



Protecting, maintaining and improving the health of all Minnesotans

April 27, 2018

Ms. Kay Nguyen
Minnesota Brow Lash Studio & Academy
386 Oak Street
Excelsior, MN 55331

RE: MDH File Number BAC18005

Dear Ms. Nguyen,

Based on the facts and law in this matter as described in the enclosed Determination, the Minnesota Department of Health (MDH) has determined that you violated multiple sections of Minnesota Statute 146B. Therefore, the department is issuing you a reprimand and imposing a civil penalty in the amount of \$2,904. MDH has the authority for this action pursuant to Minnesota Statute, section 146B.08, subsections 4(5).

This decision is final and effective 30 days from the date you receive it. During that 30-day period, you have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. You shall make requests for a hearing in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send a written hearing request, within 30 days of your receipt of this letter, to:

Catherine Dittberner Lloyd, Manager
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 Ms. Lloyd at (651)201-3839. If you have any questions about this matter, please contact Patricia Forsberg at (651)201-3721.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Winkelmann", is written over the typed name.

Susan Winkelmann, Assistant Division Director
Health Regulation Division

Enclosure

CC: Catherine Dittberner Lloyd, Manager, Health Occupations Program

HEALTH OCCUPATIONS PROGRAM
HEALTH REGULATION DIVISION

**A Determination in the Matter of
Kay Nguyen
Body Art Technician 312076**

Authority:

1. The Minnesota Department of Health (MDH) has authority to discipline body art technicians for violations of law under Minnesota Statute, section 146B.08, subdivision 3.
2. Pursuant to Minnesota Statute, section 146B.08, subdivision 4, the types of discipline MDH may impose include refusal to grant a license, suspension of a license, or any reasonable lesser action.
3. Pursuant to Minnesota Statute, 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 reimburses MDH for costs of the investigation.
4. Pursuant to Minnesota Statute, section 146B.02, subdivision 7a(a), only a technician who has been licensed as a body artist for at least two years in Minnesota or in a jurisdiction with which Minnesota has reciprocity may supervise a temporary technician.
5. Pursuant to Minnesota Statute, section 146B.03, subdivision 1(a), Effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid tattoo technician license issued by the commissioner.
6. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(5), the commissioner may take disciplinary action on proof that technician aided or abetted another person in violating any provision of this chapter.
7. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(8), the commissioner may take disciplinary action on proof that a technician has advertised in a manner that is false or misleading.
8. Pursuant to Minnesota Statute, section 13.41, disciplinary actions are public data.

Findings of Fact:

1. Kay Nguyen (hereinafter "Technician") obtained her body art technician license on July 24, 2017. This license hold an expiration date of May 31, 2019.
2. Technician is the owner/operator of Wayzata Salon and Day Spa located at 301

Broadway, Wayzata, MN 55391 and Minnesota Brows Microblading & Lash Academy LLC, 386 Oak Street, Excelsior, MN 55331.

3. Minnesota Brows Microblading & Lash Academy LLC (hereinafter "Establishment") obtained an establishment license from Hennepin County on October 5, 2017.
4. On September 25, 2017, MDH received a complaint alleging Technician provided a permanent make-up training course at Establishment to unlicensed technicians prior to the technician obtaining an establishment license.
5. MDH staff found advertisements for the course, which ran from August 28, 2017 through September 6, 2017.
6. On September 25, 2017, MDH staff obtained photographs from Establishment's Facebook page. The photographs show pictures of students performing microblading procedures on clients at Technician's Wayzata salon. The three individuals performing the microblading procedures did not hold any type of Minnesota body art licensure at the time.
7. On September 25, 2017, a review of Establishment's website for a description of the training that stated, "Hands on training with drawing, microblading on various mediums, then applying these techniques on clients."
8. On September 27, 2017, MDH sent a notice of investigation letter to Technician. A response was due by October 27, 2017.
9. On October 25, 2017, MDH received Technician's response. Technician states that no body art services were performed at Establishment. Technician states the procedures that were done on clients during the training were done by her at Wayzata Salon & Day Spa.
10. In a meeting on April 4, 2018, Technician did not deny that body art procedures occurred at her facility during the aforementioned training. Technician was adamant that the procedures were done at her licensed Wayzata facility and not at Establishment.

Conclusion:

Technician did not comply with the requirements under Minnesota Statute, sections 146B.02, subdivision 1; 146B.08, subdivision 3(5); and 146B.08, subdivision 3(8). Technician violated 146B.08, subdivision 3(5) when she allowed an unlicensed individual to provide body art services at her salon in Wayzata. She was aware the individuals in the class she was teaching were unlicensed, therefore she aided in their violation of 146B.03, subdivision 1. Technician also violated 146B.08, subdivision 3(8), when she advertised in a manner that is false or misleading on her website and multiple social media pages.

Determination:

Technician is hereby reprimanded and assessed a civil penalty in the amount of \$2,904.

1. Technician is assessed a civil penalty in the amount of \$2,904, which deprives Technician of the economic advantage gained by the violations and reimburses MDH \$404 for the costs incurred with the investigation.
 - a. Technician may pay the \$2,904 civil penalty in monthly installments. If Technician chooses to make installments, she must notify MDH in writing about her intentions, including how many installments she intends to make, in what amount, and over which time period within 30 days of this Determination's effective date. 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.
 - b. Each payment will be made by check to "State of Minnesota, Treasury," and mailed to Health Occupations Program, PO Box 64882, Saint Paul, MN 55164-0882. Each payment is due by the last day of each month; however, technician may prepay at any time.
 - c. The penalty may be referred to the Minnesota Department of Revenue, or any other source for collection, if Practitioner misses a monthly payment by 14 calendar days after the established deadline.