



- b. When asked by the police, the \_\_\_\_\_ stated Technician was “crude” when it came to tattooing females. Operator also observed Technician make advances toward female customers. Operator also stated Technician would bring females he met from the bar over to \_\_\_\_\_ and pierced them. Technician does not have a pierce license.
  - c. When asked by police, the \_\_\_\_\_ stated he observed Technician have inappropriate conversations with female clients. The operator later learned Technician was texting his female clients to participate in a photo shoot at his house.
5. On March 29, 2013, Technician was convicted of criminal sexual conduct 5<sup>th</sup> degree in Scott County.
  - a. Pursuant to Minnesota Statutes 609.3451, a person is guilty of criminal sexual conduct 5<sup>th</sup> degree if the person engages in nonconsensual sexual contact. "Sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

### **CONCLUSION**

Technician has repeatedly displayed unprofessional and unacceptable behaviors to female clients. From indecent exposure to furnishing alcohol to a client under 21 years old, Technician has engaged in conduct that will harm the public, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (9), and demonstrated a willful or careless disregard for the health, welfare, and safety of a client, in violation of Minnesota Statutes, section 146B.08 3 (10).

### **DETERMINATION**

Technician's body art license expired on March 31, 2013 and was not renewed. Should Technician submit a body art application, MDH will deny the application and refuse to grant or renew Technician a license.