

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

FILE COPY

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEROME DRUGS, INC.,
JEFFREY J. GOTTFRIED, R.PH.,
MICHAEL M. MARCETICH, R.PH.,
WAYNE C. HOFFMANN, R.PH.,
RESPONDENTS.

FINAL DECISION
AND ORDER
ADOPTING STIPULATION
86 PHM 71

The parties to this action for the purposes of Wis. Stats. sec. 227.53
are:

Jerome Drugs, Inc.
S74 W16982 Janesville Road
Muskego, WI 53150

Jeffrey J. Gottfried, R.Ph.
W187 S6944 Gold Drive
Muskego, WI 53150

Michael M. Marcetich, R.Ph.
11821 West Grange Avenue
Hales Corners, WI 53130

Wayne C. Hoffmann, R.Ph.
16625 Dane Court, West
Brookfield, WI 53005

Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Pharmacy Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the
attached Stipulation as the final disposition of this matter, subject to
approval of the Board. The Board has reviewed this Stipulation and considers
it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and
makes the following:

FINDINGS OF FACT

1. Jerome Drugs, Inc., of S74 W16982 Janesville Road, Muskego,
Wisconsin 53150 is and was at all times relevant duly licensed under the

provisions of Chapter 450, Wis. Stats., to operate as a pharmacy in the State of Wisconsin under license #5507, first granted on November 19, 1973.

2. Jeffrey J. Gottfried, R.Ph., date of birth December 23, 1953, of W187 S6944 Gold Drive, Muskego, Wisconsin 53150 is and was at all times relevant to this matter licensed under the provisions of Chapter 450, Wis. Stats. to practice as a pharmacist in the State of Wisconsin under license #9455, first granted on December 9, 1978.

3. Jeffrey J. Gottfried, R.Ph. is and was at all times relevant to this matter an owner and employee of Jerome Drugs, Inc. and worked as a pharmacist in Jerome Drugs, Inc. Pharmacy.

4. Michael M. Marcetich, R.Ph., date of birth July 2, 1943, of 11821 W. Grange Avenue, Hales Corners, Wisconsin 53130, is and was at all times relevant to this matter duly licensed under the provisions of Chapter 450, Wis. Stats. to practice as a pharmacist in the State of Wisconsin under license #7779, first granted on July 23, 1968.

5. Michael M. Marcetich, R.Ph. is and was at all times relevant to this matter managing pharmacist of Jerome Drugs, Inc. and responsible for all professional operations of said pharmacy and responsible for the professional supervision of all personnel working in said pharmacy.

6. Wayne C. Hoffmann, R.Ph., date of birth August 14, 1930, of 16625 Dane Court West, Brookfield, Wisconsin 53005, is and was at all times relevant to this matter duly licensed under the provisions of Chapter 450, Wis. Stats. to practice as a pharmacist in the State of Wisconsin under license #6244, first granted on November 22, 1952.

7. Wayne C. Hoffmann, R.Ph., is and was at all times relevant to this matter employed as a staff pharmacist at Jerome Drugs, Inc., pharmacy.

8. Sec. 161.23, Wis. Stats. and sec. 21 CFR 1306.32, among other things, provide that Schedule V controlled substances, including codeine based cough syrups, may be sold without a prescription from a practitioner only in good faith as a medicine, not for the purpose of evading Chapter 161, and may not be sold or purchased in excess of 4 ounces of any Schedule V controlled substance containing codeine or in excess of 8 ounces of any schedule V controlled substance containing opium within a 48 hour period.

9. On or about January 9, 1986, the Muskego Police Department visited Jerome Drugs, Inc. to investigate Schedule V controlled substances sales to individuals, in particular to investigate possible repeat sales of Schedule V controlled substances without a prescription to certain customers within a 48 hour period. The Muskego Police Department identified to Jerome Drugs, Inc. certain individuals that were under investigation regarding such illegal sales and purchases.

10. On September 24, 1986, an investigator with the Department of Regulation and Licensing, Division of Enforcement and assigned to investigate matters on behalf of the Pharmacy Examining Board, visited Jerome Drugs, Inc. and requested inspection and copying of the Schedule V controlled substances sales records required to be kept under sec. 161.23, Wis. Stats. and

sec. 21 CFR 1306.32. Jeffrey J. Gottfried, R.Ph., pharmacist on duty at Jerome Drugs, Inc. provided to the investigator the Schedule V controlled substances sales record for review and copying.

11. Review of the Schedule V controlled substances sales records for Jerome Drugs, Inc. revealed the following:

RL
a. Jerome Drugs, Inc. continued to sell Schedule V controlled substances to ^acustomers previously identified to Jerome Drugs, Inc. as having apparently purchased Schedule V controlled substances in violation of sec. 161.23, Wis. Stats., and 21 CFR 1306.32.

MM
b. The Schedule V controlled substances sales record for Jerome Drugs, Inc. was examined for the period of March 4, 1986 to September 24, 1986 for the purposes of detecting repeat sales to the same customer within 48 hours of 4 ounce bottles of Schedule V controlled substances. The examination of said records revealed 9 instances of repeat sales to the same customer of 4 ounce bottles of Schedule V controlled substances within 48 hours.

c. Jeffrey J. Gottfried, R.Ph., was responsible for 4 instances of having sold more than 4 ounces of Schedule V controlled substances to the same individual within 48 hours.

d. Michael M. Marcetich, R.Ph., was responsible for 2 instances of having sold more than 4 ounces of Schedule V controlled substances to the same individual within 48 hours.

MM
e. Wayne C. Hoffmann, R.Ph., was responsible for ² instances of having sold more than 4 ounces of Schedule V controlled substances to the same individual within 48 hours.

MM
f. The Schedule V controlled substances sales record for Jerome Drugs, Inc. was examined for frequent repeat sales of Schedule V controlled substances to the same individuals. Examination of said records revealed the following:

1. Customer M.C. was sold Schedule V controlled substances 28 times in the period from March 4, 1986 to September 24, 1986 for an average of one sale every 7.3 days.

2. Customer R.L. was sold Schedule V controlled substances 33 times in the period from March 4, 1986 to September 24, 1986 for an average of one sale every 6.2 days.

3. Customer M.C. was sold Schedule V controlled substances 26 times in the period from March 4, 1986 to September 24, 1986 for an average of one sale every 7.8 days.

4. Customer D.K. was sold Schedule V controlled substances 27 times in the period from March 4, 1986 to September 24, 1986 for an average of one sale every 7.5 days.

5. Customer T.R. was sold Schedule V controlled substances 63 times in the period from March 4, 1986 to September 24, 1986 for an average of one sale every 3.2 days.

12. Each of Respondents Jerome Drugs, Inc., Jeffrey J. Gottfried, R.Ph., individually and as owner of Jerome Drugs, Inc., Michael Marcetich, R.Ph. individually and as managing pharmacist of Jerome Drugs, Inc., and Wayne C. Hoffmann, R.Ph., individually as staff pharmacist at Jerome Drugs, Inc., as a pattern of practice failed to insure and determine that Schedule V controlled substances were dispensed and sold in good faith as a medicine and not for the purpose of evading Chapter 161, Wis. Stats.

13. Codeine cough syrups and opium products listed as Schedule V controlled substances under sec. 161.21, Wis. Stats., and Title 21, Code of Federal Regulations, 1308.15, have the potential for abuse, physical and psychological dependence and are frequently abused by drug abusing and drug dependent individuals.

CONCLUSIONS OF LAW

1. The Pharmacy Examining Board has jurisdiction pursuant to Chapter 450, Wis. Stats. to take disciplinary action against the Respondents.

2. The conduct of each of Respondents Jerome Drugs, Inc., Jeffrey J. Gottfried, R.Ph., individually and as owner of Jerome Drugs, Inc., Michael Marcetich, R.Ph. individually and as managing pharmacist of Jerome Drugs, Inc., and Wayne C. Hoffmann, R.Ph., did not comply with sec. 161.23(1), and sec. 161.38(4), Wis. Stats., in that as a pattern of practice each Respondent failed to insure and determine that Schedule V controlled substances were dispensed and sold in good faith as a medicine and not for the purpose of evading Chapter 161, Wis. Stats., which conduct constitutes unprofessional conduct under sec. 450.10(1)(a)2., Wis. Stats. and sec. Phar 8.02 and 10.03(1), (3) and (4), Wis. Adm. Code, and as such subjects each of said Respondents to discipline against their licenses under sec. 450.10(1)(b)1., Wis. Stats.

3. The conduct of each of Jerome Drugs, Inc., Jeffrey J. Gottfried, R.Ph. individually and as owner of Jerome Drugs, Inc., Michael Marcetich, R.Ph., individually and as pharmacy manager of Jerome Drugs, Inc., and Wayne C. Hoffmann, R.Ph., in having dispensed and supplied Schedule V controlled substances in violation of the 48 hour rule as prohibited under secs. 161.23(5), Wis. Stats., and Title 21 CFR 1306.32(b), constitutes unprofessional conduct under sec. 450.10(1)(a)2., Wis. Stats., and sec. Phar 10.03(1), (3) and (4), Wis. Adm. Code and therefore subjects each of said Respondents to discipline against their licenses under sec. 450.10(1)(b)1. and (2), Wis. Stats.

THEREFORE, IT IS HEREBY ORDERED:

1. The Stipulation of the parties is hereby accepted.
2. The pharmacy license of Jerome Drugs, Inc., shall be LIMITED effective five (5) days following the date of this Order, such that

Jerome Drugs, Inc., shall not sell or dispense any Schedule V controlled substance to any individual except upon a valid prescription order of a practitioner, for a period of three (3) years.

3. Jerome Drugs, Inc., is hereby assessed costs pursuant to sec. 440.22, Wis. Stats. in the amount of \$172.25, which costs shall be paid to the Department of Regulation and Licensing upon adoption of this Stipulation and Order by the Pharmacy Examining Board.

4. The pharmacist license of Jeffrey J. Gottfried, R.Ph. is hereby LIMITED effective five (5) days following the date of this Order such that Jeffrey J. Gottfried, R.Ph. shall not sell or dispense any Schedule V controlled substance to any individual except upon a valid prescription order of a practitioner, for a period of three (3) years.

5. Jeffrey J. Gottfried, R.Ph., shall pay to the Department of Regulation and Licensing a FORFEITURE in the amount of \$400.00 assessed pursuant to sec. 450.10(2), Wis. Stats., for the violations of sec. 161.23(5), Wis. Stats., and Title 21, Code of Federal Regulations, sec. 1306.32(b). Said forfeiture shall be paid to the Department of Regulation and Licensing upon adoption of this Order by the Pharmacy Examining Board.

6. Jeffrey J. Gottfried, R.Ph., is hereby assessed costs pursuant to sec. 440.22, Wis. Stats. in the amount of \$172.25, which costs shall be paid to the Department of Regulation and Licensing upon adoption of this Stipulation and Order by the Pharmacy Examining Board.

7. The pharmacist license of Michael M. Marcetich, R.Ph. is hereby LIMITED effective five (5) days following the date of this Order such that Michael M. Marcetich, R.Ph. shall not sell or dispense any Schedule V controlled substance to any individual except upon a valid prescription order of a practitioner, for a period of three (3) years.

8. Michael M. Marcetich, R.Ph., shall pay to the Department of Regulation and Licensing a FORFEITURE in the amount of \$200.00 assessed pursuant to sec. 450.10(2), Wis. Stats., for the violations of sec. 161.23(5), Wis. Stats., and Title 21, Code of Federal Regulations, sec. 1306.32(b). Said forfeiture shall be paid to the Department of Regulation and Licensing upon adoption of this Order by the Pharmacy Examining Board.

9. Michael M. Marcetich, R.Ph., is hereby assessed costs pursuant to sec. 440.22, Wis. Stats. in the amount of \$172.25, which costs shall be paid to the Department of Regulation and Licensing upon adoption of this Stipulation and Order by the Pharmacy Examining Board.

10. The pharmacist license of Wayne C. Hoffmann, R.Ph. is hereby LIMITED effective five (5) days following the date of this Order such that Wayne C. Hoffmann, R.Ph. shall not sell or dispense any Schedule V controlled substance to any individual except upon a valid prescription order of a practitioner, for a period of three (3) years.

11. Wayne C. Hoffmann, R.Ph., shall pay to the Department of

\$200.00 RTG

Regulation and Licensing a FORFEITURE in the amount of ~~\$300.00~~ assessed pursuant to sec. 450.10(2), Wis. Stats., for the violations of sec. 161.23(5), Wis. Stats., and Title 21, Code of Federal Regulations, sec. 1306.32(b). Said forfeiture shall be paid to the Department of Regulation and Licensing upon adoption of this Order by the Pharmacy Examining Board.

[Handwritten initials]

12. Wayne C. Hoffmann, R.Ph., is hereby assessed costs pursuant to sec. 440.22, Wis. Stats. in the amount of \$172.25, which costs shall be paid to the Department of Regulation and Licensing upon adoption of this Stipulation and Order by the Pharmacy Examining Board.

13. Violation of applicable terms or conditions of this Order by any Respondent may result for such Respondent violating this Order in further disciplinary action, including summary suspension or suspension or revocation of license.

Wisconsin Pharmacy Examining Board

Dated: April 9th 1991

by: Don Reynolds RPh Chairman
Member of the Pharmacy Examining Board

I, Jeffrey J. Gottfried, R.Ph., individually and as owner and agent of Jerome Drugs, Inc., have read and understand the terms of the foregoing Order, and pursuant to the attached Stipulation hereby freely consent to the issuance of the foregoing Final Decision and Order Adopting Stipulation by the Wisconsin Pharmacy Examining Board.

3/22/91
Date

[Signature]
Jeffrey J. Gottfried, R.Ph.,
individually and as owner and agent of
Jerome Drugs, Inc.

I, Michael M. Marcetich, R.Ph., have read and understand the terms of the foregoing Order, and pursuant to the attached Stipulation hereby freely consent to the issuance of the foregoing Final Decision and Order Adopting Stipulation by the Wisconsin Pharmacy Examining Board.

3/22/91
Date

Michael M. Marcetich, R.Ph.
Michael M. Marcetich, R.Ph.

I, Wayne C. Hoffmann, R.Ph., have read and understand the terms of the foregoing Order, and pursuant to the attached Stipulation hereby freely consent to the issuance of the foregoing Final Decision and Order Adopting Stipulation by the Wisconsin Pharmacy Examining Board.

3/22/91
Date

Wayne C. Hoffmann R. Ph.
Wayne C. Hoffmann, R.Ph.

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JEROME DRUGS, INC.,	:	86 PHM 71
JEFFREY J. GOTTFRIED, R.PH.,	:	
MICHAEL M. MARCETICH, R.PH.,	:	
WAYNE C. HOFFMANN R.PH.,	:	
RESPONDENTS.	:	

It is hereby stipulated between Jerome Drugs, Inc., Muskego, Wisconsin, by its owner and agent, Jeffrey J. Gottfried, R.Ph., Jeffrey J. Gottfried, R.Ph., individually, Michael M. Marcetich, R.Ph., individually, and Wayne C. Hoffmann, and Robert T. Ganch, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of the licenses of the above named Respondents to operate as a pharmacy or to practice as a pharmacist as applicable, in the State of Wisconsin, investigative file #86 PHM 71. Each Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.

2. Each of the Respondents understand that by the signing of the Stipulation, the following rights are voluntarily and knowingly waived, including: the right to a hearing on the allegations against the Respondents, at which the state has the burden of proving those allegations by clear, satisfactory and convincing evidence or a preponderance of the evidence, as applicable; the right to confront and cross-examine the witnesses against the Respondents; the right to call witnesses on behalf of the Respondents and to compel their attendance by subpoena; the right of the Respondents to testify, the right to file objections to any proposed Decisions and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for rehearing; and all other applicable rights afforded under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Each of the Respondents admits the facts and conduct described in the attached Findings of Fact and each agrees to the adoption, entry and issuance of the attached Findings of Fact, Conclusions of Law and Order Adopting Stipulation by the Pharmacy Examining Board, and agree to pay the forfeitures and costs of this matter as specified in the attached Order, payment of which forfeitures and costs are hereby tendered with this proposed Stipulation and Order.

4. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of the Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.

5. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order Adopting Stipulation without further notice, pleading, appearance or consent of the parties.

6. This Stipulation and the attached Final Decision and Order shall not prejudice the Pharmacy Examining Board from taking any further action regarding any conduct of any of the Respondents not stated in the attached Final Decision and Order and shall not prejudice the Board from taking any further action regarding conduct of any of the Respondents involving sale or distribution of Schedule V controlled substances in violation of sec. 161.23, Wis. Stats., or Title 21, Code of Federal Regulations, sec. 1306.32, after September 24, 1986.

7. The Division of Enforcement joins each of the Respondents in recommending the Pharmacy Examining Board adopt this Stipulation and issue the attached Final Decision and Order adopting Stipulation. All parties agree that the attorney for the Department of Regulation and Licensing, Division of Enforcement and the Board Advisor to this case may appear before the Pharmacy Examining Board in support of this Stipulation and attached Final Decision and Order. All parties further agree that the attorney for the Division of Enforcement and the Board Advisor for this case may respond to questions of the Pharmacy Examining Board during its deliberation in closed session.

3/22/91
Date

[Signature]
Jerome Drugs, Inc., Respondent, by
[Signature] R.Ph.
Jeffrey J. Gottfried, R.Ph.,
Owner and agent

3/22/91
Date

[Signature]
Jeffrey J. Gottfried, R.Ph., Respondent

3/22/91
Date

[Signature] R.Ph.
Michael M. Marcetich, R.Ph., Respondent

3/22/91
Date

[Signature] R.Ph.
Wayne C. Hoffmann, R.Ph., Respondent

March 25, 1991
Date

[Signature]
Robert T. Ganch, Attorney
Division of Enforcement

April 9, 1991
Date

Wisconsin Pharmacy Examining Board, by
[Signature] RPh
A member of the Board

RTG:eaj
ATY-1047
7/26/90

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Pharmacy Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Pharmacy Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Pharmacy Examining Board.

The date of mailing of this decision is April 12, 1991.

WLD:dms
886-490

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly as may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.