

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
RICHARD O. HEINZELMAN, R.Ph.,	:	LS9606072PHM
RESPONDENT.	:	

The State of Wisconsin, Pharmacy Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Pharmacy Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 8th day of April 1997.

Andy Seng RPh
A Member of the Board

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

(Case No. LS 9606072 PHM)

RICHARD O. HEINZELMAN, R.Ph.,

Respondent

PROPOSED DECISION

The parties to this proceeding for the purposes of sec. 227.53. Stats., are:

Richard O. Heinzelman, R.Ph.
676 North Holden Street
Port Washington, WI 53074

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

State of Wisconsin Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53709

This matter was commenced by the filing of a Complaint by the Division of Enforcement on June 7, 1996, and a hearing in the matter was conducted on December 5, 1996. Respondent appeared in person and by Attorney Bridget Boyle. Appearing for the Division of Enforcement was Attorney James W. Harris. The transcript of the proceedings was received on December 16, 1996.

Based upon the entire record in this case, the administrative law judge recommends that the Pharmacy Examining Board adopt as its final decision in the case the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Richard O. Heinzelman, R.Ph., 676 North Holden Street, Port Washington, WI 53704 (respondent) is licensed as a pharmacist in Wisconsin by license #7673, originally granted on September 18, 1964. Respondent was until March 25, 1996, also licensed as a dentist. On that date, respondent's license to practice as a dentist was revoked by the Dentistry Examining Board.

2. On February 19, 1996, the Pharmacy Examining Board issued its Final Decision and Order in the Matter of Disciplinary Proceedings Against Richard O. Heinzelman, Case #LS 9504141 PHM. The board in that case found that respondent had filled a prescription for nystatin, which was prepared by him in his capacity as a dentist, for the treatment of acne rather than for the treatment of a dental condition. The board concluded that he had dispensed a drug other than in the course of legitimate practice, in violation of sec. Phar 10.03(1), Code, and had thereby violated a rule which substantially relates to the practice of pharmacy, in violation of sec. 450.10(1)(a)2., Stats. The board further found that respondent had failed to personally provide a consultation to a patient or agent receiving a prescribed drug or device at the time of transfer to the patient or agent, in violation of sec. Phar 7.01(1)(e), Code. The board ordered that respondent's pharmacy license be suspended for a period of 30 days, from February 19, 1996, until March 20, 1996, and further ordered as follows:

IT IS FURTHER ORDERED that the license to practice pharmacy of Richard O. Heinzelman, R.Ph., is LIMITED in the following respect: upon completion of the suspension order herein respondent shall not practice pharmacy except under the direct and immediate supervision of another pharmacist, including on a temporary or acting basis, until respondent takes and passes the Wisconsin Practice of Pharmacy Examination, the Wisconsin Law Examination, and the Consultation portion of the Wisconsin Laboratory Practical Examination. Respondent may not take any examination more than twice without express permission of the board, which shall determine in its discretion under what terms and conditions the respondent may attempt an examination after two attempts. Upon proof of passing the examinations, the staff of the department shall notify respondent of such fact, and this limitation shall be removed without formal action by the board.

3. As of the date of the hearing herein, respondent had not taken and passed either the Wisconsin Practice of Pharmacy Examination, the Wisconsin Law Examination, or the Consultation portion of the Wisconsin Laboratory Practical Examination. At all times relevant to the events set forth below, therefore, the limitations set forth in the board's February 19, 1996, Final Decision and Order were in full force and effect.

4. Working through a pharmacist referral firm named Relief, Inc., of which respondent was the sole shareholder, respondent was employed during 1996 as a relief pharmacist by Elmwood Good Value Pharmacy, Elm Grove, Wisconsin. Respondent's practice as a relief pharmacist at Elmwood Good Value included the following dates: February 21 and 22, 1996 (22 total hours); March 1 and 2, 1996 (14 total hours); March 6 and 7, 1996 (21 total hours); March 15, 1996 (10 total hours); March 20 and 21, 1996 (20 total hours); March 23, 1996

(4 total hours); March 27, 1996 (10 total hours); March 29 and 30, 1996 (15 total hours); April 3 and 4, 1996 (20 total hours); April 12 and 13, 1996 (14 total hours); and April 17 and 18, 1996 (20 total hours). At no time during the noted periods of practice as a relief pharmacist was respondent under the direct and immediate supervision of another pharmacist.

5. On April 17, 1996, while respondent was practicing as a pharmacist at Elmwood Good Value Pharmacy, he filled a prescription presented by customer K.K. for Roxicet[®], a Schedule II Controlled Substance. K.K.'s dispensing history at Elmwood Good Value indicates that she had presented prescriptions for Roxicet[®] on nine occasions between July 1, 1995 and April 17, 1996, with the last previous prescription for Roxicet[®] being presented on February 1, 1996.

6. The February 19, 1996, Final Decision and Order of the Pharmacy Board in the previous disciplinary action against respondent includes the following language at Conclusion of Law #4:

Each and every patient, or patient's agent, must receive a face-to-face consultation from a licensed pharmacist, or supervised intern, at the time a prescribed drug or device is transferred to the patient in the pharmacy, whether the prescription is new or a refilled or renewed prescription. This duty is non-delegable and is not satisfied by having auxiliary staff ask if the patient has questions.

At the time the prescription for Roxicet[®] was dispensed to K.K., respondent asked her, "You've had these before, haven't you?" or words to that effect. K.K. responded, "Yes, many times." or words to that effect. No further communication between respondent and K.K. took place on that occasion.

CONCLUSIONS OF LAW

1. The Pharmacy Examining Board has jurisdiction in this matter pursuant to sec. 450.10, Stats.

2. By practicing as a pharmacist between February 21 and March 20, 1996, at a time when his license to practice as a pharmacist was suspended, respondent has violated sec. 450.10(1)(a)8., Stats.

3. By practicing as a pharmacist without supervision between March 20, 1996, and April 13, 1996, at a time when his license was limited to require that he practice only under the direct and immediate supervision of another pharmacist, respondent has violated sec. 450.10(1)(a)8., Stats.

4. The communication to K.K. At the time the prescription for Roxicet[®] was dispensed to her, consisting of the question "You've had these before, haven't you?" or words to that effect, and K.K.'s response "Yes, many times." or words to that effect, does not constitute an appropriate consultation relative to the prescription, and respondent has thereby violated sec. Phar 7.01(1)(e), Code,

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Richard O. Heinzelman, R.Ph., be, and hereby is suspended for an indefinite time until he submits to the board evidence satisfactory to the board that he has taken and passed the Wisconsin Practice of Pharmacy Examination, the Wisconsin Law Examination, and the Consultation portion of the Wisconsin Laboratory Practical Examination. Respondent may not take any examination more than twice without express permission of the board, which shall determine in its discretion under what terms and conditions the respondent may attempt an examination after two attempts. Upon proof of passing the examinations, respondent may petition the board for reinstatement of the license, and he shall appear before the board in support of the petition to permit the board to make appropriate inquiry as to respondent's current ability to safely resume the practice of pharmacy.

IT IS FURTHER ORDERED that pursuant to sec. 440.22, Stats., the costs of this proceeding shall be assessed against Richard O. Heinzelman, R.Ph.

OPINION

The first principal finding in this case is that respondent practiced contrary to the board's Order dated February 19, 1996. He did this both by practicing as a pharmacist at a time when his license was suspended, and by practicing without the direct and immediate supervision of another pharmacist after the period of suspension was over. Evidence that he did so is uncontroverted, as demonstrated by respondent's testimony on adverse examination. (Tr., pp. 58-60)

Q. (by Mr. Harris) I'd ask you to turn [the February 19, 1996 Final decision and Order] to page 3, on the portion entitled order. And the order was that you be suspended, that the license of Richard O. Heinzelman, R.Ph., to practice as a pharmacist in the State of Wisconsin be suspended for a period of thirty days commencing on the date of the final decision and order. Do you see that portion of the order?

A. Yes.

Q. And on page 5 you can note that the order was dated February 19, 1996, correct?

A. Yes.

Q. And you did practice within 30 days after -- practice as a pharmacist in Wisconsin within the 30 day period following February 19, 1996, didn't you?

A. Yes, I did.

Q. The order goes on to require that you take and pass the Wisconsin Practice of Pharmacy examination. Have you taken and passed that exam?

A. No, sir.

Q. It also requires that you take and pass the Wisconsin Law Examination. Have you taken and passed that examination?

A. No.

Q. And it also required you to take and pass the consultation portion of the Wisconsin laboratory practical examination. Have you taken and passed that [portion of the] exam?

A. No.

Q. Have you attempted those examinations at all?

A. No, I have not.¹

Q. Okay. Now, the restriction as far -- you were required to take those, but the restriction on your practice after the period of suspension according to the order was to not practice except under the direct and immediate supervision of another pharmacist. Is that correct?

A. It's probably not the way I read it originally, but that's what it says here.

Q. . . . There were during those times that you were employed at Good Value as a pharmacist, there were times when there was not another licensed pharmacist directly with you, isn't that correct?

A. Yes.

Q. There were times when you worked where you were the only pharmacist in the premises, isn't that correct?

A. I believe so.²

When asked by his attorney "what was the problem with why you were still working when you were suspended by the pharmacy board," respondent merely responded "I thought I could work under the circumstances." No other explanation was forthcoming (Tr., p. 65). Nor was respondent able to explain why he practiced without direct supervision, beyond the testimony cited above, where he indicated that he may have initially misread the order. There is nothing confusing about the terms of the board's February 19, 1996, Order, and nothing to indicate that

¹ It should be noted that the board's February 19, 1996, Order did not specify that Dr. Heinzelman was required to pass these various examinations, but merely that the practice limitation requiring supervision would not be terminated until he did.

² There is evidence that there may have been another pharmacist present in the pharmacy while respondent was on duty for as many as five to seven hours in any given week. It is evident, however, that any other pharmacist who may have been present was not there to provide supervision, if for no other reason than the management of the pharmacy was not aware that supervision was required. See the testimony of Davis Huibregtse, General Manager of the pharmacy, at page 10 of the transcript.

Dr. Heinzelman is not more than capable of reading and understanding its terms. One is forced to conclude that he failed to comply with the Order because he chose to ignore it.

It is somewhat less clear that the communication to K.K. At the time the prescription for Roxicet[®] was dispensed to her, consisting of the question "You've had these before, haven't you?" or words to that effect, and K.K.'s response "Yes, many times." or words to that effect, does not constitute an appropriate consultation relative to the prescription. While certainly not conclusive on the issue, Arthur Thexton's testimony is instructive in terms of defining what a minimally acceptable consultation would have included. Mr. Thexton testified "I believe that the board's view of a minimum consultation would be you have to ask the patient how's this working for you? Do you have any questions about it?" Mr. Thexton undoubtedly has a sense for what the Pharmacy Examining Board may consider to be a minimum consultation. But the question remains whether there may be a reasonable basis for a pharmacist to decide that, in his professional judgment and in a particular circumstance, something less than the minimum consultation described by Mr. Thexton may be perfectly appropriate. More specifically, why doesn't a communication that confirms that the customer has had a number of previous prescriptions for the same medication ensure that the customer has sufficient information and experience to use the medication safely and effectively? Mr. Thexton's explanation was that it is not sufficient "because it doesn't communicate or attempt to communicate any information to the patient and it doesn't really ask for information from the patient on how the medication is working." (Tr., p. 51)

That explanation makes sense. If a consultation for the purposes of the practice of pharmacy is that defined by the American Heritage Dictionary as "a conference at which advice is given or views exchanged," then a minimum consultation would be one in which useful information as to the customer's use of the medication is exchanged. A communication that does not at a minimum attempt to elicit information from the customer which would permit the pharmacist to provide necessary advice and counsel is not a communication which may be said to have been designed to be of use to or to have benefited the customer. If so, then such a communication may also not be said to be "an appropriate consultation relative to the prescription." Accordingly, the communication in this case, which merely asks whether the customer has "had these before," may not be deemed to be an "appropriate consultation." in either a legal or a logical sense.³

It is well established that the purposes of licensee discipline in Wisconsin are to protect the public, to deter other licensees from engaging in similar conduct, and to promote the rehabilitation of the licensee. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*, 41 Wis. 2d 481 (1969). In the previous disciplinary proceeding against Dr. Heinzelman, the board varied from the ALJ's recommended order by requiring that upon completion of the 30 day period of suspension,

³ Dr. Heinzelman testified that the pharmacy technician, who apparently actually transferred the medication to K.K., asked the customer if she had any questions. (Tr., p. 62) That testimony conflicts with Mr. Thexton's testimony that the technician's only communication with K.K. was "informing her what the price was and taking her money." (tr., p. 35) In any event, it is the pharmacist who is required by the board's rules to provide the consultation, as is made clear by Conclusion of Law #4 of the board's previous order, which is reproduced at Finding of Fact #6, herein.

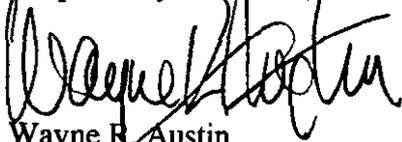
respondent practice pharmacy only under the direct and immediate supervision of another pharmacist, unless and until respondent took and passed the Wisconsin Practice of Pharmacy Examination, the Wisconsin Law Examination, and the Consultation portion of the Wisconsin Laboratory Practical Examination. In explaining why the reexamination requirement was required, the board stated in its Explanation of Variance as follows:

The record in this case indicates that respondent has spent some years away from the practice of pharmacy. It also raises serious questions regarding his knowledge of drug utilization and efficacy, as demonstrated by the prescribing and dispensing of nystatin as well as the testimony of his supervisor. He also failed to provide consultation to patients. Re-examination of respondent prior to permitting him to return to unsupervised pharmacy practice serves the public interest. It will assure that he has the minimal knowledge base and technical proficiency necessary for the public's protection prior to being permitted to practice in unsupervised settings.

Since the time of the previous board order, respondent has not only done nothing to address the board's concerns regarding his knowledge base and technical proficiency, but he has as well disregarded the limitations on his license imposed by the board to ensure that the public health and safety were safeguarded until the board's concerns were addressed. There would now seem to be no alternative but to deprive Dr. Heinzelman of his license until he sees fit to address them.

Dated this 27th day of February, 1997.

Respectfully submitted,



Wayne R. Austin
Administrative Law Judge

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE PHARMACY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Richard O. Heinzelman, R.Ph.,

AFFIDAVIT OF MAILING

Respondent.

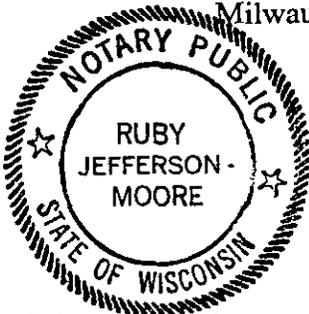
STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On April 9, 1997, I served the Final Decision and Order dated April 8, 1997, LS9606072PHM, upon the Respondent Richard O. Heinzelman's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 374 157.

Bridget E. Boyle, Attorney
1124 W. Wells Street
Milwaukee WI 53233



Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 9th day of April, 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

April 9, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	LS9606072PHM
RICHARD O. HEINZELMAN, R.Ph.,	:	
RESPONDENT.	:	

On April 8, 1997, the Pharmacy Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on or about March 11, 1997, the board received the *Affidavit of Costs* in the amount of \$2,059.59, filed by Attorney James W. Harris. On or about April 21, 1997, the board received the *Affidavit of Costs of Office of Legal Services* in the amount of \$750.95, filed by Administrative Law Judge Wayne R. Austin. The board considered the affidavits on June 11, 1997, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$2,810.54, which is 100% of the costs set forth in the affidavits of costs of Wayne R. Austin and James W. Harris, which are attached hereto and made a part hereof, are hereby assessed against Richard O. Heinzelman, R.Ph., and shall be payable by him to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before July 11, 1997, which is the deadline for payment established by the board, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the department or board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly received, the attached "*Guidelines for Payment of Costs and/or Forfeitures*" should be enclosed with the payment.

Dated this 17th day of June, 1997 Cynthia A. Berg RPh
A Member of the Board

g:\bdls\costs1

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935
(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On April 8, 1997, the Pharmacy Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$2,810.54 Case #: LS9606072PHM

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 2,810.54

The costs and/or forfeitures are due: July 11, 1997

NAME: Richard O. Heinzelman, R.Ph. LICENSE NUMBER: 7673

STREET ADDRESS: 676 North Holden Street

CITY: Port Washington STATE: WI ZIP CODE: 53074

Check whether the payment is for costs or for a forfeiture or both:

COSTS FORFEITURE

Check whether the payment is for an individual license or an establishment license:

INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)
Ch. 440.22, Stats.
G:BDLS\FM2145.DOC

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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LS9606072PHM

RICHARD O. HEINZELMAN, R.Ph.,

Respondent

AFFIDAVIT OF COSTS
OFFICE OF BOARD LEGAL SERVICES
(SEC. 440.22, STATS.)

STATE OF WISCONSIN)
)ss.
COUNTY OF DANE)

Wayne R. Austin, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation & Licensing, Office of Board Legal Services.

2. In the course of his employment, your affiant was assigned as administrative law judge in the above-captioned matter.

3. Set out below are the actual costs of the proceeding for the Office of Board Legal Services in this matter. Unless otherwise noted, all times for the preparation of documents reflect the actual document preparation and editing time as reflected in the statistical summary program included with Microsoft Word for Windows version 6.0. All times for conferences and hearings are calculated commencing at the start of the first five minute period following actual start of the activity, and terminating at the start of the first five minute period prior to the actual end of the activity.

ADMINISTRATIVE LAW JUDGE EXPENSE FOR WAYNE R. AUSTIN

DATE &
TIME SPENT

ACTIVITY

7/10/96
13 minutes

Draft Prehearing Notice

8/1/96
15 minutes

Draft Scheduling Order

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	AFFIDAVIT OF COSTS
RICHARD O. HEINZELMAN, R.PH.,	:	LS9606072PHM
RESPONDENT.	:	

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

James W. Harris, being duly sworn, deposes and states as follows:

1. I am an attorney licensed in the state of Wisconsin employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:
2. In the course of those duties I was assigned as a prosecutor in the above-captioned matter; and
3. Set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

Arthur K Thexton

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
4/17/96	observation at pharmacy	2.0
4/18/96	prep memo re observations	1.0
5/01/96	prep letter to respondent	0.3
5/01/96	prep stipulation & proposed order	2.0
5/31/96	prep & file complaint & notice of hearing	2.0
11/25/96	prep testimony for hearing	1.0
12/05/96	attend hearing	1.0

James W. Harris

7/09/96	letter expert witness	0.3
7/17/96	letter expert witness	0.3
7/25/96	letter expert witness	0.3
7/31/96	prehearing conference	0.5
8/14/96	review Atty. Boyle letter and answer	0.3

8/20/96	prehearing conference	0.5
8/22/96	letter Atty. Boyle	0.3
9/11/96	telconf Atty. Boyle	0.3
9/11/96	prep and file preliminary witness list	1.0
10/15/96	memo to investigator re: witness interview	0.5
10/23/96	review pharmacy records	2.0
11/01/96	telconf. expert witness	0.5
11/01/96	prep & serve notice & motion to amend complaint	1.0
11/08/96	motion hearing	0.3
11/08/96	prep & transmit subpoena	1.0
11/08/96	telconf expert witness, letter	1.0
11/11/96	prep & serve amended complaint	1.0
11/13/96	review letter & amended answer	0.3
11/13/96	review respondent's motion to adjourn	0.3
11/20/96	motion hearing, letter to witnesses re: adjourned hearing	0.5
11/20/96	letter & notice of deposition	0.5
11/25/96	letter & amended notice	0.5
12/05/96	prep & hearing	6.0
12/06/96	letter witnesses	0.5
3/11/97	review proposed decision, prepare & file objections	3.0

TOTAL HOURS: 32

Total attorney expense for 32 hours at
\$41.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals:

\$ 1,312.00

INVESTIGATOR EXPENSE FOR Steven Rohland

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
4/17/96	observation at pharmacy	2.0
4/18/96	prep memo re: observations	0.5
10/16/96	contact witness	0.5

10/22/96 interview witness 2.0
11/11/96 serve subpoena 2.0

TOTAL HOURS: 7

Total investigator expense for 7 hours at
\$20.00 per hour (based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$ 140.00

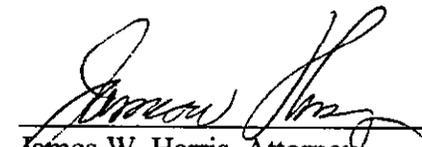
EXPERT WITNESS FEES

Andrew N. Peterson

\$607.59

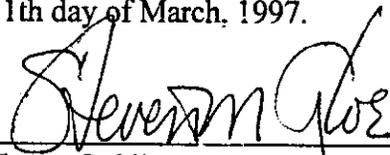
TOTAL ASSESSABLE COSTS

\$ 2,059.59



James W. Harris, Attorney
Division of Enforcement

Subscribed and sworn to before me this
11th day of March, 1997.



Notary Public

My Commission permanent



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E WASHINGTON AVENUE
P O BOX 8935
MADISON, WISCONSIN 53708-8935
(608) 266-2112

April 22, 1997

BRIDGET E BOYLE, ATTORNEY
1124 WEST WELLS STREET
MILWAUKEE WI 53233

RE: In The Matter of Disciplinary Proceedings Against Richard O. Heinzelman, R.Ph.,
Respondent, LS9606072PHM, Assessment of Costs

Dear Ms. Boyle:

On April 8, 1997, the Pharmacy Examining Board issued an order involving the license to practice pharmacy of Richard O. Heinzelman, R.Ph. The order requires payment of the costs of the proceedings.

Enclosed please find the Affidavits of Costs of the Office of Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs of the proceedings is \$2,810.54.

Under sec. RL 2.18, Wis. Adm. Code, objections to the affidavits of costs shall be filed in writing. Your objections must be received at the office of the Pharmacy Examining Board, Room 178, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before May 8, 1997. After reviewing the objections, if any; the Pharmacy Examining Board will issue an Order Fixing Costs. Under sec. 440.23, Wis. Stats., the board may not restore or renew a credential until the holder has made payment to the department in the full amount assessed.

Thank you.

Sincerely,

Pamela A. Haack
Administrative Assistant
Office of Legal Services

Enclosures

cc: Pharmacy Examining Board
Department Monitor

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary