

HEALTH OCCUPATIONS PROGRAM
HEALTH REGULATION DIVISION

**A Determination in the Matter of
Deanah Johnson
Body Art Technician 312751**

Authority:

The Minnesota Department of Health, Health Occupations Program – Body Art (“Department”), is authorized, pursuant to Minnesota statutes, Chapter 146B, to license body art establishments, temporary events, and technicians, enforce state laws relating to the application of body art, piercing and inspection of licensed body art establishments. Pursuant to Minn. Stat. §146B.08, subd. 1, the Department has authority to investigate allegations of Chapter 146B violations. If the Department determines that a licensee has violated a provision of Chapter 146B, it has the authority to order corrections, revoke, suspend, refuse to grant, or renew licensure or take any reasonable action against a license and to assess administrative penalties in an amount up to \$10,000 per violation under Minn. Stat. §146B.08.

Findings of Fact:

On October 6th, 2023, the Department received a complaint alleging Body Art Technician Deanah Johnson (“Johnson”), technician number 312751, provided unlicensed body art services and displayed an invalid technician license. The complaint alleged Johnson failed to renew her license on or before March 31, 2023, when the license expired, yet continued to provide body art services at Black Coffin Tattoo. The complaint alleged Johnson displayed an invalid and possibly altered body art license at Black Coffin Tattoo, with an expiration date of March 31, 2024.

Included in the complaint was a photo of the alleged invalid license being displayed at Black Coffin Tattoo. The included photo showed an MDH Body Art Technician license, issued to Deanah Johnson, with an issuance date of “2021-04-01” and an expiration date of “2024-03-31”.

1. On October 12, 2023, the Department opened an investigation. The Department determined the following using the Body Art Technician Licensing System (BATLS):

- a. Deanah Johnson was issued a body art technician license on November 11, 2019. Johnson last renewed her license on April 1, 2021. Johnson's license expired on March 31, 2023. Body art technician licenses are issued for two years under Minn. Stat. §146B.03 subd. 6.
 - b. Johnson submitted a body art license renewal application on May 15, 2023, but failed to pay the \$420.00 renewal fee and the \$150.00 late fee at that time. Johnson's renewal application was placed into a "pending" status until she paid the required fees, and a current license was not issued.
 - c. The Minnesota Department of Health, Licensing, Certification and Registration (LCR) notified Johnson on July 28, 2023, that she had still not paid the renewal fee and did not have a current license. The Department reminded Johnson that she was not allowed to work as a body art technician nor provide any body art services until she had a current license.
 - d. The BATLS portal allows Department staff to view a digital copy of the license issued to a technician. The license displayed in BATLS is the exact license issued to a technician. The Department viewed the digital copy of Johnson's license in BATLS. Technicians also have access to BATLS and are expected to download and print this license as the Department does not provide a physical copy to technicians. The license from BATLS showed Johnson's license was issued on April 1, 2021, and expired on March 31, 2023.
2. The Department confirmed with Minnesota IT Services (MNIT), the technical service provider of the BATLS portal, that the expiration date on the body art technician licenses is automatically generated for two years and one day from the issuance date. There is no indication the body art technician license issued to Johnson on April 1, 2021 had been miscalculated by the BATLS system.
3. On November 9, 2023, the Department sent a notice of investigation letter to Johnson. The Department notified Johnson that a complaint had been received alleging she was providing body art services while her license was expired and an investigation into the allegation was open.

4. On November 9, 2023, Johnson and the owner of Black Coffin Tattoo contacted the Department by phone regarding the notice of investigation.
 - a. The Department asked Johnson to provide all her body art consent forms from April 1, 2023, to November 9th, 2023. These consent forms would be necessary to determine how many body art procedures were provided during the specified period that Johnson's license was expired.
 - b. The Department also asked Johnson the following questions:
 - i. Why did Johnson not renew her license in March of 2023 when it expired?
 - ii. Why was Johnson providing body art services with an expired technician license?
 - iii. Why did Johnson not respond to LCR in July of 2023 when notified that her license was expired?
 - iv. Why was Johnson displaying an invalid technician license with an incorrect expiration date?
 - c. In response to the Department's questions, Johnson made the following statements:
 - i. Johnson believed she had paid the \$420.00 renewal fee and the \$150.00 late fee on May 14, 2023. Johnson was unsure why her license was still listed as expired.
 - ii. Johnson did not recall getting an email or any other type of notification from LCR in July of 2023, which would have informed her that her license was expired and that she could not provide body art services until she renewed her license.
 - iii. Johnson did not know why the expiration date on her displayed technician license was listed as March 31, 2024. Johnson believed she had renewed her license in May of 2023 and claimed she had not noticed the issuance or expiration date discrepancies.

- iv. Johnson used the BATLS portal to complete the license renewal. Believing she had successfully renewed her license; Johnson printed the license from the BATLS portal.
- v. Johnson believed the license she printed from BATLS was current, and subsequently displayed the newly printed license at Black Coffin Tattoo.
- vi. Johnson denied that she or anyone else altered her body art license to extend the expiration date. Johnson reiterated that she thought she had renewed her license by paying all the associated fees on the BATLS portal and displayed the license which had been printed from BATLS.

At the conclusion of the phone conversation, the Department advised Johnson to stop providing body art services, if she still was, as her license was expired.

- 5. On November 14, 2023, the Department conducted an on-site visit of Black Coffin Tattoo to review Johnson's tattoo consent forms and logs from April 1, 2023 to November 9, 2023. The Department met with Johnson in person at the establishment, and both viewed and photographed Johnson's displayed body art technician license.

The displayed license had no noticeable discrepancies or discernable alterations in the font size or MDH watermark. The noticeable concerning difference in the displayed license versus the license MDH staff viewed in BATLS was the expiration date. The license Johnson displayed at Black Coffin Tattoo had an expiration date of March 31, 2024.

The Department viewed and photographed Johnson's tattoo logs and viewed Johnson's consent forms from April 1, 2023, to November 9, 2023. The Department determined Johnson provided 87 tattoos and collected \$16,600.00 in compensation during that time. Johnson also provided the following documents:

- a. A copy of Johnson's bloodborne pathogen certificate which showed she paid and passed the exam on May 14, 2023. This certificate is required to be current at the time of renewal and often is completed around the same time as the technician license renewal.
- b. A copy of Johnson's business Venmo account with a deduction of \$570.00 on May

14, 2023. This is the day Johnson believed she had paid MDH for her technician license renewal.

6. On November 15, 2023, the Department received a phone call from Johnson. During the phone conversation, Johnson made the following statements:
 - a. Johnson explained that the \$570.00 deposit from her business Venmo account was a fund transfer to her personal bank account.
 - b. Johnson explained that she could not pay the renewal fee on BATLS using Venmo and had to transfer the money from her business Venmo account to her traditional bank account to use her debit card.
 - c. Johnson believed after she transferred the money from her Venmo account to her personal banking account, she forgot to pay the renewal fee on BATLS.
 - d. Johnson admitted that she no longer believed she had paid the \$420.00 renewal and \$150.00 late fee in May of 2023.
7. On November 16, 2023, the Department reviewed financial information relating to Johnson's body art technician license. The information showed Johnson made the following payments to the Department:
 - a. \$420.00 on March 17, 2021, for her technician license.
 - b. \$420.00 on November 11, 2023, for her technician license
 - c. \$150.00 on November 11 2023, as a late fee.
8. On November 16, 2023, Johnson was issued a current body art technician license. This license expires on November 15, 2024.
9. As part of the investigation, the Department confirmed with LCR that no body art technician license has ever been issued to a body art technician for a 3-year period. It was also confirmed that Johnson received one email notification on July 28, 2023, advising her that her license renewal application was not approved due to non-payment. This email was entered into the BATLS portal at the time it was sent.

Conclusion:

Minn. Stat. §146B.08 subds. 3-4 identify specific disciplinary actions that can be taken and the grounds under which discipline can be imposed.

Minn. Stat. §146B.03, subd. 1, states: *“No individual may perform tattooing unless the individual holds a valid tattoo technician license issued by the commissioner under this chapter, except as provided in subdivision 3. ”*

Minn. Stat. §146B.03 subd. 9, states: *“...A valid license must be displayed at the establishment site and available to the public upon request.”*

Based on the facts presented above, the Department finds Johnson violated Minnesota Statutes, chapter 146B. Pursuant to Minn. Stat. 146B.08 subd. 4(5), Johnson is assessed a civil monetary penalty based on the conclusions listed below:

- Johnson provided body art services between April 1, 2023 and November 9, 2023 without a current Minnesota body art technician license. Johnson provided 87 tattoos and collected \$16,600 in compensation. This occurred in violation of Minn. Stat. §146B.03 subd. 1.
 - Johnson was issued a body art technician license on April 1, 2021, which had an expiration date of March 31, 2023. Although at one point Johnson claimed she attempted to pay a renewal fee around May 15, 2023, she did not successfully renew her license at that time.
- Between April 1, 2023, and November 9, 2023, Johnson failed to display a valid body art technician license at Black Coffin Tattoo. This occurred in violation of Minn. Stat. §146B.03 subd. 9.
 - During that time, Johnson displayed a body art technician license effective April 1, 2021 – March 31, 2024. As stated above, according to Department records, Johnson was never issued a license with a March 31, 2024 expiration date because body art technician licenses are not issued for three years. The Department looked in BATLS (the licensing system) and verified Johnson’s license expired on March 31, 2021. Department staff viewed the same license issued to Johnson to confirm the expiration date. MNIT confirmed that BATLS automatically calculated the license to expire two years and one day after issuance – there is no reason to

believe an error was made. These facts, combined with Johnson's statements to investigators that she didn't actually think she had renewed her license in May 2023, indicate Johnson knew she was practicing without a license and had not renewed it, as she originally claimed.

- Due to the discrepancy between the expiration date on the license the Department viewed in BATLS and the expiration date on the license the Department viewed at Black Coffin Tattoo, the findings indicate Johnson displayed an altered license.

Determination: Penalty Assessed

Pursuant to Minn. Stat. §146B.08, subd. 4, Johnson is assessed a civil penalty of \$800. In setting this penalty amount, the Department considered:

1. The Department's statutory ability to assess up to \$10,000 for each specific violation identified in an investigation.
2. Johnson practiced without a license for just under 8 months.
3. Johnson economically benefited in the amount of \$16,000 from providing unlicensed body art services.
4. Johnson knew or should have known that she was practicing without a license between April 1, 2023 and November 9, 2023.
5. Johnson failed to display a valid body art technician license at Black Coffin Tattoo between April 1, 2023, and November 9, 2023.
6. Johnson displayed a license that had an expiration date of March 31, 2024 (three years from issuance). Minnesota statutes do not permit the issuance of body art licenses for three years and there is no reason to believe that an error was made in the licensing system. The facts indicate the license Johnson displayed had been altered.
7. Under Minn Stat. 146B.10 subd. 2(a), a \$200 technical violation fee is to be assessed for any part of the first month, plus \$200 for any part of any subsequent month up to one year, for a technician practicing body art after expiration of their body art license. A technical violation fee was not assessed in this case. Johnson could have been assessed a total of \$1,600 in technical violation fees due to the length of her expired license. The amount of \$800.00 (based on the facts above) reflects the fact that Johnson has not faced prior discipline before this incident and addresses the statutory factors in chapter 146B

as to how to assess a penalty amount.

How to Pay the Penalty Assessed

Johnson shall pay the \$800 assessed civil penalty once the Department has issued an invoice outlining instructions for submitting payment.

If sixty (60) calendar days pass between the established due date of the payment and when Johnson pays, the penalty may be referred to the Minnesota Department of Revenue, (MNDOR), or any other source for collection. When this determination for a penalty becomes public and the Department refers the matter to MNDOR, MNDOR is authorized by Minn. Stat. § 16D.17 to obtain judgment against Johnson without further notice or proceeding.

Request for a Hearing:

Under Minnesota Statutes, section 146B.08 subdivision 2, a licensee may not be disciplined without first being granted an opportunity for a contested case hearing under Minnesota Statutes, Chapter 14. If you choose to request a contested case hearing, please let the Department know within thirty (30) days of receipt of this determination, which constitutes notice of the Department's findings. If you need more time, please communicate promptly to the Department which will evaluate your request on a case-by-case basis. Requests for a hearing can be made via an online form or mailed/delivered to the address below.

To request a hearing via an online form, please use the following link:

<https://forms.web.health.state.mn.us/form/HRDAppealsForm>

If you choose to mail/deliver your hearing request, please direct correspondence to:

Minnesota Department of Health
Reconsideration Unit
HRD 3A, PO Box 64970
Saint Paul, MN 55164-0970

SO ORDERED this _____ day of _____ .

Maria King, Division Director

Health Regulation Division
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