

Body Art – Criminal Penalties for Illegal Practice & Technical Changes

Summary

This proposal makes it a gross misdemeanor to practice body art without a license. It also makes technical changes to the body art licensure requirements.

Background

To protect the public from blood-borne diseases, MDH began regulating body art technicians and establishments in 2010. MDH has licensed approximately 800 body art technicians and 150 body art establishments.

The risk of disease transmission arises from the fact that during both body piercing and the application of tattoos, a client's skin is punctured. This creates the potential for transmission of blood-borne diseases such as hepatitis, MRSA (methicillin-resistant staphylococcus aureus), tuberculosis, HIV/AIDS, and tetanus. Proper education on blood-borne diseases and training in controlling infection and preventing disease transmission is an important step to ensure public health and effective licensure.

Criminal Penalty for Illegal Practice

MDH has received numerous complaints alleging illegal practice by body artists. In Fiscal Year 2012, 76 of the 90 complaints MDH received regarding body art alleged illegal practice. Unlicensed body artists are unlikely to have had infection control

training and are more likely to practice in unlicensed locations that may lack proper sanitation.

Current law authorizes MDH to impose civil penalties for unlicensed practice; however, it is very difficult to enforce an order against an unlicensed person. The proposed criminal penalty allows MDH to refer information about unlicensed practice to law enforcement. Law enforcement would then have discretion to investigate the activity and bring criminal charges if appropriate.

Minnesota law has several precedents for imposition of criminal penalties for the illegal practice of health-related professions. Currently, it is a gross misdemeanor to illegally conduct hearing aid dispensing, chiropractic practice, nursing optometry, and psychology.

Body Art Establishment Technical Changes

The proposal also contains four technical changes.

1. Clarifies that both fixed site and mobile establishments must obtain an establishment license.
2. Allows MDH to accept temporary event applications submitted less than the currently required 14 days before the event if staff has sufficient time to complete an inspection. (Current language has compelled

For More Information:

Matthew Collie, Legislative Liaison, 651-201-5808
Anne Kukowski, Health Occupations Program, 651-201-3721

MDH to deny applications received within the 14-day window even at times when the department has had the capacity to review the applications within that time frame.)

3. States that written aftercare instructions provided by body artists to clients must advise about the difference between a normal irritation and infection. This requirement will help clients better differentiate normal irritation from infections requiring medical attention.
4. Repeals Minnesota Statutes 146B.03, subdivision 10. This was a licensure transition period which expired on January 1, 2012.

For More Information:

Matthew Collie, Legislative Liaison, 651-201-5808
Anne Kukowski, Health Occupations Program, 651-201-3721