

441—7.18(17A) Emergency adjudicative proceedings.

7.18(1) Necessary emergency action. When and to the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with state and federal law, a contested case hearing presiding officer may issue a written order 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. In determining the necessity of such an action, the presiding officer shall consider factors including, but not limited to, the following:

a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;

b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;

c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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.

7.18(2) Issuance of order. An emergency adjudicative order shall contain, or shall be expeditiously followed by, a written analysis, including findings of fact, conclusions of law, and policy reasons to justify the order. The agency shall provide written notice that best ensures prompt, reliable delivery. Such order shall be immediately delivered to the persons required to comply with the order.

7.18(3) Completion of proceedings. Upon issuance of an order under this rule, the department shall proceed as quickly as reasonably practicable to complete any proceedings that would be required if the matter did not involve an immediate danger. An order issued under this rule shall include notice of the date on which proceedings under this chapter are to be completed. After issuance of an order under this rule, continuance of further proceedings under this chapter shall only be granted in compelling circumstances upon application in writing. Before issuing an emergency adjudicative order, the presiding officer shall consider factors including, but not limited to, the following:

a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;

b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;

c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of 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.

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