

HEALTH OCCUPATIONS PROGRAM
HEALTH REGULATION DIVISION

**A Determination in the Matter of
Jeffrey Noah Schmidt
Suspended Body Art Technician #310011**

Authority:

1. The Minnesota Department of Health (MDH) has authority to discipline body art technicians and establishment owner/operators for violations of law under Minnesota Statute, section 146B.08, subdivision 3.
2. Pursuant to Minnesota Statute, section 146B.08, subdivision 4, the types of discipline MDH may impose include refusal to grant a license, suspension/revocation of a license, or any reasonable lesser action.
3. Pursuant to Minnesota Statute, section 146B.08, subdivision 4(5), MDH may impose, for each violation, a civil penalty not exceeding \$10,000 that deprives the licensee of any economic advantage gained by the violation and that reimburses the department for costs of the investigation and proceedings resulting in disciplinary action.
4. Pursuant to Minnesota Statute, section 146B.03, subdivision 1(a), no individual may perform tattooing unless the individual holds a valid tattoo technician license.
5. Pursuant to Minnesota Statute, section 146B.03, subdivision 1(c), no individual use the title of “tattooist,” “tattoo artist,” “tattoo technician,” “body art practitioner,” “body art technician,” or other letters, words, or titles in connection with that individual’s name which in any way represents that the individual is engaged in the practice of tattooing or authorized to do so, unless the individual is licensed and authorized to perform tattooing under this chapter.
6. Pursuant to the Minnesota Statute, section 146B.08, subdivision 3(2), MDH may take disciplinary action on proof that a technician failed, within 30 days, to provide information in response to a written request by the commissioner.
7. Pursuant to the Minnesota Statute, section 146B.08, subdivision 3(3), MDH may take disciplinary action on proof that a technician violated any provision of this chapter.
8. Pursuant to the Minnesota Statute, section 146B.08, subdivision 3(2), MDH may take disciplinary action on proof that the technician engaged in conduct likely to deceive, defraud, or harm the public.

Findings of Fact:

1. Jeffrey Noah Schmidt was issued a Minnesota body art technician license, number 310011, on February 27, 2014. Schmidt renewed the license biennially until March 27, 2018. His license expired on March 31, 2018.

2. On March 27, 2018, Schmidt's license was suspended on proof of the following violations:
 - a. Schmidt did not obtain a signed and dated informed consent form from a client;
 - b. Schmidt failed to perform services with reasonable judgement, skill, or safety due to the use of alcohol or drugs; and
 - c. Schmidt failed, within 30 days, to provide information in response to a written request by MDH and did not cooperate with an investigation.
3. The suspension imposed on Schmidt was for a duration of six months. In order to have his license reinstated, he had to complete the following:
 - a. Undergo a chemical dependency assessment by a Minnesota Licensed Alcohol and Drug Counselor and provide MDH consent to obtain the results of the assessment and any corresponding treatment plan;
 - b. Submit a written request to lift the suspension with the required documentation to MDH.
4. On April 16, 2019, MDH received a phone call from Schmidt regarding his obtaining his body art license. MDH sent him an email with instructions on what he needed to complete based on his Determination, effective in March 2018.
5. On April 25, 2019, MDH received Schmidt's application for his body art technician license. Schmidt did not include the required documentation.
6. On May 27, 2019, MDH received a complaint Schmidt was providing tattoo services at Northtown Ink, in Blaine, Minnesota. Further, the complaint alleged that Schmidt provided services while under the influence of drugs and he did not follow the contamination standards set forth in statute.
7. On May 27, 2019, MDH called Northtown Ink to speak with Bruce Lawrence, owner/operator regarding an unlicensed person providing body art services. Lawrence disclosed that Schmidt had been tattooing clients at that establishment. Lawrence said Schmidt held out to Northtown Ink that he was licensed by the Minnesota Department of Health. Lawrence paid the licensing fees submitted with Schmidt's application on April 25, 2019.
 - a. Lawrence said he was not going to let Schmidt continue to tattoo at Northtown Ink, due to the suspended status on his license.
 - b. On May 27, 2019, MDH received information from the complainant that verified Schmidt was let go from the establishment.
8. On June 11, 2019, MDH sent a *Notice of Investigation* to Schmidt regarding the complaint. MDH sent the document to Schmidt via USPS and the email, which MDH had been using to correspond with him. MDH did not receive a response.
9. On July 11, 2019, MDH informed Schmidt that he is ineligible for licensure until he complies with the terms of the March 27, 2018 Determination.

Conclusion:

Schmidt violated multiple sections of Minnesota Statutes, 146B, when he provided body art services, knowing his license was suspended. Further, he did not provide MDH the proper documentation to lift the suspension when he reapplied for his license. Schmidt also did not respond to MDH's investigation into the allegations that is his continuing to provide body art services while under the influence of drugs and/or alcohol.

Determination:

1. Pursuant to Minnesota Statute, section 146B.08, subdivision 4. , the Minnesota Department of Health will not grant Schmidt a body art license for a period of five years from the effective date of this Determination.
2. After a period of five years, Schmidt may apply for a temporary body art technician licensure. If granted a temporary license, that license will be conditioned as follows:
 - a. Schmidt must complete the 200 hours of supervised experience under direct supervision. Under Minnesota Statute 146B.01, subdivision 28(1), "Direct supervision" is where a licensed technician is physically present in the establishment, and is within five feet and is in the line of sight of the temporary licensee who is performing a body art procedure while the procedure is being performed."
 - b. Schmidt must abide by all Minnesota Statutes identified in Chapter 146B.
 - i. Schmidt shall not provide any body art procedures while under the influence of drugs and/or alcohol.
3. MDH is imposing a civil penalty of \$5,560 that deprives the licensee of any economic advantage gained by the violations and reimburses MDH for costs of the investigation and proceedings resulting in disciplinary action.
 - a. Schmidt will pay the \$5,560 civil penalty in monthly installments of up to 24 months after the effective date of this action. If Schmidt 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. Within 30 days of receipt of this document, Schmidt must send this information to:

Health Occupations Program
PO Box 64882
Saint Paul, MN 55164-0882
 - b. Each payment will be made by check to "Minnesota Department of Health," 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, Schmidt may prepay at any time.
 - c. 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.