

Effective 3/27/18

February 12, 2018

Mr. Jeffrey Noah Schmidt
Schmitt's Tattoo LLC

[REDACTED]
[REDACTED]

RE: MDH File Number BAC17046

Dear Mr. Schmidt,

Based on the facts and law in this matter as described in the enclosed Determination, the Minnesota Department of Health (MDH) has determined that you violated multiple sections of Minnesota Statute 146B. Therefore, the department is issuing you a reprimand and imposing a civil penalty of \$4,255. In addition, your body art technician license is hereby suspended for a period of six months. The suspension will commence at the effective date of this determination. MDH has the authority for this action pursuant to Minnesota Statute, section 146B.08, subsections 4(4) and 4(5).

This decision is final and effective 30 days from the date your legal representative receives it. During that 30-day period, you have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. You shall make requests for a hearing in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send a written hearing request, within 30 days of your receipt of this letter, to:

Catherine Dittberner Lloyd, Manager
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 Ms. Lloyd at (651)201-3839. If you have any questions about this matter, please contact Patricia Forsberg at (651)201-3721.

Sincerely,



Susan Winkelmann, Assistant Division Director
Health Regulation Division

Enclosure

CC: Catherine Dittberner Lloyd, Manager, Health Occupations Program

HEALTH OCCUPATIONS PROGRAM
HEALTH REGULATION DIVISION

**A Determination in the Matter of
Jeffrey Noah Schmidt
Licensed Body Art Technician 310011
Owner/Operator Schmitty's Tattoo LLC 410038**

Authority:

1. The Minnesota Department of Health (MDH) has authority to discipline body art technicians and establishment owner/operators for violations of law under Minnesota Statute, section 146B.08, subdivision 3.
1. Pursuant to Minnesota Statute, 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 Statute, 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 Statute, section 146B.07, subdivision 3, a Technician shall obtain from the client a signed and dated informed consent form.
4. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(2), a technician may be disciplined on proof that he or she failed, within 30 days, to provide information in response to a written request by the commissioner.
5. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(4), a technician may be disciplined for failing to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment.
6. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(7), a technician may be disciplined for not cooperating with the commissioner in an investigation conducted according to subdivision 1.
7. Pursuant to Minnesota Statute, section 146B.08, subdivision 3(10), a technician may be disciplined for demonstrating a willful or careless disregard for the health, welfare, or safety of a client.
8. Pursuant to Minnesota Statute, section 13.41, disciplinary actions are public data.

Findings of Fact:

1. Jeffrey Noah Schmidt (hereinafter "Technician") was issued a Minnesota body art technician license, number 310011, on February 27, 2014. Technician has renewed the license biannually since the original issuance. Technician is also the owner/operator of Minnesota licensed body art establishment, Schmitty's Tattoos LLC (hereinafter "Establishment"), which holds license number 410038. Establishment was originally licensed on June 28, 2010, and has been renewed every third year since the original date.

2. On May 10, 2017, MDH received a complaint regarding Technician's work. The complaint alleged Technician tattooed while impaired from the use of drugs or alcohol, on March 10, 2017. Complaint also alleges Technician passed out while tattooing her, which caused her to terminate the session. Complainant's initial tattoo was originally done by Technician on September 9, 2015. She returned to have Technician touch up the tattoo on March 10, 2017. Complainant provided before and after pictures of the tattoo. Complainant did not complete an informed consent form for the touch up session.
3. On August 16, 2017, MDH sent a notice of investigation to Technician. MDH did not receive a response. On September 26, 2017, MDH sent a second notice of investigation to Technician.
4. On October 10, 2017, MDH received a response from Technician, in which he claimed not remembering tattooing the individual on March 10, 2017. Technician has no record of tattooing the Complainant on that date.
5. On October 11, 2017, MDH sent a follow-up letter to Technician based on his response. MDH did not receive a response.
6. On December 4, 2017, MDH sent a second follow-up letter to Technician. This letter included pictures of the tattoo in question and a release form for the signed informed consent document that was completed on September 9, 2015. Response was due to MDH on January 4, 2018.
7. Technician called MDH on January 3, 2018, to ask for an extension for his response. MDH granted an extension until January 22, 2018. Technician said he would respond before that date but failed to do so.

Conclusion:

Technician violated Minnesota Statute 146B.07, subdivision 2 when he failed to obtain a signed informed consent form. Further, Technician violated sections 146B.08, subdivisions 3(4) and 3(10) when he demonstrated a careless disregard for a client due to the use of alcohol or drugs, or other physical or mental impairment. Technician also violated Minnesota Statute 146B.08, subdivisions 3(2) and 3(7) when he failed to provide information to MDH and did not cooperate with the investigation.

Determination:

1. Technician's Minnesota body art technician license is hereby suspended for a period of six months. The suspension will commence at the effective date of this determination. After a period of not less than six months, Technician may request to have license reinstated. To do so, Technician must submit a written response for the suspension to be lifted to:

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

- a. Prior to Technician's request to have his suspension lifted, he will be required to undergo a chemical dependency assessment by a Minnesota Licensed Alcohol and Drug Counselor (LADC) of his choosing
 - i. Technician must provide MDH consent to obtain the results of the assessment and any corresponding treatment plan, if necessary.

- ii. Technician is responsible for all costs incurred with assessment and subsequent treatment.
 - iii. If a treatment plan is created, Technician must comply with the terms of the plan set forth between Technician and the LADC.
 - b. Technician will comply with all requirements of Minnesota Statute, Chapter 146B.
- 2. Technician is assessed a civil penalty of \$4255 that deprives the licensee of any economic advantage gained by the violation and that reimburses MDH \$755 for costs of the investigation and proceedings resulting in disciplinary action.
 - a. Technician may pay the \$4255 civil penalty in monthly installments of up to 24 months after the effective date of this action. If Technician chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over which time period. Within 30 days of receipt of this document, Technician must send this information to:

Health Occupations Program
PO Box 64882
Saint Paul, MN 55164-0882
 - b. 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.
 - c. The penalty may be referred to 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