

657—10.10(124) Denial of application or discipline of registration.

10.10(1) *Grounds for denial or discipline.* The board may deny any application or discipline any registration upon a finding that the applicant or registrant:

- a.* Has furnished false or fraudulent material information.
- b.* Has had the applicant's or registrant's federal registration to manufacture, distribute, or dispense controlled substances suspended, revoked, or otherwise sanctioned.
- c.* Has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this rule only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even if entry of the judgment or sentence has been withheld and the applicant or registrant has been placed on probation.
- d.* Has committed such acts as would render the applicant's or registrant's registration under Iowa Code section 124.303 inconsistent with the public interest as determined by that section.
- e.* Has been subject to discipline by the applicant's or registrant's respective professional licensing board and the discipline revokes or suspends the applicant's or registrant's professional license or otherwise disciplines the applicant's or registrant's professional license in a way that restricts the applicant's or registrant's authority to handle or prescribe controlled substances. A copy of the record of licensee discipline or a copy of the licensee's surrender of the professional license shall be conclusive evidence.
- f.* Has failed to obtain or maintain active registration while engaged in activities which require registration.

10.10(2) *Considerations in denial of application or discipline of registration.* In determining the public interest, the board shall consider all the following factors:

- a.* Maintenance of effective controls against diversion of controlled substances into channels other than legitimate medical, scientific, or industrial channels.
- b.* Compliance with applicable state and local law.
- c.* Any convictions of the applicant or registrant under any federal and state laws relating to any controlled substance.
- d.* Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's or registrant's establishment of effective controls against diversion.
- e.* Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.
- f.* Suspension or revocation of the applicant's or registrant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.
- g.* Any other factors relevant to and consistent with the public health and safety.
- h.* Failure of a prescribing practitioner, except a licensed veterinarian, to register with the PMP pursuant to subrule 10.5(2).

10.10(3) *Proceedings.*

- a.* Prior to denying an application for registration, the board shall serve upon the applicant a notice of intent to deny the application. An applicant has 30 days to appeal a notice of intent to deny the application. If the notice of intent to deny the application is timely appealed, a notice of hearing shall be issued, initiating a contested case proceeding governed by 657—Chapter 35. Proceedings to refuse renewal of a registration shall not abate the existing registration, which shall remain in effect pending the outcome of the contested case proceeding. A registration may be disciplined in accordance with 657—Chapters 35 and 36.
- b.* Prior to sanctioning a registration, the board shall serve upon the registrant a notice of hearing and statement of charges. The notice shall contain a statement of the basis therefore and shall call upon the registrant to appear before an administrative law judge or the board at a time and place not less than 30 days after the date of service of the notice. The notice shall also contain a statement of the legal basis for such hearing and for the sanction of registration and a summary of the matters of fact and law asserted. Proceedings to refuse renewal of registration shall not abate the existing registration, which shall remain in effect pending the outcome of the administrative hearing unless the board issues an order of immediate suspension. A registration may be disciplined in accordance with 657—Chapters 35 and 36.

10.10(4) *Disposition of controlled substances.* Upon service of an order of the board suspending or revoking a registration, the registrant shall deliver all affected controlled substances in the registrant's possession to the board or authorized agent of the board. Upon receiving the affected controlled substances from the registrant, the board or its authorized agent shall place all such substances under seal and retain the sealed controlled substances pending final resolution of any appeals or until a court of competent jurisdiction directs otherwise. No disposition may be made of the substances under seal until the time for filing an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of proceeds of the sale with the court. Upon a revocation order's becoming final, all such controlled substances may be forfeited to the state.

[ARC 4455C, IAB 5/22/19, effective 6/26/19]