

**HEALTH OCCUPATIONS PROGRAM
HEALTH REGULATION DIVISION****In the Matter of Ally Anne Horarik
Body Art Practitioner, License No. 311944****Stipulation and Consent Order:**

IT IS STIPULATED AND AGREED by Ally Anne Horarik ("the Regulated Party") and the Minnesota Department of Health ("the Department" or "MDH"), and that without trial or adjudication of any issue of fact or law:

(1). Purpose and Scope of Stipulation

The purpose of this Stipulation is to resolve the violations alleged in paragraph 3 of this Stipulation and to ensure that appropriate actions are taken. These actions will prevent future violations by the Regulated Party. In entering into this agreement, the Regulated Party and MDH are settling a disputed matter.

(2). Statements of Facts

1. Minnesota Statutes, Chapter 146B, authorizes MDH to regulate body art technicians in Minnesota. This authority includes, but is not limited to, the authority to discipline body art technicians for violation of any provision of Chapter 146B. Pursuant to Minnesota Statutes, Section 146B.08, subdivision 4, the types of discipline MDH may impose include: refuse to grant or renew licensure; suspend licensure for a period not exceeding one year; revoke licensure; 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 the costs of the investigation; or any reasonable lesser action justified by the individual case.
2. On January 31, 2017, MDH issued the Regulated Party a license to practice body art in Minnesota. The Regulated Party renewed her license on March 19, 2018, prior to the expiration date of March 31, 2018. Her current license expires March 31, 2020.
3. In February 2018, MDH received a complaint from a temporary technician being supervised by the Regulated Party alleging that the Regulated Party had misstated information required for the temporary license and had violated statutory provisions governing supervision of temporary technicians, including permitting performance of tattoo procedures in her absence. In April 2018, MDH received two additional complaints from temporary technicians supervised by the Regulated Party, alleging similar violations.
4. The Department and the Regulated Party have engaged in discussion of the issues sufficient to agree that the issues can be resolved by means of this Stipulation and Consent Order.

(3). Violation

The Regulated Party has violated Minnesota Statutes, Section 146B.03, subdivision 3, by failing to comply with Section 146B.01, subdivision 28 requiring the physical presence of a supervisor during any procedures performed by a temporary technician; and Section 146B.08, subdivision 3(7) by failing to verify supervisor information and hours logged by a temporary technician before presentation to the Department.

(4). Regulated Party Requirements

The Regulated Party agrees to the following:

1. Horarik shall pay the civil penalty specified in Paragraph (5) below, in addition to \$1,706 for the Department's cost of investigating and determining the facts of the complaint.
2. Horarik shall be prohibited from being listed as or acting as a supervising licensed body art technician for any temporary body art technicians for ten (10) years.
3. Horarik shall complete twelve (12) hours of continuing education on the subject of business ethics and provide proof of completion to MDH within twelve (12) months from the date this agreement takes effect. Horarik must include a report applying the material learned from the CEs to the conduct underlying this Determination.
4. Horarik shall complete four (4) hours of continuing education or coursework on the subject of business management and provide proof of completion to MDH within twelve (12) months of the date this agreement takes effect.
5. Horarik shall be placed on a probationary period for twelve (12) months, during which time she will be subject to immediate suspension of her license for any proven violations of Minnesota Statutes, Section 146B.08, subdivision 3, that occur within such period.

(5). Civil Penalty

Minnesota Statutes, Section 146B.08, subdivision 4, provides the Department with authority to issue a civil penalty of up to \$10,000 for each separate violation of the statutes governing body art technicians.

The Department notified the Regulated Party by letter dated November 7, 2018, that it had determined that the Regulated Party had violated several provisions of the statutes governing body art technicians, and the Department assessed the Regulated Party a civil penalty in the amount of \$45,000, in addition to amounts representing unlawful economic gain and the Department's cost of investigation. In order to settle this dispute, the Department agrees to stay all but \$10,000 of the civil penalty if the Regulated Party complies with the corrective actions set forth in Paragraph 4.

Horarik shall pay a civil penalty of \$10,000.00, in addition to the Department's cost of investigating and determining the facts of the complaint.

(6). Right to Counsel

The Regulated Party has been advised she has the right to be represented by counsel in connection with this Stipulation, and in these proceedings generally. The Regulated Party is represented by Jake Peterson, McKinnis & Doom, P.A., Cambridge, Minnesota.

(7). Rights and Waivers

In connection with this matter, the Regulated Party waives the right to any judicial review of these decisions, or appeal under the Administrative Procedures Act, by writ of certiorari under Minnesota Statutes, Section 480A.06. The Regulated Party also waives her right to contest any determination or order of MDH that the Regulated Party failed to meet the requirements to this Stipulation.

In addition, the Regulated Party waives any claim that she may have against MDH, the State of Minnesota, or any employee thereof, under the Equal Access to Justice Act, Minnesota Statutes, Sections 15.471 to 15.474.

(8). Penalties for Violations of this Agreement

If MDH determines that the Regulated Party has failed to comply with or remain in compliance with the requirements outlined in Paragraph 4 of this Stipulation, for the duration assigned to each item, the Regulated Party's license to practice body art in the state of Minnesota will be revoked for a term not less than one (1) calendar year from the effective date of such determination.

(9). Binding Effect

This Stipulation is binding upon the parties, their employees, agents, heirs, administrators, representatives, executors, successors and assigns, and the parties will assure that their employees, agents, heirs, administrators, representatives, executors, successors and assigns are made aware of this Stipulation.

(10). Other Remedies Reserved

This Stipulation does not in any way or manner limit or affect the authority of MDH to proceed against the Regulated Party by initiating a contested case hearing, or by other appropriate means, on the basis of any act, conduct or omission of the Regulated Party justifying enforcement that is not the subject of this Stipulation.

(11). Procedure

This Stipulation contains the entire agreement between the Department and the Regulated Party, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation. The Regulated Party understands that this agreement is subject to the approval of the Division Director of the Health Regulation Division of the Department ("Division Director").

(12). Resolution of Disputes

The parties to this Stipulation shall attempt to resolve disputes regarding the meaning of any part of this Stipulation through an exchange of correspondence. If a dispute cannot be informally resolved within 30 days of one party notifying the other party of a dispute, the Division Director shall issue a determination on the disputed issue. Following issuance of this determination, the Regulated Party shall have 30 days in which to file a complaint seeking a declaratory judgment resolving the issue in dispute. If the Regulated Party does not file a complaint in 30 days, the Regulated Party agrees to comply with the Division Director's determination of the disputed portion of this Stipulation. Throughout any dispute resolution, the Regulated Party shall continue to comply with the terms of the Stipulation that the Department determines are not in dispute.

(13). Venue

Disputes regarding the meaning of this Stipulation or actions to enforce this Stipulation shall be venued in the Ramsey County District Court, in Saint Paul, Minnesota.

(14). Access

The Regulated Party agrees to provide MDH access to the Regulated Party's facilities and records related to compliance with this Stipulation upon the presentation of proper credentials.

(15). Retention of Records

The Regulated Party shall retain in her possession all records and documents related to the implementation of this Stipulation. The Regulated Party shall preserve these records and documents for a minimum of three years following the execution of this Stipulation despite any document retention policy of the Regulated Party to the contrary.

(16). Other Applicable Laws and Permits

All actions required to be taken pursuant to this Stipulation shall be undertaken in accordance with the requirements of all applicable local, State and Federal laws and regulations. This includes laws and regulations related to the dispensing of hearing instruments.

(17). Successors

All rights inure to, and obligations bind, successors, heirs and assignees of all parties involved.

(18). Effective Date

This Stipulation shall be effective upon the date it is signed by all of the parties.

(19). Service of Agreement:

The Regulated Party agrees that a fully executed copy of the Stipulation will be sent by the Department to this mailing address: 200 3rd Avenue NE, Suite 300, Cambridge, MN 55008. Service at this address shall be considered personal service upon the Regulated Party.

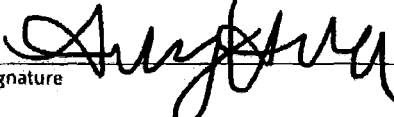
(20). Data Practices

This Stipulation is public data pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes, Section 13.41.

(21). Execution

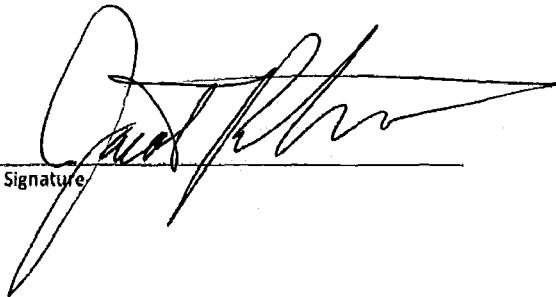
BY THEIR SIGNATURES HEREON, THE UNDERSIGNED REPRESENT THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY REPRESENT, THEIR AGENTS, CONTRACTORS, AND SUBSIDIARIES.

Ally A. Horarik
Ally Anne Horarik, [Print name]
Regulated Party


Signature

June 3, 2019
Date

Jacob G. Peterson
Jake Peterson, [Print name]
Counsel


Signature

June 3, 2019
Date

Catherine Dittberner Lloyd

Catherine Dittberner Lloyd, [Print name]
Manager Health Occupations Program

[Signature]

Signature

June 4, 2019

Date

Upon consideration of this Stipulation, by the Assistant Division Director, it is ordered that the terms in this Stipulation are adopted on this 4th day of June, 2019.

MICHELLE LARSON, DIVISION DIRECTOR

MINNESOTA DEPARTMENT OF HEALTH
HEALTH REGULATION DIVISION

[Signature]

Signature