



Effective February 15, 2015

Protecting, maintaining and improving the health of all Minnesotans

January 7, 2015

Kenneth Charles Mattson

RE: MDH File Number: BAC12107

Dear Mr. Mattson:

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 \$721. 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 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)201-3839. 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 a light blue horizontal line.

Darcy Miner, Director
Division of Health Regulation

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Kenneth Charles Mattson
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 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 reimburses MDH for costs of the investigation.
3. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.
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, subdivision 1(a), no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACTS

1. Kenneth Charles Mattson (hereinafter "Technician") was issued a temporary body art technician license on December 23, 2010. The temporary body art technician license expired on December 23, 2011.
2. Technician works at Smoken Gun Tattoo (hereinafter "Establishment") in Mora, Minnesota.
3. On January 3, 2012, MDH sent a failure to renew body art technician license letter to Technician. The letter reminded Technician his license had expired and in order to renew it, Technician would need to submit a check for \$110. The letter also warns Technician, "Pursuant to Minnesota Statutes 146B.03, it is illegal to practice or use protected titles after your license expires and may be grounds for discipline."
4. On January 10, 2012, MDH received a full body art technician license application from Technician.

5. On January 18, 2012, MDH sent an email to Technician.
6. The email stated the application was incomplete and listed out what was required to process it. The list included: the \$110 application fee, signed affidavit from Technician's supervisor attesting that Technician completed the required 200 supervised hours of body art activity, and log of supervised body art activities.
7. On February 15, 2012, MDH received the required \$110 application fee and a signed affidavit from Technician's supervisor.
8. MDH also received photos of Technician's body art activities.
9. On March 7, 2012, MDH sent Technician an email. The email stated, "The pictures you submitted of pieces of work do indicate the required amount of supervised hours, however there are no dates to correspond to the pictures indicating when the pieces were completed. Please submit documentation indicating that the work performed did occur during your licensure period."
10. On April 9, 2012, MDH received a complaint that Technician provided an unlicensed tattoo procedure.
11. On April 19, 2012, MDH received updated photos of Technician's body art activities. The photos included the date of the procedure and the number of hours Technician performed on it.
12. On May 3, 2012, Technician was issued a full body art technician license.
13. On May 7, 2012, MDH sent a Notice of Illegal Practice letter to Technician. The letter requested for copies of Technician's informed consent forms from December 24, 2011 to May 2, 2012.
14. On June 12, 2012, MDH received a written response from Technician. Enclosed with the response were copies of Technician's informed consent forms.
15. A review of the informed consent forms show Technician provided 28 unlicensed tattoo services. Specifically, Technician provided: 4 tattoo services in December 2011, 7 tattoo services in January 2012, 5 tattoo services in February 2012, 6 tattoo services in March 2012, 5 tattoo services in April 2012, and 1 tattoo service in May 2012.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1 (a), because he continued to practice body art after the expiration of his temporary body art technician license on December 24, 2011 and before the issuance of his full body art technician license on May 3, 2014.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$721, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$721 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 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 the Minnesota Department of Revenue, the Minnesota Department of Revenue is authorized by Minnesota Statutes, section 16D.17, to obtain a judgment against Technician without further notice or proceedings.