

Chapter Phar 14

FORFEITURES

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Phar 14.01 Authority and intent. (1) The board adopts this chapter under authority of ss. 15.08 (5) (b), 227.11 (2), and 450.02 (3) (d), Stats., interpreting s. 450.10 (2), Stats.

(2) The intent of the board in adopting this chapter is to specify a procedure for assessing forfeitures under s. 450.10 (2), Stats., the kinds of violations for which forfeitures may be assessed and the related statutory provisions for collection of amounts assessed.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.02 Classification of violations. In this chapter:

(1) **CATEGORY "I".** A category "I" violation means a violation of ch. 161 or 450, Stats., or the rules of the board which creates a condition or occurrence relating to the practice of pharmacy that does not substantially threaten the health, safety or welfare of a patient or the public.

(2) **CATEGORY "II".** A category "II" violation means a violation of ch. 161 or 450, Stats., or the rules of the board which creates a condition or occurrence relating to the practice of pharmacy [that] substantially threatens the health, safety or welfare of a patient or the public.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.03 Forfeitures. (1) **ASSESSMENT OF FORFEITURES.** (a) *Category "I" violations.* 1. The board or agent of the board or department pursuant to inspection or investigation may issue a notice of forfeiture for category "I" violations.

2. Each notice of forfeiture shall be prepared in writing and shall specify the nature of the violation and the statutory provision or rule alleged to have been violated and the amount of the forfeiture assessed as specified in sub. (2). The notice shall inform the licensee of the right to a hearing under s. Phar 14.06. The notice shall conform to the requirements in ss. RL 2.05 and 2.06.

3. The notice may be served by an agent of the board or department at the time of or following an investigation or inspection, or may be sent to the licensee.

4. The board may assess a forfeiture for category "I" violations in the amounts specified in sub. (2) (a) upon a finding of unprofessional conduct in a disciplinary proceeding under s. 450.10, Stats.

(b) *Category "II" violations.* The board may assess a forfeiture for category "II" violations in the amounts specified in sub. (2) (b) upon a finding of unprofessional conduct in a disciplinary proceeding under s. 450.10, Stats.

(c) Each day of violation constitutes a separate offense for which a forfeiture may be assessed, pursuant to s. 450.10 (2), Stats.

(2) **FORFEITURE AMOUNTS.** Any licensee who is guilty of a category "I" or category "II" violation may be subject to the following forfeiture amounts:

(a) A category "I" violation may be subject to a forfeiture of not less than \$10 and not more than \$250 for each violation.

(b) A category "II" violation may be subject to a forfeiture of not less than \$250 and not more than \$1,000 for each violation.

(3) **PAYMENT OF FORFEITURES.** All forfeitures shall be paid in accordance with the following time limits:

(a) Within 20 days of receipt of the notice of forfeiture.

(b) If the assessment of forfeiture is contested and a hearing is held by the board under ch. RL 2, within 20 days of receipt of the final adverse decision of the board under ch. RL 2.

(c) If the decision is appealed to a court, within 20 days of a final adverse decision by the court.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.04 School fund. The department shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.05 Unprofessional conduct. If the forfeiture is not paid or the board is not notified within 20 days that the forfeiture is contested such inaction constitutes unprofessional conduct.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.06 Hearings. (1) A licensee who desires to contest any board action under this chapter shall file a written request for a hearing with the board within 20 days of receipt of the notice of forfeiture.

(2) Hearings under this section shall be held pursuant to ch. RL 2, except that the notice of forfeiture shall serve as the complaint under s. RL 2.06.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Phar 14.07 Enforcement by attorney general. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this section if the

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forfeiture has not been paid following the exhaustion of all administrative and judicial reviews.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.