



Effective March 18, 2014

Protecting, maintaining and improving the health of all Minnesotans

January 30, 2014

Michael Lamont Smith

RE: MDH File Number: BAC13073

Dear Mr. Smith:

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, subdivisions 3(3), and Minnesota Statutes, section 146B.03, subdivisions 1. Therefore, the Department is issuing you a reprimand and imposing a civil penalty in the amount of \$216. 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, 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 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, Acting 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 Anne Kukowski 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, appearing to read "Darcy Miner", is written over a horizontal line.

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Acting Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Michael L. Smith
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. 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 not exceeding \$10,000 that deprives the licensee of any economic advantage gained by the violation and that 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, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACT

1. Michael L. Smith (Hereinafter "Technician"), was issued a temporary body art technician-tattoo license, effective January 9, 2012. Technician's temporary body art technician-tattoo license expired on January 9, 2013.
2. Technician's temporary body art license was renewed on April 25, 2013. Technician was issued a full body art license on September 27, 2013.
3. Processing Technician's full body art license application revealed possible unlicensed practice from January 10, 2013 to April 24, 2013. Technician's file was referred to Investigation/Enforcement unit for further investigation.
4. A Notice of Illegal Practice was sent to Technician on October 17, 2013 for unlicensed practice from January 10, 2013 to April 24, 2013. MDH requested a written response from Technician no later than November 18, 2013.

5. On November 5, 2013, MDH received a letter from Technician. Technician admitted to performing tattooing without a license on April 20, 2013.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1 because he continued to practice body art after expiration of his temporary license on January 9, 2013 and before issuance of his renewed temporary license on April 25, 2013.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$216, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.