



November 12, 2015 *Protecting, maintaining and improving the health of all Minnesotans*

Thomas Baker

RE: MDH File Number: BAC16003

Dear Mr. Baker:

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, the Department is issuing you a reprimand and imposing a civil penalty in the amount of \$343. 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 at MDH 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:

Anne Kukowski, Manager 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 Anne Kukowski 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 horizontal line.

Darcy Miner, Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Manager of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Thomas Baker
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, for each violation, 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, effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACT

1. On July 16, 2014, MDH received a temporary body art technician application from Thomas Baker (Hereinafter "Technician"). In the application, Technician listed Absolute Body Art (Hereinafter "Establishment") in Duluth as his place of employment.
2. On July 17, 2014, Technician was issued a temporary body art technician license.
3. On June 29, 2015, MDH received a full body art technician license application from Technician.
4. Enclosed with the application was a list of dates, and each client's name, phone number, a short description of the tattoo provided, and the number of hours Technician provided body art service on the client. The list mentioned above was provided by Technician to show proof he had 200 supervised tattoo hours.
5. A review of the list shows Technician had provided 5 body art procedures before July 17, 2014.

6. On July 10, 2015, Technician was issued a full body art technician license; however, he was advised an investigation was initiated for disclosure of unlicensed practice.
7. On July 24, 2015, a Notice of Illegal Practice letter was sent to Technician. The letter requested informed consent forms on body art procedures Technician provided before the issuance of his temporary body art technician license.
8. On August 24, 2015, MDH received a written response from Technician. In the response, Technician stated, "I believe that I did tattoo those people on those dates but am unable to check or even have access to those forms" as he was no longer at the Establishment.
9. On September 22, 2015, MDH received a signed waiver release form from Technician. The waiver release form authorized MDH to contact the Establishment and request the informed consent forms.
10. On October 15, 2015, MDH received by email from the operator of the Establishment the informed consent forms in which Technician provided body art before the issuance of his temporary license.
11. Based on the email, Technician provided 9 unlicensed body art procedures. The procedures ranged from July 10, 2014 through July 15, 2014.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1. Technician performed body art services from July 10, 2014 through July 15, 2014, but did not obtain licensure until July 17, 2014.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$343, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$343 civil penalty in monthly installments for 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 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 Practitioner 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 Practitioner without further notice or proceeding.