

Effective 02-28-11



Protecting, maintaining and improving the health of all Minnesotans

February 18, 2011

Mr. Gilbert Joyse Johnson, Jr.

RE: MDH File Number: BAC11001

Dear Mr. Johnson:

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 tattooed a minor after July 1, 2010, in violation of Minnesota Statutes, section 146B.07, subdivision 1b. Therefore, the Department is disciplining your right to practice body art. This action is authorized pursuant to Minnesota Statutes, sections 214.10, and 146B.08, subdivision 4.

You may either accept the discipline as stated herein or you may appeal. If you accept, you will be issued a conditional body art technician license. If you wish to appeal the discipline, you must provide a written statement as to which facts are in error and your grounds for your appeal. Your written statement must be received within 30 days from the date it 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 also be made in writing and include specific grounds for challenging the Department's decision.

You should 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:

Tom Hiendlmayr, 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 Mr. Hiendlmayr at (651)201-3839. If you have any questions about this matter, please contact Kyle Renell at (651)201-3727.

Sincerely,

A handwritten signature in cursive script that reads "Darcy Miner".

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Tom Hiendlmayr, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Gilbert Joyse Johnson, Jr.
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 214.131, subdivision 2, and Minnesota Statutes, section 146B.08, subdivision 3. The types of discipline MDH may impose include refusal to grant licensure or any reasonable lesser action.
2. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3(3), a technician may be disciplined for violating any provision of Chapter 146B.
3. Pursuant to Minnesota Statutes, section 146B.07, subdivision 1b, no technician shall tattoo any individual under the age of 18 regardless of parental or guardian consent.

FINDINGS OF FACT

1. A complaint was received on July 7, 2010, which alleged that Gilbert Joyse Johnson, Jr., (Hereinafter "Technician") had tattooed a minor (hereinafter identified as "Minor#1") on July 2, 2010. On July 8, 2010, the same complainant alleged Technician had tattooed a second unidentified minor. The complainant supplied photographs of both tattoos.
2. On August 10, 2010, in response to a Notice of Complaint dated July 19, 2010, Technician telephonically admitted to Investigation and Enforcement (I&E) staff that he had tattooed a minor after July 1, 2010. Technician explained that the appointment had been booked a month in advance, the minor turned 18 years of age after the appointment, and her parents were both present at the time of the tattoo. By letter dated August 28, 2010, Technician again confirmed he had tattooed "Minor#1" prior to her 18th birthday.
3. Technician owns and operates a body art establishment in Albert Lea, MN, known as "The Chapel". Technician applied for, and was issued an establishment license in November 2010.
4. Technician submitted an application for licensure as a body art technician-dual, received on November 3, 2010. Technician's application was considered complete on January 31, 2011, when a Verification of Credential executed by the City of Albert Lea, MN, revealed no disciplinary action had been taken or was pending against Technician.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3(3), because he tattooed a minor after July 1, 2010, in violation of Minnesota Statutes, section 146B.07, subdivision 1b.

DETERMINATION

1. Technician shall be issued a Conditional Body Art Technician license, with the following conditions:
 - The license will be conditional for a period of not less than three years;
 - Technician must not tattoo a minor under any circumstances. A determination that Technician has tattooed a minor may result in the suspension of Technician's right to provide body art services in the State of Minnesota for a period of not less than one year;
 - Technician must not pierce a minor without parental consent. A determination that Technician has pierced a minor without parental consent may result in the suspension of Technician's right to provide body art services in the State of Minnesota for a period of not less than one year;
 - Technician must have a sign prominently displayed in his establishment which states that no tattooing of minors is allowed. Technician will provide MDH with photographic proof of the sign placement within 30 days of the effective date of this Determination; and
 - After a period of not less than two years, Technician may request the conditional status be removed from his license. To do so, Technician must:
 - Submit a written request for removal of the condition to the Director of the Health Occupations Program, Minnesota Department of Health, PO Box 64882, Saint Paul, MN 55164-0882; and
 - Include with his written request a statement from law enforcement authorities in the area where his establishment is located that he has had no further incidents, either pending or concluded, related to body art services provided to minors.