

CHAPTER 6
CONTESTED CASES RELATED TO ALCOHOL AND LOTTERY PROCEEDINGS

[Prior to 10/7/87, see Revenue Department[730] Ch 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 3/26/30

701—6.1(99G,123,17A) Scope and applicability. This chapter applies to contested case proceedings conducted pursuant to the department's authority under Iowa Code chapter 99G or 123.
[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.2(99G,123,17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case pursuant to Iowa Code section 17A.10A.

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of the department or the director's designee.

“*Hearing complaint*” means a statement in writing filed by, or on behalf of, the department; a local authority having jurisdiction; or the department of public safety that sets forth the acts or omissions with which the respondent is charged, including the statute(s) and rule(s) that are alleged to have been violated under Iowa Code chapter 123. The hearing complaint shall be in sufficient detail to enable the preparation of the respondent's defense.

“*Issuance*” means the date of mailing or otherwise electronically providing a copy of a decision or order, or the date of delivery if service is by other means, unless another date is specified in the order.

“*Party*” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Pleadings*” means appeal, answer, reply or other similar document filed in a contested case proceeding, including contested cases involving no factual dispute.

“*Presiding officer*” means the director, the director's designee, or an administrative law judge from the department of inspections, appeals, and licensing.

“*Proposed decision*” means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the director did not preside.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.3(99G,123,17A) Time requirements. Time requirements for the department are provided in rule 701—7.4(17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.4(99G,123,17A) Requests for a contested case proceeding.

6.4(1) Any person claiming an entitlement to a contested case proceeding shall file a written request within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question.

6.4(2) The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action that is disputed and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.5(99G,123,17A) Notice of hearing.

6.5(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

d. In accordance with rules provide by the department of inspections, appeals, and licensing, as provided for by Iowa Code section 10A.802(4).

6.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the department or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the department or the state and of parties' counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.6(99G,123,17A) Presiding officer.

6.6(1) Administrative law judge. The director may appoint an administrative law judge as presiding officer in all contested case hearings pursuant to Iowa Code chapter 99G or 123.

6.6(2) Appeal. Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the director. A party must seek any available intra-agency appeal to exhaust adequate administrative remedies.

6.6(3) Director's review. Unless otherwise provided by law, the director, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of, and shall comply with the provisions of, this chapter that apply to presiding officers.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.7(99G,123,17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the department in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.8(99G,123,17A) Telephone or video proceedings. The presiding officer may resolve preliminary procedural motions by telephone or videoconference in which all parties have an opportunity to participate. Other telephone or video proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone or video hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.9(99G,123,17A) Consolidation—severance. Consolidation and severance procedures for the department are provided in 701—subrule 7.18(12).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.10(99G,123,17A) Pleadings.

6.10(1) Pleadings. Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

6.10(2) Alcohol-related hearing complaint.

a. The department, a local authority having jurisdiction, or the department of public safety may give written notice of the cause for action in the form of a hearing complaint and an opportunity for a hearing to a licensee, permittee, or holder of a certificate of compliance for any of the following:

- (1) A violation of Iowa Code chapter 123.
- (2) A violation of the department's administrative rules.
- (3) Failure to comply with an order issued by the department.
- (4) Failure to fully cooperate during an investigation, audit, or inspection of the licensee; permittee; or certificate holder, including failure to respond to an inquiry within ten business days of the date of mailing

by certified mail, return receipt requested, of a written request for information or records directed to the licensee's, permittee's, or certificate holder's last address on file with the agency.

b. A hearing complaint shall state in separately numbered paragraphs the following:

- (1) The persons or entities on whose behalf the hearing complaint is filed;
- (2) The particular provisions of statutes and rules involved;
- (3) The relief demanded and the facts and law relied upon for such relief; and
- (4) The name, address, and telephone number of the petitioner and the petitioner's attorney, if any.

c. A hearing complaint alleging a violation of Iowa Code chapter 123 must be filed with the department or the local authority within three years from the date of the alleged violation or the date of conviction for the violation, whichever is later.

6.10(3) *Answer.*

a. An answer shall be filed within 20 days of service of the hearing complaint unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

b. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

c. An answer shall state the name, address, and telephone number of the person filing the answer; the person or entity on whose behalf it is filed; and the attorney representing that person, if any.

d. Any allegation in the hearing complaint not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

6.10(4) *Amendment.* Any notice of hearing, hearing complaint, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.11(99G,123,17A) Service and filing of pleadings and other papers.

6.11(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

6.11(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address or by electronic service as permitted by the presiding officer and the Iowa Rules of Civil Procedure. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order, so long as there is proof of mailing.

6.11(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the presiding officer.

6.11(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the presiding officer, delivered to an established courier service for immediate delivery to the presiding officer, or mailed by first-class mail or state interoffice mail to the presiding officer, so long as there is proof of mailing. Parties may file documents by electronic transmission. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the presiding officer.

6.11(5) *Proof of mailing.* Proof of mailing includes either a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (department or presiding officer and address), and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.12(99G,123,17A) Discovery.

6.12(1) *Discovery procedures.* Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

6.12(2) *Discovery motions.* Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Discovery motions shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in this chapter. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

6.12(3) *Evidence.* Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.13(99G,123,17A) Subpoenas.

6.13(1) *Issuance.*

a. Department subpoenas. A department subpoena shall be issued to a party on request. Subpoenas may compel the attendance of witnesses at deposition or hearing and the production of books, papers, records, and other real evidence unless they are otherwise expressly exempt from disclosure by law. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas shall be issued by the presiding officer upon a written request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Service of subpoenas. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

6.13(2) *Motion to quash or modify.* The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.14(99G,123,17A) Motions.

6.14(1) *Prehearing motions.* No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

6.14(2) *Written responses.* Any party may file a written response to a motion within ten days after the motion is served unless the time period is extended or shortened by applicable administrative rules or by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

6.14(3) *Oral argument.* The presiding officer may schedule oral argument on any motion.

6.14(4) *Service.* Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by an applicable rule of the department or an order of the presiding officer.

6.14(5) *Motions for summary judgment.*

a. Motions for summary judgment are subject to Iowa Rules of Civil Procedure 1.981, 1.982, and 1.983 but only to the extent consistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

b. Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date or other time period determined by the presiding officer. Any party resisting the motion may file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission will be at least 20 days after the filing of the motion unless the presiding officer orders a shorter time.

c. A summary judgment order rendered on all issues in a contested case is subject to rehearing and appeal in accordance with this chapter.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.15(99G,123,17A) Prehearing conference. Prehearing conference requirements are set forth in 701—7.17(17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.16(99G,123,17A) Continuances. Unless otherwise provided, applications for continuances are made to the presiding officer.

6.16(1) *Application for continuance.* A written application for a continuance should:

a. Be made at the earliest possible time and no less than three days before the hearing, except for a good cause showing;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless the presiding officer waives that requirement. No application for continuance may be made or granted without notice to all parties except in an emergency where notice is not feasible. The department may waive notice of such requests for a particular case or an entire class of cases.

6.16(2) *Issuing of continuance.* In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The likelihood of informal settlement;

d. The existence of an emergency;

e. Any objection;

f. Any applicable time requirements;

g. The existence of a conflict in the schedules of counsel, parties, or witnesses;

h. The timeliness of the request; and

i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance. Notwithstanding the foregoing, each party is entitled to one continuance without the need of a good cause showing unless a continuance would cause the contested case proceeding to exceed a time limit set forth in another applicable statute or rule.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.17(99G,123,17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.18(99G,123,17A) Intervention.

6.18(1) *Motion.* A motion for leave to intervene in a contested case proceeding states the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the

motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

6.18(2) *When filed.* Motion for leave to intervene should be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor is bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances that would delay the proceeding will ordinarily be denied.

6.18(3) *Grounds for intervention.* The movant should demonstrate that:

a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;

b. The movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and

c. The interests of the movant are not adequately represented by existing parties.

6.18(4) *Effect of intervention.* If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.19(99G,123,17A) Hearing procedures.

6.19(1) *Role of presiding officer.* The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

6.19(2) *Objections.* All objections shall be timely made and stated on the record.

6.19(3) *Representative of parties.* Parties have the right to participate or to be represented in all hearings related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

6.19(4) *Role of parties.* Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

6.19(5) *Decorum of hearing.* The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

6.19(6) *Sequestering of witnesses.* Witnesses may be sequestered during the hearing.

6.19(7) *Conduct of hearing.* The presiding officer conducts the hearing in the following manner:

a. The presiding officer gives an opening statement briefly describing the nature of the proceedings;

b. The parties are given an opportunity to present opening statements;

c. Parties present their cases in the sequence determined by the presiding officer;

d. Each witness is sworn or affirmed by the presiding officer or the court reporter and is subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.20(99G,123,17A) Evidence.

6.20(1) *Admissibility.* The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

6.20(2) *Stipulation of facts.* Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

6.20(3) *Scope of evidence.* Evidence in the proceeding should be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

6.20(4) *Admission and examination.* The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

6.20(5) *Objection.* Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

6.20(6) *Offer of service.* Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.21(99G,123,17A) Default. Default procedures for the department are set forth in 701—subrule 7.18(7).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.22(99G,123,17A) Ex parte communication and disqualification. Ex parte communication and disqualification matters requirements are set forth in rule 701—7.22(17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.23(99G,123,17A) Recording costs. Recording cost requirements are provided in rule 701—7.20(17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.24(99G,123,17A) Interlocutory appeals. Interlocutory appeal procedures for the department are set forth in 701—subrule 7.18(11).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.25(99G,123,17A) Final decision.

6.25(1) *Director's final decision.* When the director presides over the reception of evidence at the hearing, the director's decision is a final decision.

6.25(2) *Proposed decision.* When the director does not preside at the reception of evidence, the presiding officer makes a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the director within the time provided in rule 701—6.26(99G,123,17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.26(99G,123,17A) Appeals and review.

6.26(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the director within 30 days after issuance of the proposed decision.

6.26(2) *Review.* The director may initiate review of a proposed decision on the director's own motion at any time within 30 days following the issuance of such a decision.

6.26(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the department. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

6.26(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The director may remand a case to the presiding officer for further hearing or the director may preside at the taking of additional evidence.

6.26(5) *Scheduling.* The director shall issue a schedule for consideration of the appeal.

6.26(6) *Briefs and arguments.* Unless otherwise ordered, within 30 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 30 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The director may resolve the appeal on the briefs or provide an opportunity for oral argument. The director may shorten or extend the briefing period as appropriate.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.27(99G,123,17A) Applications for rehearing. Procedures to apply for rehearing for the department are set forth in rule 701—7.21(17A).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.28(99G,123,17A) Stays of agency actions.

6.28(1) *When available.*

a. *Department appeal.* Any party to a contested case proceeding may petition the department for a stay of an order issued in that proceeding or for other temporary remedies, pending review. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The director may rule on the stay or authorize the presiding officer to do so.

b. *Stay or temporary remedy.* Any party to a contested case proceeding may petition the department for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

6.28(2) *When granted.* In determining whether to grant a stay, the director shall consider the following factors:

- a. The extent to which the applicant is likely to prevail when the court finally disposes of the matter.
- b. The extent to which the applicant will suffer irreparable injury if relief is not granted.
- c. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.
- d. The extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances.

6.28(3) *Vacation.* A stay may be vacated by the issuing authority upon application of any party.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.29(99G,123,17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity of an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be

submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions found under subrule 6.14(5).

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.30(99G,123,17A) Emergency adjudicative proceedings.

6.30(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order. Before issuing an emergency adjudicative order the department shall consider factors, including but not limited to the following:

- a. Whether there has been a sufficient factual investigation to ensure that the agency is proceeding on the basis of reliable information;
- b. Whether the specific circumstances that pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated is necessary to avoid the immediate danger.

6.30(2) Issuance of order.

a. *Contents.* An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action.

b. *Service.* The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery; or
- (2) Certified mail, return receipt requested, to the last address on file with the agency.

c. *Delivery.* To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

6.30(3) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

6.30(4) Completion of proceedings. After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger. After issuance of an emergency adjudicative order, continuance of further agency proceedings will be granted only in compelling circumstances upon application in writing.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

701—6.31(99G,123,17A) Informal settlement. A party to a controversy that may culminate or has culminated in contested case proceedings may attempt informal settlement by complying with the procedures set forth in this rule. No party is required to settle the controversy or contested case by submitting to informal settlement procedures.

6.31(1) Parties desiring informal settlement are to set forth in writing the various points of a proposed settlement, including findings of facts.

6.31(2) When signed by the parties and approved by the director, a settlement shall represent final disposition of the matter.

6.31(3) A proposed settlement that is not accepted or signed by the parties and the director shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the

evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

This rule is intended to implement Iowa Code section 17A.10.

[ARC 8944C, IAB 2/19/25, effective 3/26/25]

These rules are intended to implement Iowa Code chapter 17A.

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