

Made Effective
03/14/2017



Minnesota
Department
of Health

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

January 24, 2017

Ryan Frank

[Redacted]
[Redacted]

RE: MDH File Number: BAC17005

Dear Mr. Frank:

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 provided body art without a valid body art technician license, in violation of Minnesota Statutes, section 146B.03, subdivision 1 (a) and Minnesota Statutes, section 146B.08, subdivision 3 (3). Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$400. This 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 "State of Minnesota, Treasurer." 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.

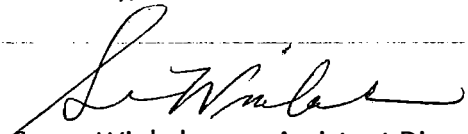
You must provide a written statement of your decision to either accept or appeal the discipline outlined in the enclosed Determination, within 30 days of your receipt of this letter, to:

Anne Kukowski, Manager of the Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

Ryan Frank
January 24, 2017
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You may also fax your request to Anne Kukowski at (651)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,



Susan Winkelmann, Assistant Director
Division of Health Regulation

Enclosure

cc: Anne Kukowski, Manager of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Ryan Frank
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, suspension of a license, or any reasonable lesser action.
2. Pursuant to Minnesota Statutes, 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 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, subdivision 1 (a), effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid tattoo technician license issued by the commissioner.
5. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.

FINDINGS OF FACT

1. On January 13, 2013, Ryan Frank (hereinafter "Technician") was issued a full body art technician license. The license expired on March 31, 2014.
2. On April 2, 2014, Technician renewed his full body art technician license. The license expired on March 31, 2016.
3. On January 15, 2016, MDH sent Technician a license renewal letter. The letter came back from the post office as "Return to Sender," "Attempted – Not Known," and "Unable to
4. On March 31, 2016, Technician's body art license expired.

5. On April 1, 2016, MDH sent Technician a failure to renew body art license letter. The letter reminded Technician not to provide body art services until his license was renewed. The letter came back from the post office as "Return to Sender," "Attempted – Not Known," and "Unable to Forward."
6. On April 28, 2016, Technician emailed MDH regarding his expired body art license. MDH replied back by advising Technician what he needed to do to renew his body art license.
7. On May 2, 2016, MDH received a body art technician license renewal application from Technician.
8. On May 2, 2016, Technician's body art license was renewed.
9. On June 1, 2016, MDH sent a letter of inquiry to Technician. The letter asked Technician whether he provided body art during the time his license had lapsed.
10. On June 16, 2016, MDH received a response from Technician. In the response, Technician stated he did provide body art while his license lapsed.
11. On August 31, 2016, MDH sent Technician a Notice of Investigation letter. The letter requested copies of Technician's informed consent forms and an explanation as to why he provided body art without a license.
12. On September 28, 2016, MDH received a written response from Technician.
13. In the response, Technician stated "Reminder letter was sent to wrong address, and I just wasn't paying attention."
14. Technician also stated "I've had it marked for years that all MDH letters be sent to the shop I work at. Despite having my current shop up to date, it was sent to previous shop. Schmitt's Tattoo, the owner of which is still very bitter about me leaving. He knew this would cause me trouble, so he withheld the letters, and claimed over the phone that he sent them back to the state."
15. Attached to Technician's response were copies of all informed consent forms in which he provided unlicensed body art services.
16. Reviewing the attached informed consent forms, Technician performed 25 unlicensed body art procedures from April 1, 2016 through April 30, 2016. In all, Technician charged over \$4,000 while providing unlicensed body art services to his clients.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1 (a), and section 146B.08, subdivision 3 (3), because he continued to practice body art after the expiration of his body art technician license on March 31, 2015 and before the renewal of his license on May 2, 2016.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$400, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$400 civil penalty in monthly installments of up to 4 months after the effective date of this action. If Technician chooses to make installments, he 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, Treasure," 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 Department of Revenue, or any other source for collection, if Practitioner misses a monthly payment by 14 calendar days after the established deadline.