

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7311 Actions by disciplinary subcommittee; grounds; limitation; conviction of felony; placing under seal or seizing controlled substances; disposition of controlled substances; judicial order for sale; deposit of proceeds; forfeiture of controlled substances; notice of orders and forfeitures; voiding license under MCL 333.7306; effect of conviction; applicability of subsection (7).

Sec. 7311.

(1) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance may be denied, suspended, or revoked or a licensee may be fined, reprimanded, ordered to perform community service or make restitution, or placed on probation by the disciplinary subcommittee upon a finding that an applicant for licensure or a licensee is subject to any of the following:

(a) The applicant or licensee has furnished false or fraudulent material information in an application filed under this article.

(b) The applicant's or licensee's federal registration to manufacture, distribute, or dispense controlled substances has been surrendered, suspended, or revoked.

(c) The applicant or licensee has promoted a controlled substance to the general public.

(d) The applicant or licensee is not a practitioner, manufacturer, or distributor.

(e) The applicant or licensee has not maintained effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial uses.

(f) The applicant or licensee is not in compliance with applicable federal, state, and local laws.

(g) The applicant or licensee has manufactured, distributed, or dispensed a controlled substance for other than legitimate or professionally recognized therapeutic, scientific, or industrial purposes or outside the scope of practice of the practitioner-licensee or applicant.

(h) The applicant or licensee has violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate this article or rules of the administrator promulgated under this article.

(2) The disciplinary subcommittee may limit a license under subsection (1) to a particular controlled substance.

(3) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance shall be denied or revoked by the disciplinary subcommittee if the applicant or licensee has been convicted of a felony under a state or federal law relating to a controlled substance.

(4) If the disciplinary subcommittee suspends or revokes a license or if a license is void under subsection (6), all controlled substances owned or possessed by the licensee at the time of suspension or the effective date of the revocation order may be placed under seal or seized at the discretion of the disciplinary subcommittee. The department shall not dispose of controlled substances under seal or seizure until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable controlled substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final or after a license becomes void under subsection (6) because the licensee's license to practice is revoked under article 15 and that revocation order becomes final, the disciplinary subcommittee may order all controlled substances under seal or seizure to be forfeited to this state.

(5) The disciplinary subcommittee shall promptly notify the bureau of all orders suspending or revoking a license and all forfeitures of controlled substances.

(6) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance is automatically void if the licensee's license to practice is suspended or revoked under article 15.

(7) Subject to subsection (8), if the administrator or the disciplinary subcommittee finds that an applicant or licensee has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance, the applicant or licensee shall not have a direct financial interest in or be employed by a person who is licensed under this article to manufacture, distribute, prescribe, or dispense a controlled substance in a capacity in which the individual has direct access to controlled substances for a period of not less than 3 years after the date of conviction. An individual who violates this subsection is subject to a civil fine of not more than \$25,000.00 in a proceeding in the circuit court.

(8) Subsection (7) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (7) does not apply to a conviction for a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 29, Eff. Aug. 26, 1988 ;-- Am. 1988, Act 30, Eff. Aug. 26, 1988 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994

Compiler's Notes: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular Name: Act 368

Admin Rule: R 338.493a et seq. and R 338.3101 et seq. of the Michigan Administrative Code.