

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MARK A. HUFFMAN, M.D.,
RESPONDENT.

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:
:

ORDER

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

Mark A. Huffman, M.D.
4421 N. Maryland
Shorewood, WI 53211

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the
attached Stipulation as an interim disposition of this matter, subject to the
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. That Mark A. Huffman, M.D., Respondent, date of birth August 23, 1958, is a physician licensed to practice medicine and surgery in the State of Wisconsin pursuant to license number 27226, which was granted October 25, 1985.
2. That Respondent resides and practices medicine in the Milwaukee Metropolitan area.
3. That on June 10, 1991, Respondent, through his attorneys, contacted the Department of Regulation and Licensing, Division of Enforcement, for the purpose of reporting that Respondent had been charged in Milwaukee County Circuit Court-Criminal Division with one count of third degree sexual assault and one count of second degree sexual assault. The charges contend that the alleged sexual assaults involved patients following the injection of controlled substances. A copy of the criminal complaint is attached to these documents as Exhibit A.

4. That the incidents alleged in the criminal complaint took place February 5, 1991 and May 21, 1991. Since the date of the second incident, Respondent has voluntarily been an inpatient at Milwaukee Psychiatric Hospital, in Wauwatosa, Wisconsin, under the care of a psychiatrist for treatment of depression.

5. That Respondent has not practiced medicine or seen patients for any purpose since May 22, 1991.

CONCLUSIONS OF LAW

1. That the Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to sec. 448.02(3), Wis. Stats.

2. That the Wisconsin Medical Examining Board has authority to enter into this interim stipulation pursuant to sec. 227.44(5), Wis. Stats.

ORDER

NOW, THEREFORE IT IS HEREBY ORDERED, that the Stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED, that Mark A. Huffman's license to practice medicine and surgery in the State of Wisconsin is hereby limited, effective May 22, 1991 as follows:

1. That Dr. Huffman shall not examine or treat any patient in person.

2. Following documentation being sent to the Department of Regulation and Licensing, Division of Enforcement, from Dr. Huffman's treating psychiatrist certifying that Dr. Huffman is psychiatrically and psychologically able to perform such tasks competently, Dr. Huffman shall be allowed to: consult with other physicians; do research which does not require examination or touching of patients or research subjects; answer medical inquiries; teach, so long as the teaching does not require contact with patients; analyze medical paperwork for insurance claims; review medical paperwork for the purpose of giving second or expert opinions.

3. That Dr. Huffman shall not dispense, prescribe, or administer any controlled substance as defined by Chapter 161, Wis. Stats., in circumstances which bring him into physical contact with patients.

4. That these limitations shall remain in effect until the occurrence of one of the following:

a. The dismissal of all counts against Respondent in the criminal case currently pending in Milwaukee, case number F-911996.

b. Upon written notice from Respondent or Respondent's attorney, or notice from any other party, that Respondent's contesting of the criminal charges in the Milwaukee County Circuit Court action, F-911996, has

concluded at the trial level without dismissal of all counts, then these limitations shall become limitations pending hearing for a period of 90 days from receipt of such notice. If subsequent to receipt of such notice, Respondent or his attorneys cause a delay in the hearing process, the Board may subsequently limit Respondent's license from the time the process is commenced until a final decision is issued or may delegate such authority to the Administrative Law Judge. The written notice by Respondent specified in this subsection shall be made to the Administrative Assistant to the Wisconsin Medical Examining Board at P.O. Box 8935, Madison, WI 53708, by certified mail.

c. Agreement by all parties that the limitations shall end or be modified.

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

Dated this 20th day of June, 1991


Michael P. Mehr, M.D., Secretary
Medical Examining Board

JRZ:vec
T-26376

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK A. HUFFMAN, M.D.,
RESPONDENT.

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:
:
:
:

STIPULATION

It is hereby agreed and stipulated, by and between Mark A. Huffman, M.D., Respondent; Stephen E. Kravit of Kravit, Lammiman and DeBruin, attorneys for Respondent; Thomas E. Martin, attorney for Respondent; John R. Zwieg, attorney for the Department of Regulation and Licensing, Division of Enforcement; and, the Wisconsin Medical Examining Board, as follows:

1. That Mark A. Huffman, M.D., Respondent, date of birth August 23, 1958, is a physician licensed to practice medicine and surgery in the State of Wisconsin pursuant to license number 27226, which was granted October 25, 1985.

2. That Respondent resides and practices medicine in the Milwaukee metropolitan area.

3. That on June 10, 1991, Respondent, through his attorneys, contacted the Department of Regulation and Licensing, Division of Enforcement, for the purpose of reporting that Respondent had been charged in Milwaukee County Circuit Court-Criminal Division with one count of third degree sexual assault and one count of second degree sexual assault. The charges contend that the alleged sexual assaults involved patients following the injection of controlled substances. A copy of the criminal complaint is attached to these documents as Exhibit A.

4. That based upon the report from Respondent's attorneys, the Division opened investigative file 91 MED 122.

5. That the incidents alleged in the criminal complaint took place February 5, 1991 and May 21, 1991. Since the date of the second alleged incident, Respondent has voluntarily been an inpatient at Milwaukee Psychiatric Hospital, in Wauwatosa, Wisconsin, under the care of a psychiatrist for treatment of depression.

6. That Respondent has not practiced medicine or seen patients for any purpose since May 22, 1991.

7. That in the interest of judicial and administrative economy and in return for Respondent's agreements in this Stipulation, the Department of Regulation and Licensing, Division of Enforcement, and the Wisconsin Medical Examining Board agree not to issue a formal disciplinary complaint against Respondent based upon the allegations which are the basis for the pending criminal charges referred to above until those criminal matters are resolved at the trial court level.

8. That Respondent agrees that his license to practice medicine and surgery in the State of Wisconsin may be limited, as set out in the attached Order.


9. That Respondent does not admit any guilt regarding the criminal charges, but enters into this agreement for personal reasons and in return for the agreements made by the Department of Regulation and Licensing, Division of Enforcement, and the Wisconsin Medical Examining Board in this Stipulation.

10. That the attorney for the Department of Regulation and Licensing, Division of Enforcement, and the attorneys for the Respondent may appear before the Wisconsin Medical Examining Board on June 20, 1991 to argue in favor of acceptance of this Stipulation and the entry of the attached Order, without further notice to any parties.

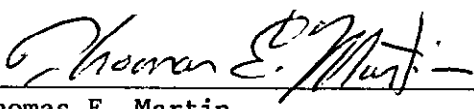
Dated June 13, 1991


Mark A. Huffman, M.D., Respondent

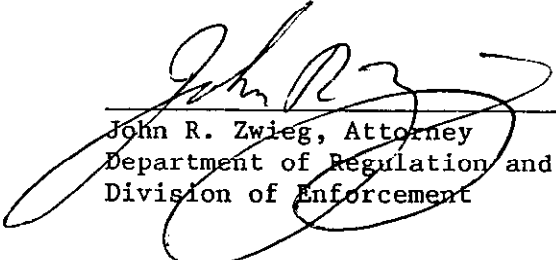
Dated June 13, 1991


Stephen E. Kravit
Kravit, Lammiman and DeBruin
Attorneys for Respondent

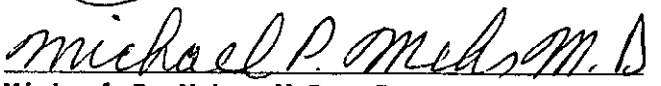
Dated June 13, 1991


Thomas E. Martin
Attorney for Respondent

Dated June 12, 1991


John R. Zwieg, Attorney
Department of Regulation and Licensing
Division of Enforcement

Dated June 20, 1991


Michael P. Mehr, M.D., Secretary
Wisconsin Medical Examining Board

JRZ:vec
ATY-1605

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Page 1

STATE OF WISCONSIN

HUFFMAN, Mark
4421 North Maryland
Milwaukee, Wisconsin

082358

CRIMINAL COMPLAINT

CRIME(S) OR VIOLATION(S)

Third Degree Sexual AssaultSecond Degree Sexual Assault

STATUTE(S) OR ORDINANCE(S) VIOLATED

940.225(3) & 940.225(2)(d)

COMPLAINING WITNESS

Carlson, Michael

CASE NUMBER

E-111-991

Defendant(s)

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN

COUNT #01 - Third Degree Sexual Assault

on February 5, 1991, at 2323 North Lake Drive, City of Milwaukee, did have sexual intercourse with David Herman without his consent, contrary to Wisconsin Statutes section 940.225(3).

COUNT #02 - Second Degree Sexual Assault

on May 21, 1991, at 2323 North Lake Drive, City of Milwaukee, did have sexual contact with Victory Adams, who the defendant knew was unconscious, contrary to Wisconsin Statutes section 940.225(2)(d).

AS TO COUNT #01

Upon conviction of this charge, a Class D Felony, the maximum possible penalty is a fine of not more than \$10,000 or imprisonment for not more than 5 years or both.

AS TO COUNT #02

Upon conviction of this charge, a Class C Felony, the maximum possible penalty is a fine of not more than \$10,000 or imprisonment for not more than 10 years or both.

Complainant states he is a detective employed by the City of Milwaukee Police Department and this complaint is based upon the following:

AS TO COUNT #01

Upon your complainant's reading of official City of Milwaukee Police Department reports, which your complainant believes to be truthful and reliable, because he knows said reports were prepared and maintained in the normal course of business of the City of Milwaukee Police Department, and further because he has used said reports in the past and they have proven to be truthful and reliable.

Exhibit A

<div>STATE OF WISCONSIN_s</div> <div>HUFFMAN, Mark 4421 North Maryland Milwaukee, Wisconsin</div> <div>082358</div> <div>Defendant(s)</div>	<div>CRIMINAL COMPLAINT</div> <div>CRIME(S) OR VIOLATION(S) Third Degree Sexual Assault Second Degree Sexual Assault</div> <div>STATUTE(S) OR ORDINANCE(S) VIOLATED 940.225 (3) & 940.225 (2) (d)</div> <div>COMPLAINING WITNESS Carlson, Michael</div> <div>CASE NUMBER</div>
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Said reports reflect the statement of David Herman, an adult citizen whom your complainant believes to be truthful and reliable. He states that on February 4, 1991, at approximately 4:45 p.m., he was involved in an industrial accident at 1943 North Commerce Street, in the City and County of Milwaukee, Wisconsin. He was conveyed to the emergency room of St. Mary's Hospital, 2323 North Lake Drive, in the City and County of Milwaukee, Wisconsin, for treatment of injuries, including a possible broken neck. In the emergency room his attending physician was a doctor whose last name starts with "H." Said reports reflect that subsequently Mr. Herman identified the above named defendant as being his attending physician in the emergency room.

On the above mentioned date, at approximately 11:00 p.m., he was transferred to a room in St. Mary's Hospital and was introduced to two nurses. The nurses advised him of the procedure that was going to occur while he was at the hospital and also told him he would receive medication from them. An intravenous unit (IV) was connected to his arm and it possibly contained "sugar water." One of the nurses gave him one Tylenol. Subsequently, the nurses left the room and his television was on but there were no other lights in the room on.

Approximately one and a half hours later, the above named defendant who had treated him in the emergency room entered his room. When the defendant entered the room, he asked Mr. Herman how he was doing, if he was alright, and if he had any pain. The defendant told him that he was going to give him some medication. The defendant walked to the rear of Mr. Herman's left shoulder area where the IV bottle was and Mr. Herman observed the defendant doing something to the bottle but did not know what. Moments later he felt "real goofy, real wacky, dizzy, his vision was blurred and it appeared that the ceiling was coming down on him." The defendant was then talking to him and asking him if he knew where he was and the defendant was holding his hand while he was saying this. While the defendant was talking to him, he was very close to Mr. Herman's face. Mr. Herman then began to feel very relaxed and he felt something in near his crotch area which felt like someone had their mouth on his penis. He then observed the above named defendant with his mouth on Mr. Herman's penis and the defendant was sucking Mr. Herman's penis. He reached down with his right hand and was pulling up his underwear that had been pulled down to his thigh area. With

STATE OF WISCONSIN

Plaintiff,

HUFFMAN, Mark
4421 North Maryland
Milwaukee, Wisconsin

082358

Defendant(s)

CRIMINAL COMPLAINT

CRIME(S), OR VIOLATION(S)

Third Degree Sexual Assault

Second Degree Sexual Assault

STATUTE(S) OR ORDINANCE(S) VIOLATED

940.225(3) & 940.225(2) (d)

COMPLAINING WITNESS

Carlson, Michael

CASE NUMBER

his other hand, he pushed the defendant away. He asked the defendant what he was doing and told him to get away. The defendant stated words to the effect "Remember the test, remember the test." The defendant stated that he would see Mr. Herman in the morning and the defendant then left the room. He states he did not give the defendant consent or permission to have sexual contact or sexual intercourse with him.

AS TO COUNT #02

Upon the statement of Victory Adams, an adult citizen whom your complainant believes to be truthful and reliable. He states that on May 20, 1991, at approximately 10:00 p.m., he was conveyed to the above mentioned St. Mary's Hospital because he was suffering pain caused by a stomach obstruction. He had eaten a raw carrot and a portion of the carrot had become lodged in his stomach and he needed medical attention. He was admitted to the emergency room at the above mentioned hospital at 2323 North Lake Drive and initially he was attended to by a female physician. Sometime later, the above named defendant introduced himself to Mr. Adams, and stated that he was going to be treating Mr. Adams. Shortly thereafter, it was determined the carrot had lodged in Mr. Adams intestines. During the course of treatment, the defendant told him that in order to get the item dislodged they were going to have to pump Mr. Adam's stomach and that Mr. Adams would be admitted to the hospital. Subsequently Mr. Adams was given an IV and a stomach tube which was inserted through his nose. He was in an extreme amount of pain, and he related this to the defendant, and the defendant told him he would give him something to help him sleep.

Sometime later Mr. Adams was transferred to a room on a different floor and that at approximately 2:00 a.m. on May 21, 1991, he was alone in this room. He was attended to by a female nurse which she stated had been prescribed by the defendant. Mr. Adams states he was dressed only in a hospital gown and had a blanket covering him. The last thing he remembers was looking at his watch at approximately 2:30 a.m. and he fell asleep.

Sometime later, he was awakened because he felt the presence of someone touching him. As he became more alert, he realized that the blanket which had been covering him was now pulled down towards his legs and that his hospital gown had been raised to his chest area. He then became aware of

STATE OF WISCONSIN_s

Plaintiff,

HUFFMAN, Mark
4421 North Maryland
Milwaukee, Wisconsin

082358

CRIMINAL COMPLAINT

CRIME(S) OR VIOLATION(S)

Third Degree Sexual AssaultSecond Degree Sexual Assault

STATUTE(S) OR ORDINANCE(S) VIOLATED

940.225 (3) & 940.225 (2) (d)

COMPLAINING WITNESS


Carlson, Michael

CASE NUMBER

Defendant(s)

the presence of someone standing over him, and at that time he observed the above named defendant, who had treated him in the emergency room standing over him. He observed the defendant fondling Mr. Adams erect penis. He states the defendant was actually moving his hand up and down Mr. Adams penis in a masturbatory fashion. The defendant became aware that Mr. Adams was alert and the defendant stated "You really did good down there. We'll get that tube out of you tomorrow." He mumbled a response to the defendant acknowledging the defendant's statements. During this conversation, the defendant was constantly looking towards the door way and he was still moving his hand up and down Mr. Adams penis. He became disturbed by the defendant's actions, and he was able to shift his hip area away from the defendant. As he did this, the defendant stopped fondling his penis. The defendant then pulled the gown over Mr. Adams and pulled the blankets up. The defendant stated, "It's too bad I met you in the hospital. Maybe next time we won't be here." The defendant then left the room. Mr. Adams states that he did not give the defendant consent or permission to have sexual contact with him.

**** END OF COMPLAINT ****

SUBSCRIBED AND SWORN TO BEFORE ME
AND APPROVED FOR FILING June 7, 1991
DEPUTY/ASST. DISTRICT ATTORNEY
DJACK/ecj
186f-Huffman M
COMPLAINING WITNESS

-- FELONY COMPLAINT --

FILED
CRIMINAL DIVISION

JUN 07 1991

GARY J. BARCZAK
CLERK OF COURTS

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 Medical 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 Medical 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 Medical Examining Board.

The date of mailing of this decision is June 24, 1991.

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 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 employee 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) 1. 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. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. 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.

3. 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) A copy 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 each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(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.