



Effective 10-18-14

Protecting, maintaining and improving the health of all Minnesotans

September 17, 2014

Pamela Dougall

RE: MDH File Number: BAC12039

Dear Ms. Dougall:

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 services without a license, in violation of Minnesota Statutes, section 146B.08, subdivision 3(3), and Minnesota Statutes, section 146B.03, subdivision 1 (a). Therefore, MDH is issuing you a reprimand and imposing a civil penalty in the amount of \$425. 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)201-3727. 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 the typed name.

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
Pamela Dougall
Body Art Technician**

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.08, subdivision 3(3), a violation of any provision in the body art statute is a ground for disciplinary action.

FINDINGS OF FACT

1. On September 6, 2011, MDH received information that Pamela Dougall (hereafter "Technician") was providing body art services, specifically permanent makeup, without a body art technician license.
2. On September 8, 2011, MDH sent a Notice of Illegal Practice letter to Technician. Enclosed with the letter was a body art license application packet.
3. On November 4, 2011, MDH received a body art technician license application from technician via mail.
4. Enclosed with the body art technician license application was a spreadsheet of Technician's verification of experience. The spreadsheet consisted of the date of the procedure, the client name, and the type of permanent makeup procedure. 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.

5. On December 12, 2011, Technician was issued a full body art technician license.
6. Based on the spreadsheet that was submitted to MDH, Technician provided 26 permanent makeup services in 2011 and before the issuance of her license. Specifically, 6 permanent makeup procedures in February 2011, 4 permanent makeup procedures in March 2011, 9 permanent makeup procedures in April 2011, 1 permanent makeup procedure in June and July of 2011, and 2 permanent makeup procedures in August and September of 2011.
7. On June 16, 2014, MDH sent a letter to Technician requesting the informed consent forms for the 26 permanent makeup procedures she provided in 2011 before the issuance of her license.
8. On July 16, 2014, MDH received a letter of response by mail. Enclosed with the letter were some of the informed consent forms that were requested from Technician. In the letter of response, Technician stated she “do not have forms beyond the required 3 years”.
9. Reviewing the informed consent forms Technician submitted to MDH on July 16, 2014, Technician provided 3 permanent makeup services in June of 2011 and 10 permanent makeup services in August of 2011. All 13 procedures occurred at Sunbear Spa in White Bear Lake, MN.
10. The number of informed consent forms Technician submitted on July 16, 2014, did not match the number of permanent makeup procedures she provided on the spreadsheet that Technician submitted to MDH on November 4, 2011. For example, there were no informed consent forms for July 2011. However, the spreadsheet Technician provided to MDH on November 4, 2011 shows she performed 1 permanent makeup services during July 2011. Another example is that there are 8 informed consent forms for August 2011 while the spreadsheet shows Technician performed 2 permanent makeup services in August 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 September, 2011, but did not obtain licensure until December 12, 2011.

DETERMINATION

1. Operator is hereby reprimanded and assessed a civil penalty in the amount of \$425 which deprives Operator of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Operator may pay the \$425 civil penalty in monthly installments of up to 6 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.