

18 NCAC 06C .0106 TEMPORARY ORDERS

(a) The Division may seek a temporary or summary order at any time as follows:

- (1) If the Division seeks a temporary or summary order prior to the issuance of a notice of hearing, the Division shall file an *ex parte* Administrative Petition supported as required by this Rule.
- (2) If the Division seeks a temporary or summary order during a contested case proceeding, it shall file and serve an appropriate pleading in that proceeding, supported as required by this Rule.

(b) When seeking a temporary or summary order, the Division shall support the request with evidence including at least one sworn affidavit or its equivalent to support the order.

(c) The Administrator (or an appointed hearing officer, or an assigned administrative law judge), upon findings and conclusions that the evidentiary showing by the Division supports the request, may issue a temporary cease and desist order or summary order suspending, denying, postponing or taking any other action as permitted by applicable law against any license, registration or exemption.

(d) Any temporary or summary order issued under this Rule shall:

- (1) be in writing and signed by the person who issues it;
- (2) make findings of fact supporting the factual basis for the temporary or summary action;
- (3) make conclusions of law supporting the temporary or summary action;
- (4) state the conduct prohibited or identify the registration, filing, license or other privilege suspended, denied, revoked, postponed or against which other action has been taken; and
- (5) be served upon the persons subject to the order together with any other documents that may be required by applicable statutes and rules.

(e) A temporary or summary order shall remain in effect until rescinded, modified or vacated by the Administrator, or until a final order is issued. Orders issued under this Rule are not final agency decisions. The Division's procedures for issuing final orders are found in 18 NCAC 06C .0108.

History Note: Authority G.S. 78A-46; 78A-49; 78C-27; 78C-30; 78C-87; 78D-22; 78D-25; 78D-26; 78D-27; 78D-30; 105-160.013; 150B-38(h); 150B-40; Eff. April 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.