



Minnesota  
Department  
of Health

Effective 1-17-17

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

December 16, 2016

Mark McConnell

RE: MDH File Number: BAC16043

Dear Mr. McConnell:

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 \$421. 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

Mark McConnell  
December 16, 2016  
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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 "S 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  
Mark McConnell  
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 January 20, 2015, MDH received a temporary body art technician application from Mark McConnell (hereinafter "Technician").
2. On January 21, 2015, Technician was issued temporary body art technician license #T311453. Technician's temporary body art license expired on January 21, 2016.
3. On February 19, 2016, MDH sent Technician a letter. The letter advised Technician his temporary license had expired. The letter also provided Technician a link to MDH's body art website where he could print out a renewal application.

4. On March 7, 2016, the letter mentioned in Findings of Fact #3 came back to MDH as "Return to Sender," "Not Deliverable as Addressed," and "Unable to Forward."
5. On April 29, 2016, Technician's supervisor called MDH and advised Technician had been tattooing with an expired license. Technician's supervisor stated Technician's full body art technician license application will be submitted as soon as possible.
6. On May 5, 2016, MDH received a full body art technician license application from Technician.
7. In the application, Technician answered question #7 by listing a body art establishment in Duluth as his work place and that he had been employed there from "3/16/14 – 4/28/16."
8. Due to the incompleteness of the application, Technician was not issued a full body art technician license until June 14, 2016.
9. On June 21, 2016, MDH sent Technician a letter. The letter inquired whether Technician provided body art services during the time his license lapsed. MDH requested a response from Technician no later than July 21, 2016. MDH did not receive a response from Technician.
10. On July 25, 2016, MDH sent Technician a second letter and requested a response from Technician no later than August 15, 2016. MDH did not receive a response from Technician.
11. On September 13, 2016, a Notice of Investigation letter was sent to Technician for failure, within 30 days, to provide information in response to a written request by MDH. The same letter was also emailed to Technician. MDH requested a response from Technician by October 13, 2016.
12. On October 5, 2016, MDH received an email response from Technician. Attached to the email were list of dates Technician provided unlicensed body art services and the amount charged to clients. From January 22, 2016, through June 13, 2016, Technician performed 35 unlicensed body art procedures and charged the clients over \$1400.
13. When asked to provide a statement regarding his unlicensed practices, Technician stated he is currently studying in college and lost track of his license's expiration date. Technician stated, "I apologize that I didn't realize my license expired. Like I mentioned, I became overwhelmed with my studies, and school, so much that I had to cut back tattooing, I love tattooing, though. I wish it were easy to balance both, but alas, it is not."

## **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 he provided body art services after the expiration of his temporary body art technician license on January 21, 2016 and before the issuance of his full body art license on June 14, 2016.
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## **DETERMINATION**

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$421, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
    - Technician may pay the \$421 civil penalty in monthly installments of up to four 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. 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 Department of Revenue, or any other source for collection, if Practitioner misses a monthly payment by 14 calendar days after the established deadline.
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