



Effective July 19, 2014

June 17, 2014

Protecting, maintaining and improving the health of all Minnesotans

Mr. Cory R. Donicht

RE: MDH File Number: BAC13011 & BAC13051

Dear Mr. Donicht:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) have determined that you: [1] 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); [2] provided body art services to a minor, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (3), and Minnesota Statutes, section 146B.07, subdivision 2 (b); and [3] provided body art services in an unlicensed establishment, in violation of Minnesota Statutes, section 146B.08, subdivision 3 (3), and Minnesota Statutes, section 146B.02 subdivision 1. Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$729. 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:

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)201-3727. 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: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Cory R. Donicht
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 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.
5. Pursuant to Minnesota Statutes, section 146B.07, subdivision 2 (b), no technician shall tattoo any individual under the age of 18 regardless of parental or guardian consent.
6. Pursuant to Minnesota Statutes, section 146B.02, subdivision 1, no individual may maintain, own, or operate a body art establishment without an establishment license issued by MDH.

FINDINGS OF FACT

1. On October 3, 2012, MDH received an email complaint from Coon Rapids Housing Official that Cory Donicht (hereinafter "Technician") was providing body art services out of his apartment in Coon Rapid, Minnesota.
2. A Notice of Illegal Practice letter was sent to Technician, along with a body art technician license application, on October 3, 2012. MDH requested a response from Technician no later than November 2, 2012. MDH did not receive a response from Technician.

3. On May 22, 2013, MDH received a complaint from Coon Rapids Police Department that Technician was providing body art services out of his apartment in Coon Rapids, Minnesota and that he tattooed a minor. Attach to the complaint was the police report and the citation to the Technician.
4. A Notice of Illegal Practice was sent to Technician on May 23, 2013. MDH requested a response from Technician no later than June 23, 2013. MDH did not receive a written response from Technician. However, MDH did receive a temporary body art technician license application from Technician on June 6, 2013.
5. Technician was issued a temporary body art technician-tattoo license on June 11, 2013.
6. On July 1, 2013, MDH received a third complaint that Technician was providing body art services out of his apartment in Coon Rapids, Minnesota.
7. Technician was issued a full body art technician-tattoo license on August 13, 2013.
8. A Notice of Illegal Practice letter was sent to Technician on August 20, 2013. MDH requested a written response from Technician no later than September 20, 2013. On September 18, 2013, MDH did receive a written response from Technician.
9. In Technician's September 18, 2013, response, he admitted to providing tattoo services to a minor in his apartment.
10. On January 3, 2014, MDH sent another letter to Technician. In Technician's response letter received on January 27, 2014, Technician stated he has only provided body art services to one client, the minor, in his apartment.
11. A review of the Coon Rapids Police Department report shows Technician admitted to providing body art services in his apartment for the past six to eight months. The police report states the minor met the Technician through a friend who had also received a tattoo from Technician. The police report also stated Technician's clients all knew each other and that is how they learned Technician provided tattoo services.
12. A review of court records show Technician was convicted in August 2013 of a petty misdemeanor for tattooing a minor; in violation of Minnesota Statutes section 609.2246 (repealed in August 1, 2013) and given a fine of \$185.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because by his admission in the police report, he practiced body art for six to eight months, before he was issued a technician's license on June 11, 2013, in violation of Minnesota Statutes, section 146B.03, subdivision 1 (a).

2. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because he tattooed a minor, in violation of Minnesota Statutes, section 146B.07, subdivision 2 (b).
3. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because he provided body art services in an unlicensed establishment, in violation of Minnesota Statutes, section 146B.02, subdivision 1.

DETERMINATION

- Technician will not be allowed to supervise temporary body art technicians;
 - A supervisor is expected to be knowledgeable about safe body art procedures and the state statutes that govern the practice of body art. MDH has determined that Technician violated provisions of body art chapter and that Technician demonstrated a careless disregard for the health, welfare, or safety of a client. Therefore, Technician may not supervise temporary technicians and MDH will deny all applicants that list Technician as a supervisor for two years.
- Technician is hereby reprimanded and assessed a civil penalty in the amount of \$914, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - The \$185 fine Technician paid in August 2013 will also serve as credit to the civil penalty MDH is issuing the Technician.
 - Technician may pay the \$729 ($\$914 - \$185 = \729) civil penalty in monthly installments of up to 7 months after the effective date of this action. If Technician chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over which time period. 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.
 - Each 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. Each payment is due by the last day of each month; however, technician may prepay at any time.
 - 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 a monthly 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.