



Minnesota
Department
of Health

Effective 11-11-16

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

September 28, 2016

Abigail Smith
[REDACTED]
[REDACTED]

RE: MDH File Number: BAC16043

Dear Ms. 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 without a valid body art technician 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 \$521. 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.

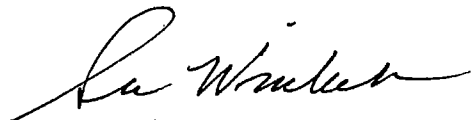
You must provide a written statement of your decision to either accept or appeal the discipline outlined in the enclosed Determination, within 30 days of your receipt of this letter, to:

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

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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 cursive script, appearing to read "Susan Winkelmann".

Susan Winkelmann, Assistant Director
Health Regulation Division

Enclosure

cc: Anne Kukowski, Manager of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Abigail Smith
Body Art Technician**

AUTHORITY

1. 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 technician license issued by MDH.
2. 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.
3. 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 or any reasonable lesser action.
4. 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 that reimburses MDH for costs of the investigation.
5. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.

FINDINGS OF FACT

1. On October 22, 2014, Abigail Smith (hereinafter "Technician") was issued a temporary body art technician license. The temporary body art technician license expired on October 22, 2015.
2. On March 04, 2016, MDH received a full body art technician license application from Technician. In the application, Technician disclosed she continued providing body art services after her temporary body art technician license expired.
3. On March 28, 2016, Technician was issued a full body art technician license.

4. Technician's application was referred to the Investigation & Enforcement Unit for unlicensed body art practice.
5. On March 29, 2016, MDH sent a Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than April 29, 2016. MDH did not receive a response from Technician.
6. On May 17, 2016, MDH sent a final Notice of Illegal Practice letter to Technician. MDH requested a written response no later than June 17, 2016. On June 16, 2016, MDH received an email from Technician. Attached to the email was a scanned copy of her written response.
7. In the response, Technician stated, "I entrusted my instructor with contracts, fee, and information to send in, he sent it and we heard nothing back, he called and apparently the licensing office lost it? I was told to keep working until everything got worked out."
8. On June 29, 2016, MDH sent a letter with questions to Technician. MDH requested a written response no later than July 29, 2016. MDH did not receive a response from Technician.
9. On August 24, 2016, MDH sent the same letter mentioned in Finding of Fact #8 to Technician. MDH requested a written response from Technician no later than September 13, 2016. MDH did not receive a response from Technician.
10. According to the list Technician provided to MDH in her application for a full license, Technician performed 91 unlicensed body art procedures from October 23, 2015 through March 27, 2016. Specifically, Technician provided: 3 unlicensed body art procedures in October 2015; 19 unlicensed body art procedures in November 2015; 15 unlicensed body art procedures in December 2015; 16 unlicensed body art procedures in January 2016; 18 unlicensed body art procedures in February 2016; and 20 unlicensed body art procedures in December 2016.
11. Tallying the amount Technician charged her clients for unlicensed body art procedures from October 23, 2015 to March 27, 2016 amounted to over \$6,400.

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 she provided body art services after the expiration of her temporary body art technician license on October 23, 2015 and before the issuance of her full body art license on March 28, 2016.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$521, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$521 civil penalty in monthly installments of up to 5 months after the effective date of this action. If Technician chooses to make installments, she must notify MDH in writing about her intentions, including how many installments she 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 Collection Enterprise (MCE), part of 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.