



Effective January 17, 2015

December 10, 2014 *Protecting, maintaining and improving the health of all Minnesotans*

Taylor O'Leary

RE: MDH File Number: BAC13086

Dear Ms. Taylor:

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 \$978. 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 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:

Gilbert 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 Gilbert 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 that reads "Darcy Miner".

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Gilbert Acevedo, Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Taylor O'Leary
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 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 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(a), no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACTS

1. Taylor O'Leary (hereinafter "Technician") was issued a body art technician license on December 20, 2011. The body art technician license expired on March 31, 2013.
2. Technician works at _____ hereinafter "_____" in _____.
3. On December 27, 2012, MDH sent a license renewal notice to Technician. The letter reminded Technician that if she wanted to avoid a late fee of \$75, MDH would need to receive the renewal application by March 1, 2013. The letter also included a checklist to assist Technician in completing the renewal process.
4. On March 19, 2013, MDH sent an email to Technician's personal email account. The email had a subject heading of "Minnesota Body Art technician License will expire on 3/31/2013." The email stated, "Taylor, I left a message on your home phone regarding the fact that we have not received your completed Body Art Technician renewal application and fee. Please send in your renewal application and fee as soon as possible as we will need time to process your renewal application. If you did not receive your

renewal application or you have misplaced the renewal application please reply to this email and I will send you a copy of the renewal application.”

5. On March 20, 2013, Technician replied back by email, “I sent an email stating that I haven’t received an application for renewal yet. If I could get one sent, I would really appreciate it. Thank you.”
6. On March 21, 2013, MDH replied back by email, “I have attached the materials you will need to begin the renewal process. Since your license is scheduled to expire on 3/31/2013 it is important that you return the completed application, proof of training and renewal fee to us as soon as possible.”
7. On April 5, 2013, MDH sent a letter to Technician. The letter advised Technician MDH did not receive a renewal application from her, that her license expired on March 31, 2013, and that she was no longer allowed to practice body art.
8. On October 30, 2013, MDH received a temporary body art technician license application from . In the application, . listed Technician as one of her supervisor. . was advised Technician could not be her supervisor as her body art technician license was no longer valid.
9. On November 20, 2013, Technician was referred to the Investigation & Enforcement Unit for possible illegal practice.
10. On December 6, 2013, MDH sent a Notice of Illegal Practice letter to Technician. MDH requested a written response from Technician no later than January 6, 2014.
11. On January 7, 2014, MDH received a written response from Technician. In response, Technician stated, “I did perform body art services, as I was unaware that my license had lapsed.”
12. On October 22, 2014, MDH sent a Notice of Illegal Practice letter to the Establishment. The letter requested all of Technician’s informed consent forms from April 1, 2013 to December 31, 2013. MDH requested a written response from the Establishment no later than November 24, 2014.
13. On November 24, 2014, MDH received a written response from the Establishment along with the requested informed consent forms.
14. A review of the informed consent forms show Technician provided 139 unlicensed pierce services. Specifically, Technician provided: 14 pierce services in April 2013, 12 pierce services in May 2013, 22 pierce services in June 2013, 25 pierce services in July 2013, 32 pierce services in August 2013, 12 pierce services in September 2013, 13 pierce services in October 2013, and 9 pierce services in November 2013.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1, because she continued to practice body art after the expiration of her body art technician license on March 31, 2013 and before the renewal of her license on January 14, 2014.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$978, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$978 civil penalty in monthly installments of up to 9 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, 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 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 the Minnesota Department of Revenue, the Minnesota Department of Revenue is authorized by Minnesota Statutes, section 16D.17, to obtain a judgment against Technician without further notice or proceedings.