

February 22, 2018

Ms. Brittney Prehatney
[REDACTED]
[REDACTED]

RE: MDH File Number: BAC17010

Dear Ms. Prehatney:

Based on the facts and law in this matter as described in the enclosed Determination, the Minnesota Department of Health (MDH) has determined that you provided body art services without a license, in violation of Minnesota Statute, section 146B.08, subdivision 3(3), and Minnesota Statute, section 146B.03, subdivision 1 (a). Therefore, the Department is issuing you a reprimand and imposing a civil penalty in the amount of \$1,165.42. This action is authorized pursuant to Minnesota Statute, section 146B.08, subdivision 4.

You have agreed to accept the discipline with the caveat that MDH stay \$720 of the civil penalty so long as you follow the licensing standards set forth in Minnesota Statute 146B. The enclosed determination reflects the agreement you have made. You have agreed to pay the \$445.42 in two payments on or before May 31, 2018.

If you have any questions about this matter, please contact Patricia Jo Forsberg at (651)201-3721.

Sincerely,



Susan Winkelmann, Assistant Director
Health Regulation Division

Enclosure

cc: Catherine Dittberner Lloyd, Manager of the Health Occupations Program

**A Determination in the Matter of
Brittney Ann Prehatney
Body Art Technician****Authority:**

1. Pursuant to Minnesota Statute, section 146B.02, subdivision 1, no person acting individually or jointly with any other person may maintain, own, or operate a body art establishment in the state without an establishment license issued by the commissioner in accordance with this chapter,
2. Pursuant to Minnesota Statute, section 146B.03, subdivision 1 (a), effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.
3. Pursuant to Minnesota Statute, section 146B.03, subdivision 2 (a), no individual may use the title of “tattooist,” “tattoo artist,” “tattoo technician,” “body art practitioner,” “body art technician,” or other words, letters, or titles in connection with that individual’s name which in any way represents that the individual is engaged in the practice of tattooing or authorized to do so, unless the individual is licensed and authorized to perform tattooing.
4. Pursuant to Minnesota Statute, 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 Statute, section 146B.08, subdivision 3 (8), the commissioner may take disciplinary action on proof that a technician advertised in a manner that is false or misleading.
6. The Minnesota Department of Health (MDH) has authority to discipline body art technicians for violations of law under Minnesota Statute, section 146B.08, subdivision 3. Pursuant to Minnesota Statute, section 146B.08, subdivision 4, the types of discipline MDH may impose include refusal to grant a license or any reasonable lesser action.
7. Pursuant to Minnesota Statute, 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.
8. Pursuant to Minnesota Statute, section 13.41, disciplinary actions are public data.

Findings of Fact:

1. Brittney Prehatney (Hereinafter “Technician”), was issued a body art technician-tattoo license number 311034, effective June 23, 2014. Technician’s license expired on March 31, 2016.
2. On August 19, 2016, MDH received information that Technician was tattooing after her body art technician license had expired. Technician was tattooing out of a residence in Maple Grove, Minnesota, that was not licensed as a body art establishment.
3. On August 22, 2016, and again on July 26, 2017, MDH staff reviewed Technician’s Facebook page and observed that Technician advertised her tattoo services on a regular basis. A customer asked if he could make an appointment and Technician responded “Yes, I had a bunch of people cancel, I’m going to inbox you with days”.
4. Additionally, Technician posted 14 pictures of tattoos she provided that included states after her license expired.
5. On July 26, 2017, MDH sent Technician a notice of investigation inquiring why she was providing unlicensed body art services. MDH requested copies of signed client tattoo informed consent forms.
6. On August 3, 2017, Technician responded to the Notice of Investigation and admitted to practicing body art services without a license at an unlicensed establishment. Technician provided copies of informed consent forms that were dated between December 16, 2016, and June 15, 2017, which is the time period when Technician’s body artist license was expired.
7. On August 24, 2017, MDH received a body art technician license application for first renewal from Technician. Technician’s body art license was renewed and issued on August 30, 2017 with an expiration date of March 31, 2019.
8. Technician performed nine body art procedures from December 16, 2016, through June 15, 2017. Technician charged \$720.00 for unlicensed body art services to her clients during that period.

Conclusion:

Technician violated Minnesota Statute, section 146B.02, subdivision 1, when she provided body art services in an unlicensed establishment. Technician violated Minnesota Statute, section 146B.03, subdivision 1(a), when she provided body art services after her body art technician license expired. Finally, Technician violated Minnesota Statutes, sections 146B.08, subdivision 3(3) and 146B.03, subdivision 2(a) when she advertised in a manner that was false or misleading.

Determination:

1. Technician is hereby reprimanded
2. Technician is assessed a civil penalty of \$1,165.42. This represents \$720.00, which deprives Technician of the economic advantage gained by the violations and \$445.42, which reimburses MDH for costs of the investigation.
 - a. The \$720 civil penalty, which deprives Technician of the economic advantage gained by the violations, is stayed so long as Technician does not violate the Minnesota Statutes 146B.
 - b. Technician shall pay the \$445.42 civil penalty, which reimburses MDH for the costs of investigation, in two monthly installments for up to two months after the effective date of this action. 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.
 - c. 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.
 - d. The penalty may be referred to the Minnesota Department of Revenue (MDOR) or any other source for collection, if Technician misses a monthly payment by 14 calendar days after the established deadline. When this Order for the penalty becomes public and the Department refers the matter to MDOR, MDOR is authorized by Minnesota Statute, section 16D.17, to obtain a judgement against Technician without further notice or additional proceedings.