

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 :
 :
STEPHEN A. HANKE, O.T., : FINAL DECISION AND ORDER
RESPONDENT : (95 MED 359)
 :

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

Stephen A. Hanke, O.T.
N6985 Robin Rd.
Wittenberg, WI 54499

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

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

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Stephen A. Hanke, O.T., personally, and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Stephen A. Hanke, O.T., N6985 Robin Road, Wittenberg, Wisconsin 54499, was born on 5/5/53 and has been certified to practice occupational therapy in the State of Wisconsin since 8/22/91, certificate #1159.
2. An investigation, 95 MED 359, is pending before the Wisconsin Medical Examining Board.
3. In May and June, 1995, Mr. Hanke provided occupational therapy services to a patient, J.A. While providing these services to the patient, he made notes for his future reference but did

not chart the activities in the patient's medical record until weeks after the events occurred. When he charted the patient's occupational therapy activities in the medical record, he incorrectly recorded the dates upon which these activities occurred.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this matter pursuant to sec. 448.02, Stats.
2. The Wisconsin Medical Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Stephen A. Hanke's conduct in failing to accurately document the patient's occupational therapy activities constitutes a violation of sec. 448.02(3), Stats. and Wis. Admin. Code secs. MED 10.02(2)(a) and 19.08(5)(b).
4. The Wisconsin Medical Examining Board has the authority pursuant to sec. 440.22, Stats., to assess the costs of this proceeding against Stephen A. Hanke.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Stephen A. Hanke's certification to practice occupational therapy in the State of Wisconsin is limited as follows:

- a. Stephen A. Hanke shall take a minimum of 12 hours of continuing education on the subject of record keeping practices. These courses shall be pre-approved by the Wisconsin Medical Examining Board.
- b. Stephen A. Hanke shall complete these continuing education courses within six months of the date of this Final Decision And Order.
- c. Stephen A. Hanke shall verify attendance at these continuing education courses by filing an affidavit with the Wisconsin Medical Examining Board in care of Michelle Neverman, Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, 1400 East Washington Avenue, Madison, Wisconsin 53708-8935, stating under oath that he has attended and completed the approved continuing education courses in their entirety. This affidavit shall be filed within 30 days of completion of the 12 hours of continuing education.
- d. Stephen A. Hanke shall pay the full costs of the continuing education courses he attends in satisfaction of this Order.

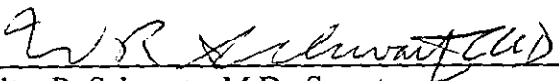
IT IS FURTHER ORDERED that Stephen A. Hanke shall pay the costs of this proceeding in the amount of \$100.00 to the Department of Regulation and Licensing, P.O. Box 8935, 1400 East Washington Avenue, Madison, Wisconsin 53708-8935, within 30 days of the date of this Final Decision And Order.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Stephen A. Hanke has violated the terms of this Final Decision And Order of the Wisconsin Medical Examining Board, the Board may order that the certification of Stephen A. Hanke to practice occupational therapy in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

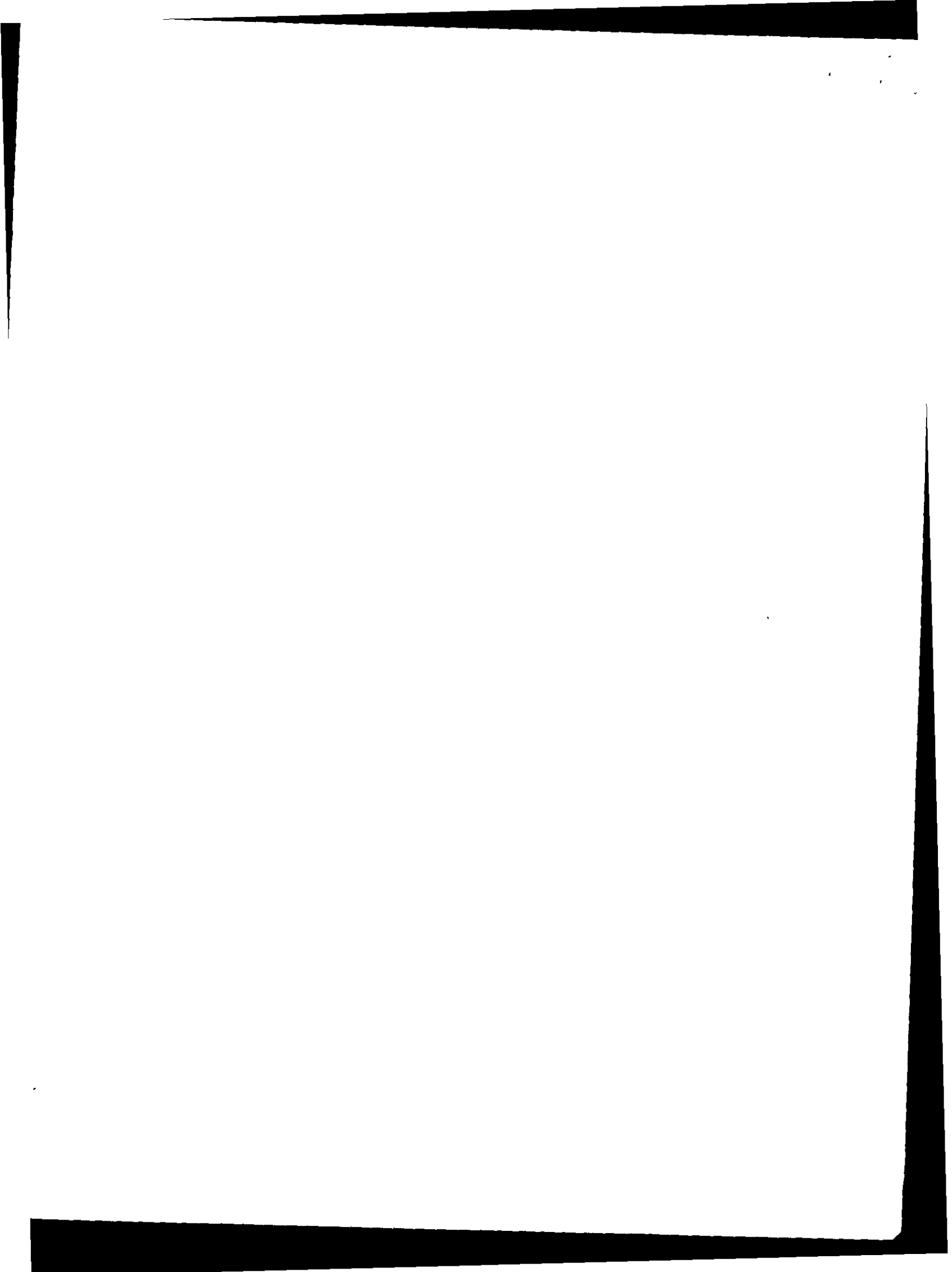
The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 19th day of December, 1996.

WISCONSIN MEDICAL EXAMINING BOARD



Walter R. Schwartz, M.D., Secretary



STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
STEPHEN A. HANKE, O.T., : STIPULATION
RESPONDENT : (95 MED 359)
 :

It is hereby stipulated between Stephen A. Hanke, O.T., personally, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Stephen A. Hanke, O.T., N6985 Robin Road, Wittenberg, Wisconsin 54499, was born on 5/5/53 and has been certified to practice occupational therapy in the State of Wisconsin since 8/22/91, certificate #1159.
2. An investigation, 95 MED 359, is pending before the Wisconsin Medical Examining Board.
3. The Wisconsin Medical Examining Board may enter the Final Decision And Order, a copy of which is attached hereto and incorporated herein.
4. Mr. Hanke understands that by signing this Stipulation, he freely, voluntarily and knowingly waives his rights, including the right to be represented by an attorney, the right to a hearing on the allegations against him, the right to confront and cross-examine witnesses against him, the right to call witnesses on his behalf and to compel their attendance by subpoena, the right to testify on his own behalf, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the Final Decision and Order, the right to petition for rehearing, the right to judicial review, and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
5. The parties to this Stipulation and the board advisors, Wanda Roever and Wayne Winistorfer, O.T., may appear before the Wisconsin Medical Examining Board in support of this Stipulation. Any appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

6. If any term of this Stipulation or the incorporated Final Decision and Order is not accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or the Final Decision and Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: 10/28/96

Stephen A. Hanke, O.T.
Stephen A. Hanke, O.T.

Dated: 11/5/96

Gilbert C. Lubeke
Gilbert C. Lubeke
Attorney for the Department of Regulation and Licensing
Division of Enforcement

RESERVED

UCL 3 . 1996

Dept. of Acquisition & Transition

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 December 19, 1996, the Medical 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: \$100.00 Case #: 95MED359

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 100.00

The costs and/or forfeitures are due: January 18, 1997

NAME: Stephen A. Hanke, O.T. LICENSE NUMBER: 1159

STREET ADDRESS: N6985 Robin Road

CITY: Wittenberg STATE: WI ZIP CODE: 54499

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

X COSTS _____ FORFEITURE

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

X 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

For Receipting Use Only

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

Committed to Equal Opportunity in Employment and Licensing+

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

In the Matter of the Disciplinary Proceedings Against

Stephen A. Hanke, O.T.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

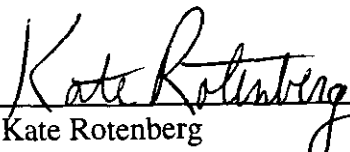
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

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

2. On December 23, 1996, I served the Final Decision and Order dated December 19, 1996 and Guidelines for Payment of Costs and/or Forfeitures upon the Respondent Stephen A. Hanke, O.T. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent 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 213 340 331.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:


Stephen A. Hanke, O.T.
N6985 Robin Road
Wittenberg WI 54499



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 23rd day of December, 1996.



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 MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

December 23, 1996

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.)

SECTIONS 227.49 AND 227.53, OF THE WISCONSIN STATUTES

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 copies 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.

227.53 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, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank 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 5.

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 (5) (b), 182.70 (8) 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.

5. The savings bank 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 bank 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, the savings and loan review board and the savings bank 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.