



Effective 08/10/14

July 3, 2014

*Protecting, maintaining and improving the health of all Minnesotans*

Angie Byboth

RE: MDH File Number: BAC12007

Dear Ms. Byboth:

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 without a license, in violation of Minnesota Statutes, section 146B.08, subdivision 3(3), and Minnesota Statutes, section 146B.03, subdivision 1 (a); and [2] provided body art services in an unlicensed establishment, in violation of Minnesota Statutes, section 146B.08, subdivisions 3(3), and Minnesota Statutes, section 146B.02, subdivisions 1. Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$749. This action is authorized pursuant to Minnesota Statutes, sections 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 you received this letter. 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:

Gil 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 Gil Acevedo 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 that reads "Darcy Miner".

Darcy Miner, Director  
Compliance Monitoring Division

Enclosure

cc: Gil Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM  
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of  
Angie Byboth  
Body Art Technician  
Permanent Makeup Arts, Roseville  
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 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 a civil penalty, for each violation, 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 Statutes, 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.
4. Pursuant to Minnesota Statutes, section 146B.02, subdivision 1, effective January 1, 2011, no person shall maintain or operate a body art establishment without an establishment 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.

**FINDINGS OF FACT**

1. Permanent Makeup Arts (hereinafter "Establishment") located at 1315 Larpenteur Avenue West Suite #J, Roseville, Minnesota is licensed as a body art establishment, under license number 410138, effective June 22, 2011. Angie Byboth is the owner/operator (hereinafter "Operator") of the Establishment.
2. On June 2, 2011, MDH received a body art technician license and a body art establishment license application from Operator. The establishment license was issued to Operator. However, the technician license was not issued, as the application was incomplete.

3. On June 16, 2011, MDH sent a letter to Operator advising her application could not be processed as it was incomplete. The letter had a list of items the Operator needed to provide to MDH in order to process her application. The list included verification of credentials and verification of experience. Verification of experience is evidence of 2,080 hours of tattooing in the past five years. Minnesota Statutes, section 146B.03, subdivision 10, repealed in 2013, required evidence of 2,080 hours of tattooing to allow an individual to be "grandfathered" in.
4. On July 19, 2011, Operator submitted documents that attempted to show proof of experience to MDH.
5. On July 29, 2011, MDH received an email complaint that Operator was providing permanent makeup services at the Establishment without a technician's license.
6. On August 2, 2011, MDH sent a Notice of Illegal Practice letter to Operator. The letter requested a response from Operator no later than September 1, 2011, along with a list of all body art services Operator performed since January 1, 2011.
7. On August 11, 2011, MDH emailed Operator with a request to submit the verification of credentials and to resubmit the verification of experience as it was difficult to understand.
8. On August 31, 2011, MDH received a response from Operator pertaining to the Notice of Illegal Practice letter. Operator stated she "wasn't aware of MN changing the laws on body art establishments." Operator also enclosed a chart listing the number of permanent makeup services she provided from January 2011 through August 2011.
9. On October 20, 2011, MDH emailed Operator a 3<sup>rd</sup> notice advising her to submit her verification of credentials to complete her license application.
10. On November 14, 2011, Operator submitted all the verification of credentials paperwork that was required to process the license application.
11. On November 15, 2011, Operator was issued a full body art technician license.
12. On April 15, 2014, MDH sent Operator a letter requesting copies of the informed consent forms from January 1, 2011 to November 14, 2011.
13. On May 6, 2014, MDH received the informed consent forms that were requested from Operator.
14. Based on the chart that was submitted to MDH on August 31, 2011, Operator performed 25 permanent makeup services in January 2011, 25 permanent makeup services in February 2011, 13 permanent makeup services in March 2011, 19 permanent makeup services in April 2011, 17 permanent makeup services in May 2011, 17 permanent makeup services in June 2011, 36 permanent makeup services in July 2011, and 49 permanent makeup services in August 2011.

15. Based on the informed consent forms that were received on May 6, 2014, Operator performed 17 permanent makeup services September 2011, 15 permanent makeup services in October 2011, and 4 permanent makeup services from November 1, 2011 to November 14, 2011.
16. The number of forms Operator submitted on May 6, 2014 did not match the number on the chart that Operator submitted to MDH on August 31, 2011. For example, there were no informed consent forms for January 2011. However, the chart Operator gave to MDH on August 31, 2011 shows she performed 25 permanent makeup services during January 2011. Another example is that there is only one informed consent form for February 2011 while the chart shows Operator performed 25 permanent makeup services in February 2011.

### CONCLUSION

1. Operator did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1. Operator performed body art services from January 2011 to November 14, 2011, but did not obtain licensure until November 15, 2011.
1. Operator did not comply with the requirements under Minnesota Statutes, section 146B.02 subdivision 1. Operator performed body art services in the Establishment from January 2011 to June 21, 2011. Establishment was not licensed until June 22, 2011.

### DETERMINATION

1. Operator is hereby reprimanded and assessed a civil penalty in the amount of \$749, which deprives Operator of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
  - Operator may pay the \$749 civil penalty in monthly installments of up to 7 months after the effective date of this action. If Operator chooses to make installments, she must notify MDH in writing about her intentions, including how many installments she intends to do, in what amount, and over which time period. Operator 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.