



Effective June 8, 2014

Protecting, maintaining and improving the health of all Minnesotans

May 2, 2014

Jonathan Carpenter
Good Clean Fun Tattoos

RE: MDH File Number: BAC14004

Dear Mr. Carpenter:

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 Good Clean Fun Tattoos, Otsego, an establishment you own, has provided body art services without a body art establishment license, in violation of Minnesota Statutes, section 146B.02, subdivision 1. Therefore, the Department is issuing this reprimand and assessing a civil penalty in the amount of \$1,883. This action is authorized pursuant to Minnesota Statutes, sections 214.10, and 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:

Anne Kukowski, Acting 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 Anne Kukowski at (651)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Acting Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Good Clean Fun Tattoos, Otsego
Body Art Establishment**

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline owners of body art establishments 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, for each violation, a civil penalty not exceeding \$10,000 that deprives the operator of an establishment of any economic advantage gained by the violation and reimburses MDH for costs of 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.02, subdivision 1, effective January 1, 2011, no person may maintain, own, or operate a body art establishment unless it has a valid establishment license issued by MDH.
5. Pursuant to Minnesota Statutes, section 146B.02, subdivision 4, no person may perform body art procedures except in a licensed establishment.
6. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3 (5), aiding or abetting another person in violating any provision of Chapter 146B is a ground for disciplinary action.

FINDINGS OF FACT

1. Good Clean Fun Tattoos (hereinafter "Establishment"), a body art establishment, is located at 9010 Quantrelle Avenue #104, in Otsego, Minnesota. The license, number 430069, was issued on December 20, 2010 and expired on September 30, 2013.
2. The owner of the establishment is Jonathan Carpenter (hereinafter "Establishment Owner"). The Establishment Owner is a licensed Body Art Technician.

3. On January 6, 2014, MDH received a Body Art Establishment Renewal License application and a check for \$1009 from the Establishment Owner.
4. The check was \$75 short for the late processing fee. Without the full fee, including any late fee due, a renewal application is incomplete and will not be processed.
5. The Body Art Establishment Renewal License application lists Steve De Los Reyes (Hereinafter known as "Technician SR"), Nicholas Hams (hereinafter known as "Technician NH"), and Nicholas Gagnon as employees of the Establishment.
6. Phone calls were made to the Establishment Owner by an MDH representative advising that the application was incomplete and would not be processed until the full amount was collected.
7. The application was referred to the Investigation and Enforcement Unit (I&E) within the Health Occupations Program. A Notice of Illegal Practice letter was sent to the Establishment Owner on February 7, 2014. The letter advised the Establishment Owner that his establishment license had not been renewed and that the Establishment had been operating without an establishment license since October 1, 2013. In the letter, I&E requested all the Informed Consent forms for the Establishment since October 1, 2013.
8. On February 19, 2014, MDH received a check from the Establishment Owner for \$75. The Establishment's license was processed and renewed on February 24, 2014.
9. On February 26, 2014, MDH representatives inspected the Establishment and collected informed consent forms.
10. On March 11, 2014, MDH received a response to its letter of February 7, 2014 from the Establishment Owner. The Establishment Owner included additional Informed Consent forms from the Establishment.
11. Based on the Informed Consent forms, 111 body art procedures were performed at the Establishment from October 1, 2013 to February 23, 2014. Technician NH provided 30 tattoo procedures in the month of October 2013, 28 tattoo procedures in the month of November 2013, 19 tattoo procedures in the month of December 2013, and 24 tattoo procedures in the month of January 2014. Technician SR provided 6 tattoo procedures in the month of November 2013, 4 tattoo procedures in the month of January 2014, and 1 tattoo procedure on February 23, 2014.

CONCLUSION

1. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.02, subdivision 1. Body art services were performed in the Establishment between October 1, 2013 and February 23, 2014, a time after which the Establishment's license had expired and before it was renewed on February 24, 2014.

2. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.08 subdivision 3 (5), section 146B.03, subdivisions 1, and section 146B.02, subdivision 1. Establishment Owner allowed licensed body art technicians to provide body art at his Establishment even though the establishment license had expired. Therefore, Establishment Owner aided and abetted technicians by knowingly allowing them to provide body art in his Establishment even though his establishment license expired.

DETERMINATION

1. Establishment Owner is hereby reprimanded and assessed a civil penalty in the amount of \$1,883, which deprives him of the economic advantage gained by the violation and reimburses MDH for the costs of the investigation.
 - Establishment Owner may pay the \$1,883 civil penalty in monthly installments. The last payment may not be made later than 18 months after the effective date of this action. If the Establishment Owner 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 what time period. The Establishment Owner 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, the Establishment Owner 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 the Establishment Owner 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 the Establishment Owner without further notice or proceedings.