



MEMO

To: Missouri Ambulance Services holding a BNDD/DEA Registration
From: Les Jobe, Chief, Bureau of EMS
Date: 8/18/2014
Re: Licensed Personnel with Controlled Substance Criminal Histories



For those EMS services holding registration(s) with the Missouri Department of Health and Senior Services, Bureau of Narcotic and Dangerous Drugs (BNDD), the Missouri Department of Health and Senior Services, Bureau of EMS (BEMS) brings to your attention state and federal regulations placed on the employer (ambulance service) regarding licensed personnel who have entered a plea of guilty or were found guilty of crimes involving controlled substances. Please note that street drugs such as marijuana, heroin etc... are also considered to be controlled substances in Missouri.

Missouri regulation 19 CSR 30-1.034(2)(A) states as follows:

(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 and Senior Services for a waiver of subsection (2)(A) of this rule for a specific employee.
2. The Department of Health and Senior Services 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 and Senior Services shall consider – the duties of the employee, the circumstances

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surrounding the conviction, the length of time since the conviction was entered, whether a wavier 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 the public health and safety.

Federal regulation 21 CFR 1301.76(a) states as follows:

(a) The registrant shall not employ, as an agent or employee who has access to controlled substances, any person who has been convicted of a felony offense relating to controlled substances or who, at any time, had an application for registration with the DEA denied, had a DEA registration revoked or has surrendered a DEA registration for cause. For purposes of this subsection, the term 'for cause' means a surrender in lieu 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.

BNDD and DEA expect ambulance services that are registered with BNDD and DEA for controlled substances to have policies and procedures in place to assure compliance with these regulations. You may wish to consult with legal counsel for your ambulance service if you have any questions. Please see 21 CFR 1301.90-.93 for more guidance from the DEA regarding employee screening procedures. In addition, if you have any questions about the information in this memo, please feel free to contact BNDD at (573) 751-6321 or you can visit BNDD's website at www.health.mo.gov.