



Effective June 27, 2014

Protecting, maintaining and improving the health of all Minnesotans

May 16, 2014

Brian Moritz

RE: MDH File Number: BAC14023

Dear Mr. Moritz:

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 without a license, in violation of Minnesota Statutes, section 146B.08, subdivision 3(3), and Minnesota Statutes, section 146B.03, subdivision 1. Therefore, the Department is issuing you a reprimand and a civil penalty in the amount of \$195. This action 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:

Anne Kukowski, Assistant 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 Anne Kukowski 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", is written over the typed name.

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Assistant Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Brian Moritz
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 214.131, subdivision 2; and 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 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, subdivision 1, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACT

1. Brian Moritz (Hereinafter "Technician"), was issued a full body art technician license, on December 30, 2010. Technician's license expired on March 31, 2012. Technician works at Rochester Tattoo (hereinafter "Establishment") in Rochester, Minnesota.
2. Technician's full body art technician license was renewed on March 31, 2012 with an expiration date of March 31, 2014.
3. On January 6, 2014, MDH sent Technician a License Renewal Notice letter. The letter reminded Technician his license was set to expire and to submit a renewal application by March 1, 2014 to avoid a late fee charge.
4. On April 1, 2014, MDH sent Technician a Failure to Renew License letter. The letter advised Technician his license had expired and continued practice would now be unlicensed practice.

5. On April 24, 2014, MDH received a phone call with information that Technician was providing body art services with an expired license at the Establishment.
6. On April 25, 2013; MDH representative made contact with Technician at the Establishment. Informed consent forms collected showed that Technician performed body art procedures at the Establishment from April 1, 2014 through April 24, 2014.
7. On April 28, 2014, Technician's body art license renewal application was hand delivered to the MDH office.
8. On April 30, 2014, Technician's full body art technician license was renewed.
9. Based on the informed consent forms collected from Technician on April 25, 2014, Technician performed 42 body art procedures from April 1, 2014 to April 24, 2014.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1, because he continued to practice body art after the expiration of his license on March 31, 2014 and before issuance of his renewed license on April 30, 2014.

DETERMINATION

Technician is hereby reprimanded and assessed a civil penalty in the amount of \$195 which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.

- 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.
- 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 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.