



Effective January 8, 2015

December 1, 2014 *Protecting, maintaining and improving the health of all Minnesotans*

Joshua Rishavy

RE: MDH File Number: BAC11064

Dear Mr. Rishavy:

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 (a). Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$217. 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 you received this letter. 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:

Gil 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 Gil 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", is written over the word "Sincerely,".

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Gil Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Joshua Rishavy
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, suspension of 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 reimburses MDH for costs of the investigation.
3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3(2), MDH may discipline a technician if they fail, within 30 days, to provide information in response to a written request by the commissioner.
4. 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.
5. Pursuant to Minnesota Statutes, section 146B.03, subdivisions 1, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACT

1. On June 18, 2011, MDH received an email with information that Joshua Rishavy (Hereinafter "Technician") was tattooing without a license.
2. Included in the email were links to Technician's website and Facebook page. Review of those sites has Technician advertising his tattoo services as well as posting tattoos he had done in the past.
3. On June 20, 2011, MDH sent an email to Technician regarding his unlicensed practice.
4. On June 21, 2011, Technician emailed back a response to MDH. In the email, Technician stated, "I have deleted my craigslist, webpage, and facebook page. I am also not going to tattoo anyone until im approved. Tattooing is not a source of income for me

and my family, so its not a problem to stop and obey the law until I get my license. Sorry if this has caused any trouble. I have the application printed and ready to go.”

5. On October 9, 2012, MDH sent a Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than November 8, 2012. MDH did not receive a written response from Technician.
6. On June 28, 2013, MDH sent a Notice of Illegal practice letter to Technician. MDH requested a written response from Technician no later than July 29, 2013. MDH did not receive a written response from Technician.
7. On May 27, 2014, MDH received a temporary body art technician license application from Technician.
8. On May 29, 2014, Technician was issued a temporary body art technician license.
9. On June 30, 2014, MDH sent a final Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than July 30, 2014. MDH did not receive a written response from Technician.
10. On October 22, 2014, MDH sent Technician a letter of determination. The letter stated Technician’s temporary body art technician license is suspended for failure, within 30 days, to provide information in response to a written request by the commissioner. Technician was also assessed a civil penalty of \$140.
11. On November 5, 2014, MDH received a written response from Technician. In the letter, Technician stated, “I Joshua Rishavy accept the penalty and enclosed \$140 check. I never received mail regarding this until now. I stopped tattooing after the first notice and now I am finally finishing my apprenticeship. I apologize for any inconvenience in the past.”
12. On November 5, 2014, MDH received an email from Technician. The email stated, “I no longer have any consent forms and only tattooed 3-4 times. I charged an average of 50\$ per tattoo. Thanks.”

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because he practiced body art before he was issued a temporary body art technician’s license on May 29, 2014, in violation of Minnesota Statutes, section 146B.03, subdivision 1 (a).
2. Technician failed to comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3(2) when he failed, within 30 days, to provide information in response to a written request by the commissioner.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$217 which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.

2. Technician was issued a Letter of Determination on November 3, 2014. The Determination was set forth to suspend Technician's license if he did not cooperate with the ongoing investigation and pay a fine of \$140 for current cost of investigation. Technician has since cooperated with the investigation and has produced the information that was requested of him. Technician has also paid the fine of \$140. The \$140 received from Technician will be added as credit to the civil penalty of \$217 from this determination which leaves a total of \$77.

3. The 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.