

655—20.35(17A,272C) Emergency adjudicative proceedings.

20.35(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, the board may issue a written order in compliance with Iowa Code section 17A.18 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 agency by emergency adjudicative order. Before issuing an emergency adjudicative order, the board 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 which 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 by the agency is necessary to avoid the immediate danger.

20.35(2) *Issuance.*

a. 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 board's decision to take immediate action.

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

- (1) Personal service, as provided in the Iowa Rules of Civil Procedure, or
- (2) Certified restricted mail, return receipt requested, or
- (3) Signed acknowledgment accepting service.

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

20.35(3) *Notice.* Unless the written emergency adjudicative order is served personally on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone and electronic mail the persons who are required to comply with the order.

20.35(4) *Proceedings.* Issuance of a written emergency adjudicative order shall include notification of the date on which agency proceedings are scheduled for hearing. After issuance of an emergency adjudicative order, the licensee subject to the emergency adjudicative order may request a continuance of the hearing at any time by filing a request with the board. The state may only file a request for a continuance in compelling circumstances. Nothing in this subrule shall be construed to eliminate the opportunity to resolve the matter with a settlement agreement.

20.35(5) *Public record.* An emergency adjudicative order is a permanent public record open for inspection under Iowa Code chapter 22.

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