

481—492.16(10A) Adverse actions and appeals.

492.16(1) Failure to abide by Iowa Code section 10A.531 or this chapter may result in adverse action, including the denial or revocation of a permit, or an order to cease operations until necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may refer the matter to the county attorney or attorney general for injunction, criminal penalties, or other appropriate action.

492.16(2) The following are particular instances that may result in adverse action as set forth in subrule 492.16(1):

- a.* Any material misstatement in the application, renewal, or any supplementary statement.
- b.* Failure to pay fees in accordance with this chapter.
- c.* Operation without a current permit.
- d.* Falsification of records, qualifications, or other information related to permitting approval.
- e.* Failure to correct any violation identified during an inspection that jeopardizes public safety.
- f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include:

- (1) Verbally or physically abusing a patron.
- (2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a patron. Sexual harassment includes sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

- (3) Betrayal of a professional confidence.
- (4) Engaging in a professional conflict of interest.
- g.* Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.

- h.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

- i.* Knowingly aiding, assisting or advising a person to unlawfully practice tattooing.
- j.* Representing oneself as a tattoo artist when one's permit has been denied, suspended, revoked, lapsed, or placed on inactive status.

- k.* Mental or physical inability reasonably related to and adversely affecting the tattoo artist's ability to practice in a safe and competent manner.

- l.* Habitual intoxication or addiction to drugs, including habitual or excessive use of drugs or alcohol that impair a tattoo artist's ability to practice with reasonable skill or safety.

- m.* Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

- n.* Violating a statute of this state or another jurisdiction relating to the provision of tattooing, including but not limited to crimes involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

- o.* Having a certification or permit to practice tattooing suspended or revoked, or other disciplinary action taken by a licensing, certifying, or permitting authority in any jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

- p.* Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

- q.* Failure to appropriately respond to written communication from the department sent by registered or certified mail.

492.16(3) Notice of issuance of a denial, revocation, or order to cease operations will be served by certified mail, return receipt requested, or by personal service.

492.16(4) An aggrieved party may request a contested case appeal in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. 7—Chapter 2506 and 481—Chapter 10 are applicable to contested case appeals.

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