



Effective May 13, 2015

Protecting, maintaining and improving the health of all Minnesotans

April 13, 2015

Miranda L. Avant

RE: MDH File Number: BAC12061

Dear Ms. Avant:

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, imposing a civil penalty in the amount of \$1,284, and issuing you a conditional technician license. 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)201-3839. 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 "Darcy Miner".

Darcy Miner, Director
Health Regulation Division

Enclosure

cc: Gil Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Miranda Leigh Avant
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 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, suspension of a license, or any reasonable lesser action.
2. 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 reimburses MDH for costs of the investigation.
3. Pursuant to Minnesota Statutes, section 13.41, disciplinary actions are public data.
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.
5. Pursuant to Minnesota Statutes, section 146B.03, subdivisions 1 (a), no individual may perform tattooing unless the individual holds a valid tattoo technician license issued by MDH.

FINDINGS OF FACT

1. On October 6, 2011, Hastings Police Department faxed over to MDH a police report. The police report, case#2011-3898, stated:
 - There was a recreational vehicle parked in the driveway of
 - There were illegal tattoo activities occurring inside the recreational vehicle.
 - Officers made contact with the owner, Miranda Avant (Hereinafter "Technician") of the recreational vehicle on September 26, 2011.
 - Technician admitted to the officers she did not have a body art technician tattoo license and was aware she needed to have one in order to tattoo in Minnesota.
 - Technician admitted to tattooing her friends, including the owner of the residence the recreational vehicle was currently parked at.

2. On October 7, 2011, MDH sent a Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than November 8, 2011. A response was not received by Technician.
3. On November 10, 2011, MDH sent a 2nd Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than December 12, 2011. A response was not received by Technician.
4. On May 12, 2012, sent a 3rd Notice of Illegal Practice letter to Technician. MDH requested a written response from Practitioner no later than June 13, 2012. A response was not received by Technician.
5. On November 9, 2012, MDH received a complaint that Technician was tattooing at other people's homes without a license.
6. On July 5, 2013, MDH sent another Notice of Illegal Practice letter to Technician. On August 22, 2013, the letter came back to MDH as "Return to sender."
7. On September 3, 2014, MDH received a temporary body art technician application from Technician.
8. Technician was not issued a license as the supervisor Technician had listed already had two apprentices.
9. On September 15, 2014, MDH sent a Notice of Illegal Practice letter to Technician.
10. On October 15, 2014, MDH received a letter of response from Technician. In the letter, Technician stated:
 - "I have been a tattoo artist for almost 8 years and have never worked in a shop or even been in a shop until last month. When one of the staff at Hallows Eve tattoo called me and offered me a job, it was my first time in a shop. They informed me that I had to be licensed in order to work there. This was the first time I was ever informed that you needed a license to tattoo period. I only tattooed my family and friends as more of a hobby than a job. I was unaware you needed a license to do so."
 - "I do not have any records because it was more of a hobby and again I did not know that I was required to keep records in my circumstances."
11. On October 20, 2014, MDH sent a letter with questions to Technician. MDH requested a response no later than November 20, 2014. MDH did not receive a response from Technician.
12. On November 20, 2014, MDH sent a letter (same letter that was sent on October 20, 2014) with questions to Technician.

13. The letter inquired about the contradictory statements Technician made to MDH and to the police. In the letter of response received on October 15, 2014, Technician stated she was unaware she needed to license to tattoo. However, in the police report, Technician stated she was aware she needed a license to tattoo and that she did not have one. The letter also requested Technician update her Facebook page and to delete all reference to her tattoo activities as she cannot advertise her tattoo work unless she is licensed.
14. On December 2, 2014, MDH received a written response from Technician. In the response, Technician:
 - Thought in order to work in an establishment, one had to be licensed. Technician did not think it applied to tattooing friends at their houses.
 - Admitted to making house calls and tattooing without a license.
 - Advised she updated her Facebook page and removed all references to tattooing.
 - Asked MDH to reconsider the decision to not issue her a temporary body art technician license.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.08, subdivision 3 (3), because she practiced body art without a body art technician license, in violation of Minnesota Statutes, section 146B.03, subdivision 1 (a).

DETERMINATION

1. Technician will be issued a conditional body art technician license, with the following conditions:
 - Technician must resubmit a completed application for temporary body art technician and comply with all licensing procedures as requested by credentialing staff. Technician licensing fee of \$110, submitted on September 3, 2014, will be applied towards applicant's licensing fee.
 - Technician must be supervised by a supervisor approved by MDH.
 - Technician shall sign release forms necessary for the supervisor to report applicant's work directly to MDH.
 - This Determination does not preclude MDH from taking other disciplinary actions against Technician for other violations of Minnesota Statutes, Chapter 146B.
 - Technician will comply with all requirements of Minnesota Statutes, Chapter 146B and all county and municipal ordinances.
 - The license will be conditional for a period of not less than three years;
 - Should Technician be issued a full body art technician license, Technician will not be allowed to supervise temporary body art technicians;
 - A supervisor is expected to be knowledgeable about safe body art procedures and the state statutes that govern the practice of body art. MDH has determined that Technician violated provisions of body art chapter and that Technician demonstrated a careless disregard for the

health, welfare, or safety of a client. Therefore, Technician may not supervise temporary technicians and MDH will deny all applicants that list Technician as a supervisor for three years.

- After a period of not less than three years, Technician may request the conditional status be removed from his license. To do so, Technician must:
 - Submit a written response 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;
2. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$1,284, which deprives Practitioner of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
- Technician may pay the \$1,284 civil penalty in monthly installments of up to 6 months after the effective date of this action. If Technician chooses to make installments, she must notify MDH in writing about his 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, 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.