



Effective June 27, 2014

Protecting, maintaining and improving the health of all Minnesotans

May 16, 2014

Kathleen Drysdale
Rochester Tattoo

RE: MDH File Number: BAC14022

Dear Ms. Drysdale:

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 aided or abetted technicians in providing body art services without a technicians' license, in violation of Minnesota Statutes, section 146B.08, subdivision 3(5), and Minnesota Statutes, section 146B.03, subdivision 1 (a). MDH has also determined that, as the operator of the body art establishment, Rochester Tattoo, you failed to maintain proper records for each body art procedure performed, in violation of Minnesota Statutes, section 146B.08 subdivision 3(3) and Minnesota Statutes, section 146B.07 subdivision 4 (5). Therefore, the Department is issuing you a reprimand and imposing a civil penalty in the amount of \$667. 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 the discipline, 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, Assistant 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,

A handwritten signature in black ink, appearing to read "Darcy Miner". The signature is written in a cursive, somewhat stylized font.

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

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

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Rochester Tattoo, Rochester
Body Art Establishment**

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline a body art operator 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.
2. 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 operator of any economic advantage gained by the violation and reimburses MDH for costs of the investigation.
3. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(5), MDH may take disciplinary actions against an operator of an establishment who has aided or abetted another person in violating any provision of this chapter.
4. Pursuant to Minnesota Statute, 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.
5. 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.
6. Pursuant to Minnesota Statutes, section 146B.07, subdivision 4, for each client, the establishment operator shall maintain proper records for each procedure. The records must be kept for three years and must be available for inspection. The record must include the date of procedure, information on the required picture identification showing the name, age, and current address of the individual receiving services, and the name and license number of the technician performing the procedure.

FINDINGS OF FACT

1. Rochester Tattoo (hereinafter "Establishment") located at 2116 S Broadway, Rochester, Minnesota is licensed as a body art establishment, under license number 430052, effective December 21, 2010. The Establishment license was renewed on September 12,

2013 with an expiration date of September 30, 2016. Kathleen Drysdale is the owner (hereinafter "Establishment Owner") of the Establishment.

2. A review of the Establishment's license renewal application submitted to MDH on August 22, 2013, lists the following as technicians at the Establishment: the Establishment Owner, Brian Moritz (hereinafter "Technician BM"), and Nichole Schoenfelder (hereinafter "Technician NS").
3. The Establishment Owner, Technician BM, and Technician NS are all licensed as body art technicians with an expiration date of March 31, 2014. On January 6, 2014, MDH sent each Technician, including the Establishment Owner, a License Renewal Notice letter. The letter reminded each their license would expire on March 31, 2014 and to submit a renewal application by March 1, 2014 to avoid a late fee charge.
4. On April 24, 2014, MDH received a phone call with information that there were technicians at the Establishment providing body art with expired licenses.
5. On April 25, 2014, MDH representative made contact with the Establishment Owner, Technician BM, and Technician NS at the Establishment. Informed consent forms in which body art procedures were performed at the Establishment from April 1, 2014 through April 24, 2014 were collected.
6. The Establishment Owner agreed to voluntarily close the Establishment on April 25, 2014, due to not having any licensed body art technicians on site.
7. On April 28, 2014, Technician NS and Technician BM's body art license renewal applications were hand delivered to the MDH office. Also submitted was a temporary body art technician license application for Stacey Hughes (hereinafter "Technician SH").
8. On April 30, 2014, Technician NS and Technician BM's body art license were renewed.
9. On May 4, 2014, Technician SH was issued a temporary body art technician license.
10. Based on the informed consent forms collected on April 25, 2014, Technician BM performed 42 body art procedures from April 1, 2014 through April 24, 2014. Technician NS performed 31 body art procedures from April 1, 2014 through April 24, 2014. Technician SH provided 4 body art procedures from April 1, 2014 through April 24, 2014.
11. There were 38 informed consent forms that did not have the name or license number of the body art technicians performing the procedure. Two informed consent forms did not have the date of procedure or the name or license number of the body art technician performing the procedure.

CONCLUSION

1. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.08 subdivision 3 (5), and section 146B.03, subdivisions 1. Establishment Owner allowed Technician BM and Technician NS to provide body art at her Establishment with expired licenses. An expired license is equivalent to having no license. Therefore, Establishment Owner aided and abetted Technician BM and Technician NS by allowing them to provide body art in her Establishment without licenses. Establishment Owner also allowed Technician SH to provide body art services at her Establishment even though Technician SH did not have a temporary body art technician license.
2. Establishment Owner failed to comply with the requirements under Minnesota Statutes, section 146B.08 subdivision 3 (3), and section 146B.07, subdivision 4 (5) regarding record keeping. A review of the informed consent forms collected from the Establishment shows 38 forms did not have the technician's name or license number. Two informed consent forms did not have the date of procedure or the technician's name and license number.

DETERMINATION

1. Operator is hereby reprimanded and assessed a civil penalty in the amount of \$667, which deprives Operator of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Operator may pay the \$667 civil penalty in monthly installments of up to 6 months after the effective date of this action. If Operator chooses to make installments, she 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 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.