

IN THE IOWA DISTRICT COURT  
IN AND FOR POLK COUNTY

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CARL OLSEN,  
Petitioner,  
v.

IOWA DEPARTMENT OF HEALTH AND  
HUMAN SERVICES,  
Respondent.

Case No. CVCV065114

**ORDER:**

Ruling On Petition For  
Judicial Review

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This matter came before the Court on June 16, 2023, for hearing on a Petition for Judicial Review, submitted by Carl Olen (Petitioner). Attorney Colin Murphy appeared and argued for Petitioner. Attorney David Ranscht appeared for Iowa Department of Health and Human Services (Respondent). The Court, having heard the arguments of counsel, reviewed the file, and being fully advised in the circumstances, finds as follows.

**I. BACKGROUND FACTS AND PROCEEDINGS**

Iowa Code section 124E is the Medical Cannabidiol Act (MCA). Under the MCA, patients are permitted to use medical cannabidiol to treat debilitating medical conditions upon receipt of a medical cannabidiol registration card (registration card). In order to obtain a registration card, the MCA requires an individual to apply with Respondent. As per the code, an applicant for a registration card must include, "written certification . . . signed by the patient's health care practitioner that the patient is suffering from a debilitating medical condition."<sup>1</sup>

On November 24, 2021, Petitioner submitted an online application for a registration card. It is undisputed that Petitioner's application did not include the written certification required by the MCA. The agency record reflects Petitioner's confirmation and admission that he does not have a debilitating medical condition as defined by the MCA, nor did he include the written certification. As a result, Respondent denied Petitioner's application.

Petitioner appealed the denial on the basis that section 124E was not neutral toward religion and, therefore, unconstitutional. The Director affirmed the denial and did not rule on the constitutional issue. Petitioner applied for Judicial Review with the district court.

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<sup>1</sup> Iowa Code § 124E.4(1)(c).

## II. STANDARD OF REVIEW

The Iowa Administrative Procedure Act codifies a court's judicial review of agency action in Iowa Code section 17A.19. Pursuant to this section, a district court can, "affirm the agency action or remand to the agency for further proceedings."<sup>2</sup> Additionally, "[t]he court shall reverse, modify, or grant other appropriate relief from agency action . . . if it determines that substantial rights of the person seeking judicial relief have been prejudiced because the agency action" falls within any of the categories enumerated in subsection ten, paragraphs 'a' through 'n.'<sup>3</sup>

"District courts exercise appellate jurisdiction over agency actions on petitions for judicial review."<sup>4</sup> The Court's "decision is controlled in large part by the deference we afford to decisions of administrative agencies."<sup>5</sup>

"Under chapter 17A, a court's task on judicial review is not to determine whether the evidence might support a particular factual finding; rather, it is to determine whether the evidence supports the finding made."<sup>6</sup> When an agency's findings of fact are supported by substantial evidence, "the courts should broadly and liberally apply those findings to uphold rather than to defeat the agency's decision."<sup>7</sup> "*Substantial evidence*' means the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be . . . of great importance."<sup>8</sup> "Evidence is not insubstantial merely because different conclusions may be drawn from the evidence."<sup>9</sup>

"If the error is one of interpretation of law, [the Court] will determine whether the [agency's] interpretation is erroneous and substitute [its] judgment for that of the agency."<sup>10</sup> "If, however, the claimed error lies in the [agency's] application of the law to the facts, we

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<sup>2</sup> Iowa Code § 17A.19(10).

<sup>3</sup> *Id.*

<sup>4</sup> *Christiansen v. Iowa Bd. of Educ. Exam'rs*, 831 N.W.2d 179, 186 (Iowa 2013) (citation omitted).

<sup>5</sup> *Cedar Rapids Cmty. Sch. Dist. v. Pease*, 807 N.W.2d 839, 844 (Iowa 2011).

<sup>6</sup> *Burton v. Hilltop Care Ctr.*, 813 N.W.2d 250, 263–64 (Iowa 2012).

<sup>7</sup> *IBP, Inc. v. Al-Gharib*, 604 N.W.2d 621, 632 (Iowa 2000) (citation omitted).

<sup>8</sup> *Eyecare v. Dep't of Hum. Servs.*, 770 N.W.2d 832, 835 (Iowa 2009) quoting Iowa Code § 17A.19(10)(f)(1).

<sup>9</sup> *Cedar Rapids*, 807 N.W.2d at 845; see also *Arndt v. City of Le Claire*, 728 N.W.2d 389, 393 (Iowa 2007).

<sup>10</sup> *Jacobsen Transp. Co. v. Harris*, 778 N.W.2d 192, 196 (Iowa 2010) citing Iowa Code § 17A.19(10)(c).

will disturb the [agency's] decision if it is '[b]ased upon an irrational, illogical, or wholly unjustifiable application of law to fact.'"<sup>11</sup>

Additional standards under section 17A.19(10) are set forth below as relevant to Petitioner's claims.

### III. ANALYSIS

#### A. SUBSTANTIAL EVIDENCE AND ERRORS AT LAW.

It is Petitioner's burden to demonstrate how and why the agency action is invalid, as well as any potential prejudice.<sup>12</sup> Observing section 17A.19, the Court first addresses the two general bases upon which an agency decision can be disturbed by the district court on review. As discussed, a decision unsupported by substantial evidence or based on an erroneous application of the law are grounds for reversing or remanding an agency decision on appeal.

Here, the MCA requirements for obtaining a registration card are straightforward and unambiguous. Likewise, substantial evidence establishing Petitioner had not met the requirements is undisputed and admitted by Petitioner. As the provisions in section 17A.19 are the grounds for Respondent's decision, the Court finds no error of law. Under these circumstances, the clear language of the MCA requires Respondent to deny Petitioner's application as a matter of law. For these reasons, the Court finds Respondent's decision is supported by substantial evidence and not based on an error of law.

#### B. CONSTITUTIONAL CHALLENGES

Petitioner also argues the MCA is unconstitutional and requests the Court reverse Respondent's decision on the authority of section 17A:

The court shall reverse, modify, or grant other appropriate relief . . . if it determines that substantial rights . . . have been prejudiced because the agency action is . . . unconstitutional on its face or as applied or is based upon a provision of law that is unconstitutional on its face or as applied.<sup>13</sup>

Petitioner argues the MCA is not neutral towards religion and violates his First Amendment rights as a burden on religious exercise. Petitioner invites the Court to scrutinize the MCA in terms of its constitutionality and neutrality towards religion. In support, Petitioner's brief

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<sup>11</sup> *Id.* (quoting Iowa Code § 17A.19(10)(m)).

<sup>12</sup> Iowa Code § 17A.19(8)(a).

<sup>13</sup> Iowa Code § 17A.19(10)(a).

cites the Free Exercise Clause and a host of constitutional law cases from the U.S. Supreme Court.

Despite Petitioner's assertions, the Court declines to embark on a constitutional analysis, as it is wholly unnecessary and improvident based on this record. Petitioner is appealing Respondent's denial of a registration card for the issuance of medical cannabidiol after he failed to meet the requirements in the statute. Petitioner attempts to utilize his denial of a registration card for medical cannabidiol to bring a constitutional challenge regarding marijuana usage for religious purposes. The Court finds these are distinct issues which cannot be interchanged. The MCA is applicable solely to the specific situation of an individual wishing to treat a debilitating medical condition with cannabidiol in the state of Iowa. The provisions of the MCA are dedicated to informing individuals of the requirements and process by which to gain a registration card for this particular purpose. In addition to the Court's observance that the MCA does not mention religion at all, the Court finds no language in the MCA that is applicable or could be interpreted to be applicable to any exercise of religion or practice. The MCA is, therefore, not broadly applicable to all situations, such as religious exercise, or all controlled substances, such as marijuana. Notwithstanding the MCA's inapplicability to the use of marijuana for religious purposes, Petitioner would have the Court analyze the MCA for implications not contemplated by the statute. The Court rejects this logic and finds the agency was correct in denying Petitioner after he failed to meet the requirements plainly set forth in the MCA.

#### **IV. CONCLUSION**

For all the reasons stated herein, the Court finds no error of law in Respondent's decision to deny Petitioner a registration card and that Respondent's decision is supported by substantial evidence. The Court further finds no constitutional implications within the MCA.

#### **ORDER**

IT IS THEREFORE ORDERED the Petition for Judicial Review should be and is hereby DENIED and DISMISSED. All costs shall be assessed to Petitioner.

So Ordered.



State of Iowa Courts

**Case Number**  
CVCV065114

**Case Title**  
CARL OLSEN VS IOWA DEPARTMENT OF HEALTH AND  
HUMAN SERVICES  
**Type:** ORDER FOR JUDGMENT

So Ordered

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David Porter, District Court Judge,  
Fifth Judicial District of Iowa

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