



Effective 9-21-14

August 18, 2014 *Protecting, maintaining and improving the health of all Minnesotans*

Rafael Antonio-Sanchez

RE: MDH File Number: BAC14032

Dear Mr. Antonio-Sanchez:

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: [1] provided body art services, while under a temporary license, without any proper supervision, in violation of Minnesota Statutes, section 146B.08, subdivisions 3(3), Minnesota Statutes, section 146B.03, subdivisions 1 (a) and Minnesota Statutes, section 146B.03 subdivision 7; and [2] intentionally submitted false or misleading information to the commissioner, in violation of Minnesota Statutes, section 146B.08 subdivision 3(1). Therefore, MDH is issuing you a reprimand, imposing a civil penalty in the amount of \$643, and refusing to grant or renew licensure. 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 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:

Gilbert Acevedo, 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 Gilbert Acevedo at (651)201-3727. 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  
Compliance Monitoring Division

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM  
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of  
Rafael Antonio-Sanchez  
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 a civil penalty, for each violation, not exceeding \$10,000 that deprives the licensee of any economic advantage gained by the violation and 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, subdivisions 1, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.
5. Pursuant to Minnesota Statutes, section 146B.03, subdivision 7, a temporary license may be issued if a licensed technician agrees to supervise the applicant.
6. Pursuant to Minnesota Statutes, section 146B.01, subdivision 28, “supervision” means the physical presence of a technician licensed under this chapter while a body art is being performed.
7. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3(1), the commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that a technician has intentionally submitted false or misleading information to the commissioner.

**FINDINGS OF FACT**

1. On April 3, 2013, MDH received a temporary body art technician license application from Rafael Antonio-Sanchez (Hereinafter “Technician”).
2. On April 5, 2013, Technician was issued a temporary body art technician license.

3. In the temporary body art technician license application, Technician listed Brandon Yarborough (Hereinafter "BY") as his supervisor. BY listed The Truth Tattoos in Saint Paul, MN as his work place.
4. On November 5, 2013, BY emailed MDH to advise he is no longer supervising Technician and has not been for some time. When asked, BY replied with "The effective date my supervision stopped was July 18<sup>th</sup>".
5. On December 17, 2013, MDH sent a letter to Technician. The letter advised Technician his temporary body art technician license has been suspended immediately until he finds a new supervisor that is approved by MDH.
6. On April 24, 2014, MDH received a full body art technician license application from Technician. Enclosed with the application is a spreadsheet logging all body art procedures Technician had provided from November 12, 2013 through April 12, 2014.
7. On April 25, 2014, MDH sent Technician a letter advising his application was not processed as it was incomplete. To complete the application process, Technician needed to submit a signed affidavit from BY that BY had supervised Technician for 200 hours of body art services.
8. On May 15, 2014, MDH received the letter of affidavit needed from Technician to continue with the application process. The letter states, "I Brandon O. Yarborough supervised Rafael Sanchez through out his two hundred hours in which he learned the process of tattooing including set up time, hands on tattooing, and proper sanitation. He was under my supervision from March, 2013 – March, 2014". The letter has a signature underneath the mentioned statement with a date of 5-13-14.
9. On May 16, 2014, BY emailed MDH and advised Technician "was terminated without my signature for completing 200 hours. I wasn't confident that he was ready to be an artist without supervision".
10. On May 16, 2014, Technician was denied a body art technician license and his file was referred to the Investigation and Enforcement Unit of the Health Occupations Program with MDH.
11. On June 9, 2014, MDH sent a Notice of Illegal Practice letter to Technician. The letter requested a written response from Technician no later than July 9, 2014.
12. On July 24, 2014, MDH received a letter of response from Technician. In the letter, Technician admitted he forged BY's signature. Technician stated, "Yes, I forged the signature. I signed it without notifying my employer because Omar and I ended up in bad terms. He even told me on my last day at the Truth Tattoo that'll never sign of license even after I paid him and completed my 200 hours. I knew I was doing wrong but I was embarrassed to tell my job the truth and feel like I had to beg Omar after he stated it was up to him he'll never license me, even after I knew I deserved it and did what I had to too earn it".

13. In the letter of response, Technician also stated, "All of the logged hours from Novem12-April 12<sup>th</sup> were performed at WB Tattoo under a licensed Artist supervision". Technician stated he was not aware he could only provide tattoo under BY's supervision and thought he could move to other establishments.
14. WB Tattoo is a body art establishment located in Spring Lake Park, MN.
15. Based on the spreadsheet Technician enclosed with his full body art license application, Technician provided 26 tattoos in November 2013, 25 tattoos in December 2013, 11 tattoos in January 2014, 25 tattoos in March 2014, and 15 tattoos in April 2014.

### **CONCLUSION**

1. Technician failed to comply with the requirements under Minnesota Statutes, section 146B.03, subdivisions 1, and section 146B.03, subdivision 7. A temporary license was issued to the Technician; however, a temporary license is only deemed valid if the tattoo procedure is performed in the presence of and under the supervision of the licensed technician the applicant submitted in his temporary license application. Technician provided a total of 112 tattoo services between November 2013 and April 2014 outside the physical presence of his supervisor on record.
2. Technician failed to comply with the requirements under Minnesota Statutes, section 146B.08 subdivision 3 (1) as he intentionally submitted false or misleading information to the commissioner by forging YB's signature on the letter of affidavit stating Technician had completed his 200 hours under YB's supervision.

### **DETERMINATION**

1. Any body art application Technician submits for licensure shall be not be granted or renewed.
2. Technician may submit an application for temporary body art license after two years of the effective date of this Determination.
3. Technician is prohibited from practicing body art in Minnesota. Technician is prohibited from using the body art titles protected by sections 146B.03 subdivision 2 and representing to the public that he is licensed to practice body art in Minnesota.
4. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$643 which deprives Technician of the economic advantage gained by the violations and reimburses MDH for costs of the investigation. The civil penalty must be paid in full before Technician is granted a body art license.