



**WAIVER FOR EMPLOYMENT**

A person who has entered a plea of guilty, no contest, *nolo contendere*, or otherwise been convicted of a criminal act involving controlled substances, cannot be hired in a position where they have access to controlled substances, until the registrant/employer has first obtained the required waivers.

Regardless what the sentence or punishment was, this statute applies when a person has entered a plea of guilty, no contest or *nolo contendere*, even if the person received a suspended sentence.

When determining whether to grant a waiver of this type, the Bureau shall be fair and consistent in dealing with all registrants from all professions, according to the provisions set forth in Section 195.040.2, RSMo 2000, which states:

No registration shall be granted to any person who has within two years been finally adjudicated and found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, for any misdemeanor offense or within seven years for any felony offense related to controlled substances. No registration shall be granted to any person who is abusing controlled substances.

Regulation 19 CSR 30-1.034(2) states:

**(2) Other Security.**

(A) The registrant shall not employ as an agent or employee who has access to controlled substances any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances or who has had an application for a state or federal controlled substance registration denied or has had his/her registration revoked or surrendered for cause at any time. for purposes of this subsection, the term for cause means a surrender in place of or as a consequence of any federal or state administrative, civil or criminal action resulting from an investigation of the individual's handling of controlled substances.

1. A registrant may apply in writing to the Department of Health for a waiver of subsection (2)(A) of this rule for a specific employee.

2. The Department of Health may issue a written waiver to any registrant upon determination that a waiver would be consistent with the public health and safety. In making this determination, the Department of Health shall consider – the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76, the security measures taken by the employer to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety.

If the person has been convicted of a misdemeanor, only a waiver from the BNDD is required. If the person entered a plea of guilty to a felony, a waiver from the United States Drug Enforcement Administration is required before applying for the state BNDD waiver.

Please answer the questions listed on the attached page and return them to the Bureau of Narcotics and Dangerous Drugs, P.O. Box 570, Jefferson City, MO 65102-0570. If you have any questions, you may call the Bureau at (573) 751-6321.

## **BNDD WAIVER QUESTIONNAIRE**

1. NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER AND HOME ADDRESS OF THE EMPLOYEE

2. A STATEMENT FROM THE EMPLOYEE DESCRIBING THE CIRCUMSTANCES AROUND THEIR CRIME OR ADMINISTRATIVE DISCIPLINARY ACTION.

3. THE COUNTY AND STATE OF THE GUILTY PLEA OR CONVICTION, THE DATE OF THEIR CONVICTION AND THE EXACT CHARGES THAT THE DEFENDANT PLED TO.

4. WHAT WAS THE FINAL JUDGMENT AND SENTENCE ISSUED BY THE CRIMINAL COURT OR FINAL DISCIPLINE ISSUED BY THE ADMINISTRATIVE BODY IMPOSING REGULATORY DISCIPLINE?

5. WAS THE CRIME/CONVICTION A MISDEMEANOR OR FELONY? IF THE CRIME WAS A MISDEMEANOR, YOU MAY PROCEED WITH THIS PROCESS. IF THE CRIME/CONVICTION WAS A FELONY, YOU MUST FIRST OBTAIN A WAIVER FROM THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION (DEA) AND SUBMIT THE DEA WAIVER FOR THE BUREAU'S CONSIDERATION. IF YOUR DISCIPLINE WAS NOT A CRIMINAL CHARGE, BUT VOLUNTARY SURRENDER FOR CAUSE, OR A REVOCATION OR DENIAL OF YOUR CONTROLLED SUBSTANCE REGISTRATION, YOU MUST ALSO OBTAIN A WAIVER FROM THE DEA FOR SUBMISSION TO THE BUREAU.

6. WHAT ARE THE DUTIES OF THE EMPLOYEE? WHAT ACCESS TO CONTROLLED SUBSTANCES DO THEY HAVE?

7. WHAT EXTRA SECURITY MEASURES HAS THE EMPLOYER TAKEN TO PREVENT THEFT AND DIVERSION? (*i.e. cameras, monitors, perpetual inventory, routine audits, random drug testing, not allowing the employee to work unsupervised*)

8. IF THE EMPLOYEE IS A LICENSED PROFESSIONAL (*i.e. physician or pharmacist*) IS THEIR PROFESSIONAL LICENSING BOARD AWARE OF THE CRIME/CONVICTION?

9. NAME OF REGISTRANT AND NAME OF EMPLOYER REQUESTING THE WAIVER.