

NEW SECTION

WAC 314-35-090 Summary license suspension. (1) The board may serve an order of summary suspension of any license under this chapter after the board's enforcement division has:

(a) Completed a preliminary staff investigation of a violation of state board of health rules, chapter 246-80 WAC; and

(b) Upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this section is effective twenty-four hours after personal service of the summary suspension order on the licensee or employee thereof, unless the licensee becomes compliant as provided in the order before the expiration of the twenty-four hour period.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing will be held within ninety calendar days of the effective date of the summary suspension ordered by the board. The ninety day period may be extended for good cause.

NEW SECTION

WAC 314-35-095 Petition for stay. (1) When the board summarily suspends a license under WAC 314-35-090, an affected licensee may petition the board for a stay of suspension. A petition for a stay of suspension must be received by the board within ten calendar days of service of the summary suspension order on the licensee. The petition for stay must clearly describe the basis for the stay.

(2) A hearing will be held before an administrative law judge within fourteen calendar days of receipt of a timely petition for stay. The hearing is limited to consideration of whether a stay should be granted, or whether the terms of the suspension will be modified to allow the conduct of limited activities under current licenses.

(3) Any hearing conducted under subsection (2) of this section will be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing must consist of the documentary information upon which the summary suspension was based. The licensee is permitted to supplement the record with additional documentation during the brief adjudicative proceeding. The licensee must demonstrate by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, income alone from licensed activities is not deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay is effective immediately upon service unless another date is specified in the order.