



Effective December 17, 2014

Protecting, maintaining and improving the health of all Minnesotans

November 14, 2014

My Hahn Nguyen

RE: MDH File Number: BAC12024

Dear Ms. Nguyen:

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 \$353. 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 cursive script, appearing to read "Darcy Miner".

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
My Hahn Nguyen
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 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. On April 18, 2011, MDH received a body art technician license application from My Hahn Nguyen (Hereinafter "Technician").
2. Technician did not include, along with her application, the application fee. The fee was received on May 13, 2011.
3. On May 17, 2011, MDH sent a letter to Technician. The letter advised Technician her body art technician application was incomplete and could not be processed. The letter further advised, for the application to be considered complete, Technician needed to submit:
 - a log showing 2,080 hours of tattooing in the past five years also referred to as verification of experience. Subdivision 10 of Minnesota Statutes 146B.03, repealed in 2012, required evidence of 2,080 hours of tattooing to allow an individual to be "grandfathered" in.
 - a response to questions #6 and #11 from the body art technician application.
 - a verification of credentials related to body art.

4. On August 18, 2011, MDH received an email from the Minneapolis Environmental Health and Food Safety Department. The email stated an inspection was done at Tattoo Aesthetic (Hereinafter "Establishment") and that the code compliance officer observed Technician tattooed without a license.
5. Technician was told to discontinue the tattoo to which she complied. The code compliance officer noted other informed consent forms for that day as well as for July 18, 2011.
6. On August 18, 2011, MDH received a phone call from Technician. Technician asked for the status of her body art technician license. Technician was advised her application was incomplete and could not be processed until MDH receives all the required information.
7. On August 19, 2011, MDH sent a Notice of Illegal Practice letter to Technician.
8. On August 29, 2011, MDH received all the required information from Technician to process the application.
9. On September 9, 2011, Technician was issued a full body art technician license.
10. On September 17, 2014, MDH sent a letter to Technician regarding her unlicensed practice of body art.
11. On October 16, 2014, MDH received a written response from Technician.
12. In the response, Technician included all the informed consent forms of past tattoo work she had provided while licensed.
13. On October 16, 2014, MDH sent Technician a letter with further questions regarding her unlicensed practice of body art. MDH also requested a list of body art procedures technician performed while unlicensed.
14. On November 3, 2014, MDH received a written response from Technician.
15. In the response, Technician stated she was licensed through Minneapolis and "in the process of getting my state license, I honestly did not know that I was not supposed to perform any tattooing. On July 18, 2011 when the Minneapolis Code Compliance Officer came to inspect the shop, I was in the middle of a tattoo session with a client. After the officer told me that I was not supposed to tattoo anybody before I get my state license, I did what was told until I get my license on September 9, 2011."
16. In the response, Technician also included a list of all body art procedures she performed from March 2008 to May 2011.
17. A review of the list shows Technician provided 9 unlicensed body art procedures in April 2011 and 7 unlicensed body art procedures in May 2011.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivisions 3(3), because she practiced body art before she was issued a technician's license, in violation of Minnesota Statutes, section 146B.03, subdivision 1(a).

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$353, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$353 civil penalty in monthly installments of up to 3 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, Treasure," 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.