

FILED
APR 15 2016
DHHS Hearing Office

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATE OF NEBRASKA ex rel. DOUGLAS)
J. PETERSON, Attorney General,)
)
Plaintiff,)
)
vs.)
)
SKINI'S,)
)
Defendant.)

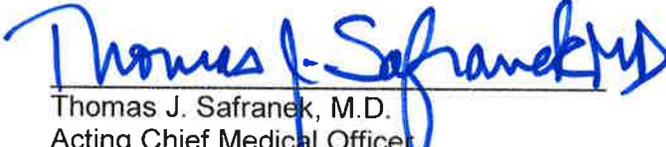
152309 BODY ART FACILITY
ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on April 8, 2016.

ORDER

- 1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
- 2. The facts as set out in the Petition are taken as true and adopted herein.
- 3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 14th day of April, 2016.


Thomas J. Safranek, M.D.
Acting Chief Medical Officer
Division of Public Health
Department of Health and Human Services

Civil penalty, if imposed, should be mailed to: DHHS, Division of Public Health, Licensure Unit, ATTN: Diane Pearson, P.O. Box 94986, Lincoln, NE 68509.

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 15th day of April, 2016, a copy of the foregoing ORDER ON AGREED SETTLEMENT was sent certified United States Mail, postage prepaid, return receipt requested to the Defendant's Attorney, Richard Boucher, 5555 S 27th Street, Suite A, Lincoln NE 68512, and by e-mail to Ed Vierk, Assistant Attorney General, ago.health@nebraska.gov.


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STATE OF NEBRASKA
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

STATE OF NEBRASKA ex rel. DOUGLAS)
J. PETERSON, Attorney General,)

Plaintiff,)

vs.)

SKINI'S, BODY ART-FAC,)

Defendant.)

AGREED SETTLEMENT

The Plaintiff and the Defendant, Skini's body art facility, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Skini's, body art facility, was issued a body art facility license (#53) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").

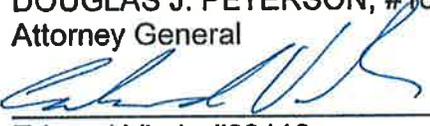
2. The Defendant's owner acknowledges receipt of a copy of the Amended Petition for Disciplinary Action and waives the need for further service of the Amended Petition upon it.

3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant's owner waives the right to a hearing. The Defendant's owner also waives any right to judicial review of a disciplinary order which approves the terms of this Agreed Settlement.

4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant's owner to induce him to enter into this Agreed Settlement.

STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON, Attorney
General,
Plaintiff,

BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: 
Edward Vierk, #22118
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
(402) 471-1886

Attorneys for the Plaintiff.



STATE OF NEBRASKA
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

STATE OF NEBRASKA ex rel.)
DOUGLAS J. PETERSON,)
Attorney General,)
)
Plaintiff,)
)
v.)
)
SKINI'S, BODY ART-FAC,)
)
Defendant.)

AMENDED
PETITION FOR
DISCIPLINARY ACTION

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 (Reissue 2008) and 38-186 (Cum. Supp. 2014).
2. At all times relevant herein, the Defendant, Skini's body art facility, has been the holder of a body art facility license (#53) to practice as a body art facility issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of body art facilities.
4. The Nebraska Board of Cosmetology, Electrology, Esthetics, Nail Technology and Body Art considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2008).

[Handwritten signature]
3.21.16

5. In March of 2014, the Department received a complaint that Skini's body art facility (hereinafter, "Skini's") was allowing an unlicensed person to perform body piercings at Skini's.
6. On July 3, 2014, the Department received a Body Art License Application for A.M. and fee of \$95.00 paid by Skini's.
7. On July 8, 2014, a Department investigator spoke with Witness "A.," a former employee of Skini's, who told the investigator that A.M., an unlicensed individual had been providing body piercing services to clients at Skini's.
8. On July 22, 2014, the Department investigator found an entry on A.M.'s personal Facebook page stating that A.M. had been a body piercer at Skini's from "2011 to present."
9. On July 23, 2014, the Department emailed a request for additional information to A.M., regarding missing information required for A.M.'s Body Art License Application. A.M. never provided the requested information and as a result, her application remained incomplete.
10. On October 29, 2014, the Department investigator found entries on A.M.'s Facebook page, dated March 13, 2014, that stated, "Skini's is now open for Piercings!!!! Come in guys and get poked!!!!" and "[T]hey did not have a piercer, however i am the new piercer"
11. On October 31, 2014, Ralph Johnson, the owner of Skini's, said to the Department investigator that he believed A.M. had provided body piercings to customers at Skini's in 2014. Johnson also informed the investigator that he had asked A.M. about her body art license, and that A.M. said she would bring it in but never returned to the shop.
12. As of this date, A.M. has not been issued a Nebraska Body Art License.


3.21.14

13. Neb. Rev. Stat. § 38-1060 (1) (Reissue 2008) provides that no person shall perform any of the practices of body art or display a sign to, or in any other way, advertise or purport to be engaged in the business of practicing body art unless such person is licensed by the Department.
14. Neb. Rev. Stat. § 38-1008 (Reissue 2008) defines body art as body piercing, branding, permanent color technology, and tattooing.
15. Neb. Rev. Stat. § 38-178(10) (Reissue 2008) provides that a professional license may be disciplined for permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so.
16. The Defendant's conduct above is grounds for discipline.

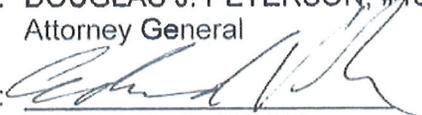
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice as a Body Art Facility in the State of Nebraska pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2008), and tax the costs of this action to the Defendant.

RB
4-3-21-16

STATE OF NEBRASKA ex rel.
DOUGLAS J. PETERSON,
Attorney General,
Plaintiff,

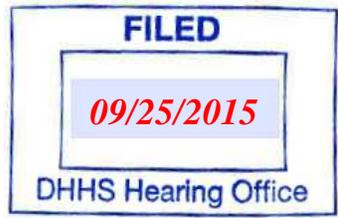
BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: 
Edward Vierk, #22118
Assistant Attorney General
2115 State Capitol
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(402) 471-1886

Attorneys for the Plaintiff.

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2.21.16



STATE OF NEBRASKA
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SKINI'S, BODY ART-FAC,)
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PETITION FOR
DISCIPLINARY ACTION

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 (Reissue 2008) and 38-186 (Cum. Supp. 2014).
2. At all times relevant herein, the Defendant, Skini's body art facility, has been the holder of a body art facility license (#53) to practice as a body art facility issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of body art facilities.
4. The Nebraska Board of Cosmetology, Electrology, Esthetics, Nail Technology and Body Art considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2008).

5. In March of 2014, the Department received a complaint that Skini's body art facility (hereinafter, "Skini's") was allowing an unlicensed person to perform body piercings at Skini's.
6. On July 8, 2014, a Department investigator spoke with Witness "A.," a former employee of Skini's, who told the investigator that A.M., an unlicensed individual had been providing body piercing services to clients at Skini's.
7. On July 22, 2014, the Department investigator found an entry on A.M.'s Facebook page stating that A.M. had been a body piercer at Skini's from "2011 to present."
8. On October 29, 2014, the Department investigator found entries on A.M.'s Facebook page, dated March 13, 2014, that stated, "Skini's is now open for Piercings!!!! Come in guys and get poked!!!!" and "[T]hey did not have a piercer, however i am the new piercer"
9. A.M. does not hold a body art license.
10. On October 31, 2014, Ralph Johnson, the owner of Skini's, admitted that A.M. provided body piercings to customers at Skini's in May and June of 2014.
11. Neb. Rev. Stat. § 38-1060 (1) (Reissue 2008) provides that no person shall perform any of the practices of body art or display a sign to, or in any other way, advertise or purport to be engaged in the business of practicing body art unless such person is licensed by the department.
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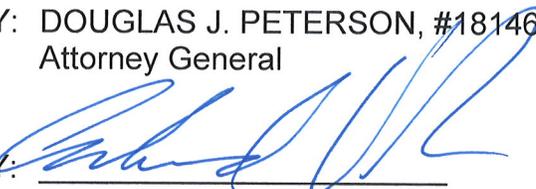
14. The Defendant's conduct above is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice as a Body Art Facility in the State of Nebraska pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2008), and tax the costs of this action to the Defendant.

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BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: 
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Attorneys for the Plaintiff.