

RECEIVED

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

JUN 23 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.,

Defendant.

DEPT. OF EXAMINING BOARDS
LINCOLN, NEBRASKA

ORDER OF DISMISSAL

Upon motion of the Attorney General the above captioned matter is dismissed with prejudice as a result of the defendant's having fully complied with an Assurance of Compliance, the terms of which are on file with the Department.

DATED this 23rd of June, 1993.



Mark B. Horton
Mark B. Horton, M.D., M.S.P.H.
Director of Health
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 23 day of June, 1993, a copy of the foregoing ORDER OF DISMISSAL was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.



Tammy Honnor
Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.
DON STENBERG, Attorney General,

Plaintiff,

v.

LEROY H. CARHART, M.D.,

Defendant.

DISMISSAL

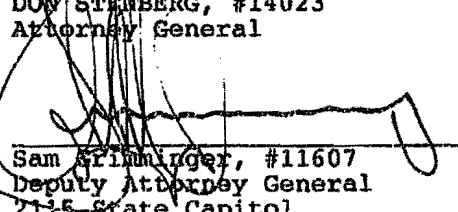
FILED

6-2-93 TX
DIRECTOR OF HEALTH

The Attorney General's Office does hereby dismiss this cause with prejudice. This dismissal is entered for the reason Defendant has complied with an agreement to execute an "Assurance of Compliance", which is an alternative to licensure discipline. That said "Assurance of Compliance" document has been filed with the Department of Health and is now a matter of record.

STATE OF NEBRASKA, ex rel., DON
STENBERG, Attorney General,
Plaintiff,

BY DON STENBERG, #14023
Attorney General

BY 
Sam Grimmer, #11607
Deputy Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2682

Attorneys for Plaintiff.

2-5128-3

RECEIVED

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH OF THE STATE OF NEBRASKA JUN 2 1993

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

IN THE MATTER OF THE LICENSE)
OF LEROY H. CARHART, M.D., TO) ASSURANCE OF COMPLIANCE
PRACTICE PROFESSIONAL)
COUNSELING MEDICINE AND SURGERY)

COME NOW LeRoy H. Carhart, M.D. and the Attorney General's Office, and hereby agree as follows:

1. No coercion, threats or promises were made to LeRoy H. Carhart, M.D. by the Attorney General of the State of Nebraska or anyone on his staff, by any law enforcement officials, or by any person of the Department of Health of the State of Nebraska, to induce him to enter into this Assurance of Compliance.

2. Neb. Rev. Stat. § 71-147 and Neb. Rev. Stat. § 71-171.02 provide that alternative actions may be taken with respect to licensees who engage in certain specified conduct. That utilization of an Assurance of Compliance agreement is one such alternative. That the following conduct would constitute grounds for entry of an Assurance of Compliance:

- a. The act of a doctor talking on the telephone for non-medical reasons while performing a surgical procedure including abortion;
- b. The act of a doctor falsifying entries on a patient chart;
- c. The act of a doctor interrupting or delaying a surgical procedure including abortion due to or as a result of his exhaustion or fatigue;

Filed
RECEIVED

JUN 3 1993

DIRECTOR OF HEALTH


d. The failure of a doctor to adequately address protection of patient and staff from infection by contagious diseases.

3. LeRoy H. Carhart, M.D., by executing this Assurance of Compliance, certifies that he will not engage in such conduct, as described in Paragraph 2. above, and acknowledges that any violation of this Assurance of Compliance would constitute unprofessional conduct as provided by Neb. Rev. Stat. § 71-147(10) as defined by 71-148(16).

4. By executing this assurance of Compliance, LeRoy H. Carhart, M.D. does not admit engaging in the conduct set forth in Paragraph 2(a)(b)(c)(d). above, nor does he admit any violation of law, and this Assurance of Compliance shall not be construed as any such admission or admissions.

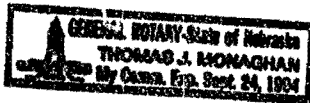
5. This Assurance of Compliance is also not to be considered as a disciplinary action against the license of LeRoy H. Carhart, M.D. to practice as a physician.

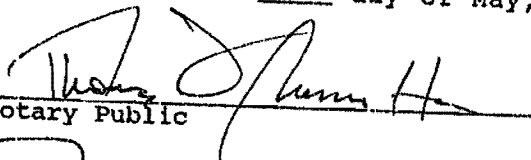
DATED THIS 25th day of May, 1993.



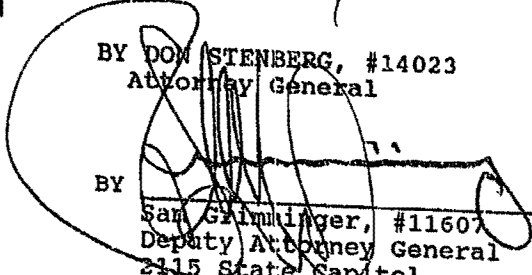
LeRoy H. Carhart, M.D.

SUBSCRIBED AND SWORN to before me this 25 day of May,
1993.




Notary Public

BY DON STENBERG, #14023
Attorney General

BY 
Sam Grimmer, #11607
Deputy Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2682

RECEIVED

JUN 2 1993

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.,

Defendant.

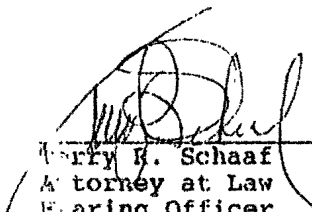
BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

ORDER DISMISSING
ORDER TO SHOW CAUSE

The Order to Show Cause previously entered herein is
dismissed.

DATED this 2 of June, 1993.

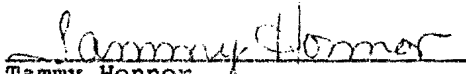



Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 2 day of June, 1993, a copy of the foregoing ORDER DISMISSING ORDER TO SHOW CAUSE was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

JUN 1 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

JEANNETTE O. MARRON, L.P.N.,
LEROY H. CARHART, M.D.,
MARTHA THORNTON, D.P.M.,
JANET KLAMT, R.P.,
ELDEN ARCHER, R.P.,
ROBERT HALKY, AEMC,

Defendants.

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

ORDER TO SHOW CAUSE

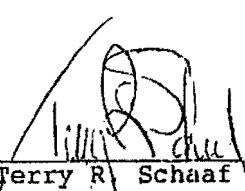
Counsel in the above captioned cases are ordered to appear on June 24, 1993 at 2:00 p.m. in Department of Health conference room "A", to show cause why these cases should not be immediately set for a fully contested hearing on the merits.

Counsel may be excused from personally appearing if: (1) an executed settlement is on file with the Director prior to the date of the show cause hearing or (2) if one or both counsel advises the Hearing Officer, in writing prior to the date of the show cause, that they wish the matter set down for contested hearing.

IT IS SO ORDERED.

DATED this 1 day of June, 1993.




Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 1 day of June, 1993, a copy of the foregoing ORDER TO SHOW CAUSE was sent by certified United States mail, postage prepaid, return receipt requested, to Russell W. Harford, Attorney at Law, P.O. Box 1070, Chadron, Nebraska 69337, Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124, Martha Thornton, D.P.M., Great Plains Podiatry, 3031 "O" Street, Lincoln, Nebraska 68510, Edmund Choroski, Attorney at Law, 200 Willmot Road, Deerfield, Illinois 60015, W. Randall Paragas, Suite 302, 9202 West Dodge Road, Omaha, Nebraska 68114-3318 and by interoffice mail to Sam Grimminger, Deputy Attorney General, and Melanie Whittamore-Mantzios, Assistant Attorney General, 2115 State Capitol.



Sammy Honnor
Sammy Honnor
Office of the Director

RECEIVED

APR 13 1993

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

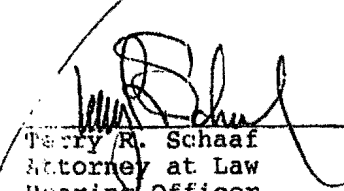
ORDER CANCELLING
HEARING

THIS MATTER came on for consideration on the request of parties, stating an Agreed Settlement is pending. The Hearing Officer, being fully advised, finds that the hearing scheduled for April 13 and 14, 1993, should be cancelled.

IT IS THEREFORE ORDERED that the hearing in the above captioned matter is hereby cancelled pending receipt of the Agreed Settlement. If no Agreed Settlement is received by May 28, 1993, a hearing date will be scheduled.

DATED this 12 day of April, 1993.

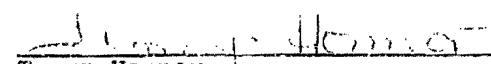



Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 13 day of April, 1993, a copy of the foregoing ORDER CANCELLING HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

RECEIVED

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

APR 6 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

Plaintiff,

PRETRIAL ORDER

v.

LEROY H. CARHART, M.D.

Defendant.

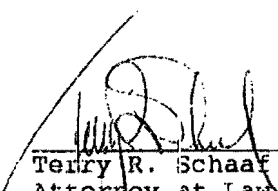
A prehearing conference was held before Hearing Officer Terry R. Schaaf on April 5, 1993. The plaintiff was represented by Deputy Attorney General Sam Grimminger and the defendant by Thomas J. Monaghan. Argument was made and the matter submitted.

The Hearing Officer, being fully advised, finds as follows:

1. That the defendant's Demurrer to the amended petition is overruled.
2. That the defendant's oral motion to compel production of the complaint initially filed herein is denied.
3. That the defendant's oral motion to compel production of the report of the Board of Examiners in Medicine and Surgery to the Attorney General is denied. The Hearing Officer will however review said report in camera to determine whether or not there is any discoverable evidence contained therein concerning opinions held by Dr. Haller.
4. That the parties be ordered to exchange witness lists by 5:00 p.m. on Tuesday, April 6, 1993.

DATED this 6 day of April, 1993.




Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 6 day of April, 1993, a copy of the foregoing PRETRIAL ORDER was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.



Tammy Honnor
Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

FILED

4-1-93 TM.
DIRECTOR OF HEALTH


STATE OF NEBRASKA, ex rel.)
DON STENBERG, Attorney General,)
Plaintiff,)
vs.)
LEROY H. CARHART, M.D.,)
Defendant.)

REQUEST THAT
DEPARTMENT OF HEALTH
BE BOUND BY RULES OF
EVIDENCE

COMES NOW the Defendant, LeRoy H. Carhart, M.D., and pursuant to Neb. Rev. Stat. § 84-914 (Reissue of 1987) and Neb. Rev. Stat. § 27-1101(2)(c) hereby requests that the Nebraska Department of Health be bound by the Rules of Evidence in the District Court. Pursuant to Neb. Rev. Stat. § 84-914 (Reissue of 1987), Defendant agrees to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing, and further acknowledges that all costs of a formal hearing shall be paid by the party against whom a final decision is rendered.

LEROY H. CARHART, M.D., Defendant

By


Thomas J. Monaghan #12874
MONAGHAN, TIEDEMAN & LYNCH
2120 South 72 Street, Suite 1130
Omaha, NE 68124
402/397-5757
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the above and foregoing pleading was sent by U.S. Mail, postage prepaid, to Sam Grimminger, Deputy Attorney General, 2115 State Capitol, Lincoln, NE 68509-8920, on this 30th day of March, 1993.

RECEIVED

APR 1 1993

BEAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

FILED

4-1-93 TH.

DIRECTOR OF HEALTH

STATE OF NEBRASKA, ex rel.)
DON STENBERG, Attorney General,)
Plaintiff,)
vs.)
LEROY H. CARHART, M.D.,)
Defendant.)

**ANSWER TO AMENDED PETITION
FOR DISCIPLINARY ACTION**

COMES NOW LeRoy H. Carhart, M.D. and for his Answer to the Amended Petition for Disciplinary Action filed by the Plaintiff herein, admits, denies and affirmatively defends, as follows:

1. Defendant admits Paragraphs 1, 2, 3, and 4 of the Amended Petition.

2. Defendant denies Paragraphs 5, 6, 8, 9, and 10 of the Amended Petition.

3. Defendant lacks personal knowledge of the allegations contained in Paragraph 7 of the Amended Petition and therefore, denies Paragraph 7.

4. For further answer, Defendant demurs to the Amended Petition for the reason that the Amended Petition does not set forth facts sufficient to allow the Director to discipline the Defendant.

5. For further answer and as an affirmative defense, Defendant alleges that Neb. Rev. Stat. § 71-147 et. seq. and specifically, § 71-147(5)(a)(d), (1991 Supp.) upon which the Plaintiff's cause of action is premised are constitutionally vague and therefore, unenforceable for the reason that Neb.

Rev. Stat. § 71-147 et. seq. and specifically, § 71-147(5)(a)(d), (1991 Supp.) violate the due process clauses of the 5th and of the 14th Amendments to the U. S. Constitution and the due process clause (Section 3) of the Constitution of the State of Nebraska, in the following respects:

(a) By failing to give adequate notice to the Defendant of reasonably precise standards to be utilized by the Director in determining what conduct constitutes "fraud," "gross incompetence" or "gross negligence," as set forth in Neb. Rev. Stat. § 71-147(5)(a)(d), sufficient for revocation of or imposition of disciplinary measures against the Defendant's license to practice medicine and surgery;

(b) By permitting the Director to utilize arbitrary and discriminatory standards in determining what conduct constitutes "fraud," "gross incompetence" or "gross negligence," as set forth in Neb. Rev. Stat. § 71-147(5)(a)(d), sufficient to revoke or impose disciplinary measures against the Defendant's professional license, which professional license is a valuable property right owned by the Defendant.

6. For further answer and as an affirmative defense, Defendant alleges that Plaintiff has failed to comply with Neb. Rev. Stat. § 71-152(3) (Reissue 1990).

7. For further answer and as an affirmative defense, Defendant alleges that the Nebraska Legislature, in its enactment of Neb. Rev. Stat. § 71-147 5(a) and (d), improperly delegated its authority to the Director of Health by failing to provide specific and proper standards and limits within which the Director is to act when determining whether conduct of a licensee or certificate holder constitutes "fraud," "gross incompetence" or "gross negligence."

WHEREFORE, having fully answered the Plaintiff's Amended Petition, Defendant LeRoy H. Carhart, M.D., prays that the Amended Petition be dismissed at Plaintiff's costs and that Defendant's costs expended herein be taxed to the Plaintiff.

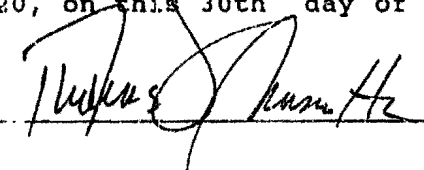
LEROY H. CARMART, M.D., Defendant

By: 

Thomas J. Monaghan #12874
MONAGHAN, TIEDEMAN & LYNCH
2120 South 72 Street, Suite 1130
Omaha, NE 68124
402/397-5757
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the above and foregoing pleading was sent by U.S. Mail, postage prepaid, to Sam Grimminger, Deputy Attorney General, 2115 State Capitol, Lincoln, NE 68509-8920, on this 30th day of March, 1993.



RECEIVED

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

MAR 30 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

Plaintiff,

v.

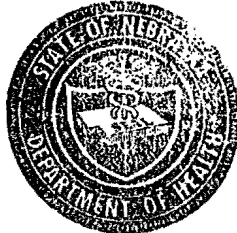
ORDER SCHEDULING
HEARING

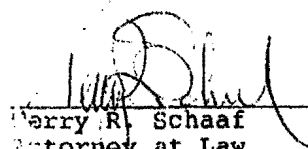
LEROY H. CARHART, M.D.

Defendant.

PLEASE TAKE NOTICE that a pretrial hearing is scheduled for the 5th day of April, 1993, beginning at 9:30 a.m. in Department of Health conference room "A", third floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 2 day of March, 1993.





Perry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 30 day of March, 1993, a copy of the foregoing ORDER SCHEDULING HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

MAR 12 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

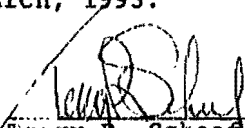
NOTICE OF HEARING FOR
AMENDED PETITION

Leroy H. Carhart, you are hereby notified that an AMENDED PETITION FOR DISCIPLINARY ACTION has been filed against you before the Director of Health of the Department of Health of the State of Nebraska on the relation of Don Stenberg, Attorney General. A copy of said Petition is hereto attached.

IT IS THEREFORE ORDERED that the hearing in the above captioned matter will remain as scheduled for April 13 and 14, 1993, beginning at 9:00 a.m. in Liquor Control conference room, fifth floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 11 day of March, 1993.

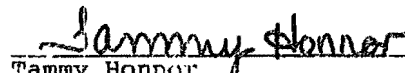



Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 12 day of March, 1993, a copy of the foregoing NOTICE OF HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.)
DON STENBERG, Attorney General,)
Plaintiff,)
v.)
LEROY H. CARHART, M.D.,)
Defendant.)

FILED

3-16-93 JH.

DIRECTOR OF HEALTH

AMENDED PETITION FOR
DISCIPLINARY ACTION

RECEIVED

MAR 12 1993

FIRST CAUSE OF ACTION

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

Plaintiff alleges as follows:

1. That jurisdiction of this cause is based on Neb. Rev. Stat. § 71-150 (1992 Cum.Supp.).
2. That defendant is an individual who on October 17, 1979, was issued license #15162 by the Department of Health, State of Nebraska to practice medicine and surgery within the State of Nebraska.
3. That the Department of Health, State of Nebraska is the agency of said state authorized to enforce the laws of Nebraska in regulating the practice of medicine and surgery within Nebraska.
4. That Don Stenberg is the duly elected Attorney General for the State of Nebraska empowered to enforce the laws of this state and brings this action pursuant to Neb. Rev. Stat. § 71-150(3) (1992 Cum.Supp.).
5. That defendant while associated with Woman's Medical Center of Omaha, Nebraska as a treating physician did do and perform the following conduct:

a. That on or about the 14th day of February, 1991, defendant altered a patient chart after the fact to correctly reflect the status of a patient following a previous procedure in order to cover up his earlier erroneous determination of patient status and used the alterations as a reference to blame failure to follow up on other staff members.

b. That on or about the 22nd day of May 1991, defendant during dilation of a patient engaged in a non-emergency telephone call and continued with the procedure while cradling the phone between his shoulder and ear.

c. That on or about the 29th day of May 1991, defendant while involved in performing an aspiration on a patient engaged in a non-emergency telephone call and continued with the procedure while cradling the phone between his shoulder and ear.

d. That on or about the 14th day of June, 1991, a patient with active tuberculosis was to be aspirated. Masks were obtained and made available for procedure room personnel. When defendant entered the room and observed the staff wearing masks, he stated that if the staff did not remove the masks he would leave. Consequently, some of the staff left the procedure room because they would not continue without a mask. Later when defendant entered the procedure room after the patient was awake, he order the staff to "take those masks off".

e. That on or about June 14, 1991, defendant fell asleep while doing a lidocaine injection on a patient.

6. That the aforementioned conduct is contrary to and in violation of Neb. Rev. Stat. § 71-147(5)(a)(d) (1991 Supp.).

7. That the report of investigation regarding the herein alleged incidents have heretofore been reviewed by the Board of Examiners in Medicine and Surgery. That as a result of said review, said Board made certain recommendations to the Office of the Attorney General of the State of Nebraska. That prior to the filing of this petition, said recommendations were reviewed and considered by the Attorney General's Office.

WHEREFORE, plaintiff prays that the Director of the Department of Health set this matter down for hearing and for relief as hereinafter set forth.

PRAYER FOR RELIEF

8. The hearing should be set pursuant to Neb. Rev. Stat. § 71-153 (Reissue 1990).

9. On proof of the allegations set out above, take appropriate disciplinary action against defendant's license to practice medicine and surgery.

10. Tax the costs of the action as provided in Neb. Rev. Stat. § 71-157 (Reissue 1990).

Dated this 9th day of March, 1993.

STATE OF NEBRASKA, ex rel., DON
STENBERG, Attorney General,
Plaintiff,

BY DON STENBERG, #14023
Attorney General

Per

Sam G. Kriminger, #11607
Deputy Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2682

Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Amended Petition for Disciplinary Action upon the Defendant herein by placing a copy of the same in the United States Mail, first class postage prepaid, addressed to Defendant's attorney of record, Thomas J. Monaghan, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124-2341, on this 9th day of March, 1993.


Sam Grindinger
Deputy Attorney General

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

FEB 16 1993

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

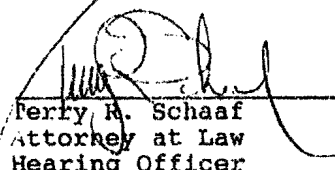
ORDER ON MOTION
FOR CONTINUANCE

THIS MATTER came on for consideration on the Motion for Continuance of Thomas J. Monaghan, defendant's attorney, for a continuance of the hearing scheduled for February 18, 1993, stating as defendant's new counsel needs additional time to adequately prepare for trial. The Hearing Officer, being fully advised, finds that the motion should be granted.

IT IS THEREFORE ORDERED that the hearing in this matter is hereby continued until April 13 and 14, 1993, beginning at 9:00 A.M. in Liquor Control Commission conference room, fifth floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 16 day of February, 1993.

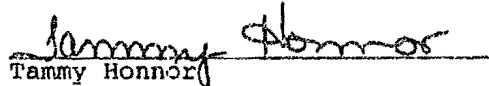



Perry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 16 day of February, 1993, a copy of the foregoing ORDER ON MOTION FOR CONTINUANCE was sent by certified United States mail, postage prepaid, return receipt requested, to Thomas J. Monaghan, Monaghan, Tiedeman & Lynch, 2120 South 72nd Street, Suite 1130, Omaha, Nebraska 68124 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnory
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

FEB 12 1993

DIRECTOR OF HEALTH

STATE OF NEBRASKA, ex rel.
DON STENBERG, Attorney General,

Plaintiff,

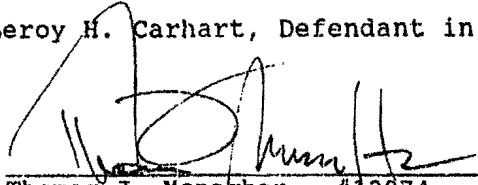
vs.

LEROY H. CARHART, M.D.,

Defendant.

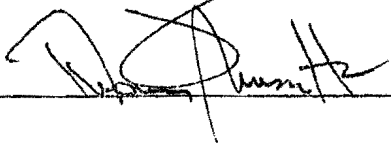
APPEARANCE OF COUNSEL

COMES NOW Thomas J. Monaghan, attorney at law, and enters
his appearance on behalf of Leroy H. Carhart, Defendant in this
action.


Thomas J. Monaghan #12874
MONAGHAN, TIEDEMAN & LYNCH
1130 Commercial Federal Tower
2120 South 72 Street
Omaha, NE 68124
402/397-5757
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the
above and foregoing pleading was sent by U.S. Mail, postage
prepaid, to Sam Griminger, Deputy Attorney General, 2115 State
Capitol, Lincoln, NE 68503-9920, on this 10th day of February,
1993.



Attorneys for Defendant

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

FILED

2-12-93 SH
DIRECTOR OF HEALTH

STATE OF NEBRASKA, ex rel.
DON STENBERG, Attorney General,

Plaintiff,

vs.

LEROY H. CARHART, M.D.,

Defendant.

MOTION TO CONTINUE

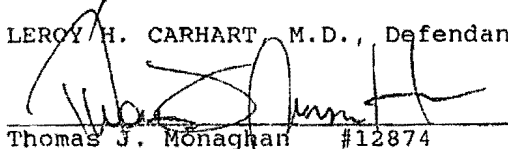
COMES NOW the Defendant, Leroy H. Carhart, and hereby moves the Department for a continuance of the hearing of this matter. The reasons for this request are as follows:

1. The undersigned, Thomas J. Monaghan, has this day entered his appearance as counsel for the Defendant herein.
2. This matter is scheduled for trial on the 18th day of February, 1993, and the undersigned has not had sufficient time in which to adequately prepare a defense to this case.
3. The Defendant is requesting a 45-day continuance, which time should be sufficient to allow the Defendant's new counsel to adequately prepare for trial.
4. The Defendant's counsel also requests a telephonic pretrial conference to be scheduled 10 days prior to trial.

DATED this 10th day of February, 1993.

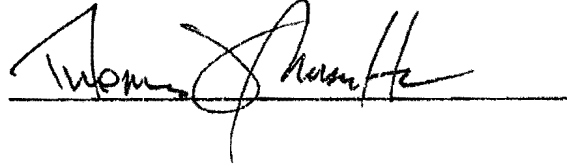
LEROY H. CARHART, M.D., Defendant

By:


Thomas J. Monaghan #12874
MONAGHAN, TIEDEMAN & LYNCH
2120 South 72 Street, Suite 1130
Omaha, NE 68124
402/397-5757
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the above and foregoing pleading was sent by U.S. Mail, postage prepaid, to Sam Grimminger, Deputy Attorney General, 2115 State Capitol, Lincoln, NE 68509-8920, on this 11th day of February, 1993.



BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

JAN 8 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

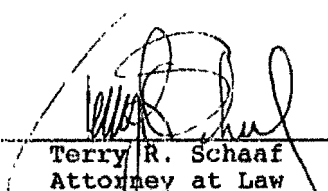
ORDER ON MOTION
FOR CONTINUANCE

THIS MATTER came on for consideration on the Motion for Continuance of William T. Oakes, for a continuance of the hearing scheduled for January 8, 1993, stating counsel has filed a Motion to Withdraw as attorneys of record for LeRoy H. Carhart, M.D., and the defendant is in the process of finding counsel to represent him at the hearing. The Hearing Officer, being fully advised, finds that the motion should be granted.

IT IS THEREFORE ORDERED that the hearing in this matter is hereby continued until the 18th day of February, 1993, beginning at 2:00 p.m. in Liquor Control Commission conference room, fifth floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 8 day of January 8, 1993.

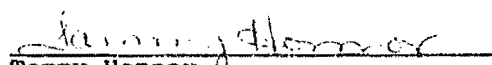



Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 8 day of January, 1993, a copy of the foregoing ORDER ON MOTION FOR CONTINUANCE was sent by certified United States mail, postage prepaid, return receipt requested, to LeRoy H. Carhart, M.D., 16401 South 27th, Bellevue, Nebraska 68123 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

RECEIVED

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

JAN 8 1993

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

Plaintiff,

v.

ORDER ON MOTION
TO WITHDRAW

LEROY H. CARHART, M.D.

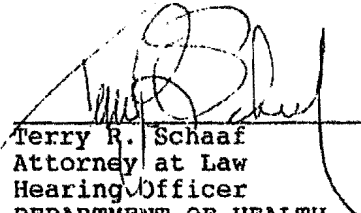
Defendant.

THIS MATTER comes on upon defense counsels request to withdraw. The request was received by the Hearing Officer on the day prior to the date set for the hearing on the merits. This hearing has previously been continued three times at the request of both counsel. Withdraw at this late date now necessitates a fourth continuance. Therefore, it is with some reluctance defence counsels request to withdraw is granted.

IT IS SO ORDERED.

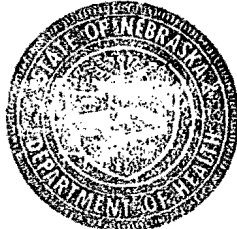
DATED this 8 day of January, 1993.

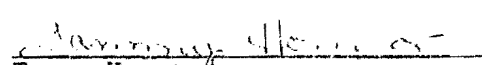



Terry R. Schaaf
Attorney at Law
Hearing Officer
DEPARTMENT OF HEALTH
STATE OF NEBRASKA

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 8 day of January, 1993, a copy of the foregoing ORDER ON MOTION TO WITHDRAW was sent by certified United States mail, postage prepaid, return receipt requested, to William T. Oakes, Kennedy, Holland, DeLacy & Svoboda, 10306 Regency Parkway Drive, Omaha, Nebraska 68114-3748 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA**FILED**1-7-93 JH
DIRECTOR OF HEALTHSTATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

vs.

LEROY H. CARHART, M.D.,

Defendant.

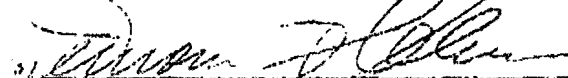
MOTION TO WITHDRAW
AND
FOR CONTINUANCE

COMES NOW William T. Oakes for and on behalf of the firm of Kennedy, Holland, DeLacy & Svoboda and hereby moves the Department for leave to withdraw as attorneys of record for Leroy H. Carhart, M.D. in the above captioned matter.

The Defendant hereby further moves the Department for a continuance of the hearing of this matter scheduled for January 8, 1993 for the reason that the parties have been unable to reach a settlement and Dr. Carhart is in the process of finding counsel to represent him at the hearing.

DATED this 7th day of December, 1992.

LEROY H. CARHART, M.D., Defendant



William M. Lamson, Jr., #12374

William T. Oakes, #13093

cc: KENNEDY, HOLLAND, DeLACY & SVOBODA
10306 Regency Parkway Drive
Omaha, NE 68114 (402) 397-0203

RECEIVED

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

DEC 8 1992

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

Plaintiff,

v.

ORDER ON MOTION FOR
CONTINUANCE

LEROY H. CARHART, M.D.

Defendant.

THIS MATTER came on for consideration on discussion with Sam Grimminger, plaintiff's attorney, for additional time to allow parties to pursue a negotiated settlement. The Hearing Officer, being fully advised, finds that the motion should be granted.

IT IS THEREFORE ORDERED that the matter should be and hereby is continued until (30 days) so that the parties might further explore the possibilities of a negotiated settlement.

IT IS FURTHER ORDERED that if no proposed settlement is filed on or before January 8, 1993, a hearing will be held on that date, beginning at 2:00 p.m. in Department of Health Conference Room "B", and no further continuances will be granted except in the most extreme of circumstances.

DATED this 8 day of December, 1992.



Terry R. Schaaf
Terry R. Schaaf, Hearing Officer
Administrative Law Judge

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 8 day of December 1992, a copy of the foregoing ORDER ON MOTION FOR CONTINUANCE was sent by certified United States mail, postage prepaid, return receipt requested, to William Lamson, Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114-3748 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.



Tammy Honnor
Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

NOV 19 1992

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

STATE OF NEBRASKA ex rel.
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

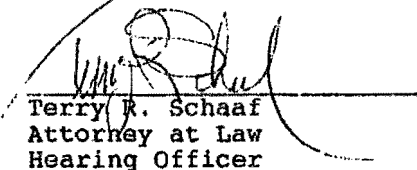
ORDER RESCHEDULING
HEARING

THIS MATTER came on for consideration on the oral request of Sam Grimminger, Deputy Attorney General, stating an Agreed Settlement is being negotiated. The Hearing Officer, being fully advised, finds the hearing scheduled for November 13, 1992 should be cancelled.

IT IS THEREFORE ORDERED the above captioned matter shall be continued to the 9th day of December, 1992, beginning at 2:00 p.m. in the Liquor Control Commission Conference Room, fifth floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 18 day of November, 1992.

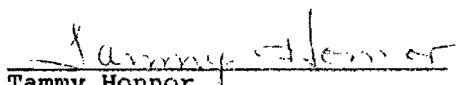



Terry R. Schaaf
Attorney at Law
Hearing Officer

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 18 day of November 1992, a copy of the foregoing ORDER RESCHEDULING HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to William Lamson, Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114-3748 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Tammy Honnor
Office of the Director

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

OCT 7 1992

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

BOARD OF EXAMINING BOARDS
LINCOLN, NEBRASKA

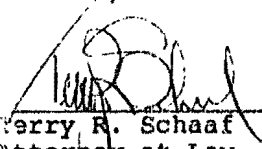
ORDER ON MOTION FOR
CONTINUANCE

THIS MATTER came on for consideration on the Motion for Continuance of plaintiff for a continuance of the hearing scheduled for September 28, 1992, stating plaintiff has been unable to provide defendant with an initial proposal for settlement. Counsel needs additional time to submit this proposal. Hearing Officer, being fully advised, finds the motion should be granted.

IT IS THEREFORE ORDERED the hearing in this matter is hereby continued until the 13th day of November, 1992, beginning at 9:00 a.m. in Department of Health Conference Room "A", third floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

DATED this 30 day of September, 1992.

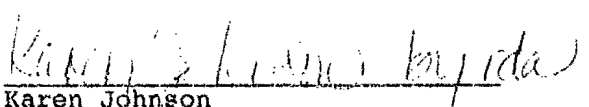



Terry R. Schaaf
Attorney at Law
Hearing Officer

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 2nd day of October 1992, a copy of the foregoing ORDER ON MOTION FOR CONTINUANCE was sent by certified United States mail, postage prepaid, return receipt requested, to William Lamson, Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114-3748 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.




Karen Johnson
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.,)
DON STENBERG, Attorney General,)

Plaintiff,)

v.)

LEROY H. CARHART, M.D.,)

Defendant.)

MOTION FOR CONTINUANCE

FILED
9/25/92
DIRECTOR OF HEALTH


Plaintiff does hereby move the Department for a continuance of the hearing of this matter. The reasons for this request are as follows:

1. Shortly before September 4, 1992, counsel for plaintiff and counsel for defendant agreed that settlement negotiations would be undertaken in this cause, and that plaintiff would provide defendant with an initial proposal. Due to the press of business, plaintiff has been unable to give the matter due consideration and submit such proposal.

2. That plaintiff, in view of said anticipated settlement negotiations, did not and has not prepared for trial of this matter, and will, if settlement is not accomplished, need additional time for this purpose.

STATE OF NEBRASKA, ex rel., DON
STENBERG, Attorney General,
Plaintiff,

BY DON STENBERG, #14023
Attorney General

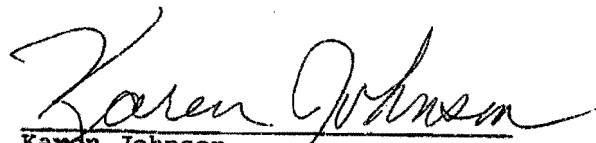
BY 
Sam Gruminger, #11607
Deputy Attorney General
2015 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2682

Attorneys for Plaintiff.

2-3941-3

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 25th day of August, 1992, a copy of the foregoing NOTICE OF HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to William Lamson, Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114-3748.


Karen Johnson
Office of the Director

RECEIVED

AUG 25 1992

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

STATE OF NEBRASKA, ex rel.
DON STENBERG, Attorney General,

Plaintiff,

v.

LEROY H. CARHART, M.D.,

Defendant.

AUG 10 1992

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

PETITION FOR DISCIPLINARY
ACTION

FILED
7/31/92
DIRECTOR OF HEALTH

Plaintiff alleges as follows:

1. That jurisdiction of this cause is based on Neb.Rev.Stat. §71-150 (1991 Supp.).
2. That defendant is an individual who on October 17, 1979, was issued license #15162 by the Department of Health, State of Nebraska to practice medicine and surgery within the State of Nebraska.
3. That the Department of Health, State of Nebraska is the agency of said state authorized to enforce the laws of Nebraska in regulating the practice of medicine and surgery within Nebraska.
4. That Don Stenberg is the duly elected Attorney General for the State of Nebraska empowered to enforce the laws of this state and brings this action pursuant to Neb.Rev.Stat. §71-150(3) (1991 Supp.).
5. That defendant while associated with Woman's Medical Center of Omaha, Nebraska as a treating physician did do and perform the following conduct:

a. That on or about the 14th day of February, 1991, defendant altered a patient chart after the fact to correctly reflect the status of a patient following a previous procedure in order to cover up his earlier erroneous determination of patient status and used the alterations as a reference to blame failure to follow up on other staff members.

b. That on or about the 22nd day of May 1991, defendant during dilation of a patient engaged in a non-emergency telephone call and continued with the procedure while cradling the phone between his shoulder and ear.

c. That on or about the 29th day of May 1991, defendant while involved in performing an aspiration on a patient engaged in a non-emergency telephone call and continued the procedure while cradling the phone between his shoulder and ear.

d. That on or about the 14th day of June, 1991, a patient with active tuberculosis was to be aspirated. Masks were obtained and made available for procedure room personnel. When defendant entered the room and observed the staff wearing masks, he stated that if the staff did not remove the masks he would leave. Consequently, some of the staff left the procedure room because they would not continue without a mask. Later when defendant entered the procedure room after the patient was awake, he ordered the staff to "take those masks off".

e. That on or about June 14, 1991, defendant fell asleep while doing a lidocaine injection on a patient.

6. That the aforementioned conduct is contrary to and in violation of Neb.Rev.Stat. §71-147(10) (1991 Supp.). That in addition thereto the conduct described in subparagraph (a) above is contrary to and in violation of Neb.Rev.Stat. §71-147(5)(a) (1991 Supp.).

7. That the report of investigation regarding the herein alleged incidents have heretofore been reviewed by the Board of Examiners in Medicine and Surgery. That as a result of said review, said Board made certain recommendations to the Office of the

Attorney General of the State of Nebraska. That prior to the filing of this petition, said recommendations were reviewed and considered by the Attorney General's Office.

WHEREFORE, plaintiff prays that the Director of the Department of Health set this matter down for hearing and for relief as hereinafter set forth.

PRAYER FOR RELIEF

8. The hearing should be set pursuant to Neb.Rev.Stat. §71-153 (Reissue 1990).
9. On proof of the allegations set out above, take appropriate disciplinary action against defendant's license to practice medicine and surgery.
10. Tax the costs of the action as provided in Neb.Rev.Stat. §71-157 (Reissue 1990).

STATE OF NEBRASKA, ex rel., DON
STENBERG, Attorney General,
Plaintiff,

By DON STENBERG, #14023
Attorney General

Sam Gimminger, #11607
Deputy Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2682

Attorneys for Plaintiff.

2-3687-3

BEFORE THE DIRECTOR OF HEALTH
OF THE STATE OF NEBRASKA

RECEIVED

AUG 10 1992

STATE OF NEBRASKA ex rel.,
DON STENBERG, Attorney
General,

Plaintiff,

v.

LEROY H. CARHART, M.D.

Defendant.

BOARD OF EXAMINING BOARDS
LINCOLN, NEBRASKA

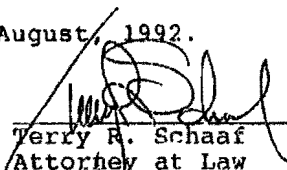
NOTICE OF HEARING

LeRoy H. Carhart, M.D., you are hereby notified that a PETITION FOR DISCIPLINARY ACTION has been filed against you before the Director of Health of the Department of Health of the State of Nebraska on the relation of Don Stenberg, Attorney General. A copy of said Petition is hereto attached and made a part of this Notice of Hearing.

You are further notified that the Director of Health of the Department of Health of the State of Nebraska has set this matter presented by said Petition for hearing in the Department of Health conference room "A", third floor, Nebraska State Office Building, 301 Centennial Mall South, 15th & "M" Streets, Lincoln, Nebraska on the 28th day of September, 1992, beginning at 1:00 P.M.

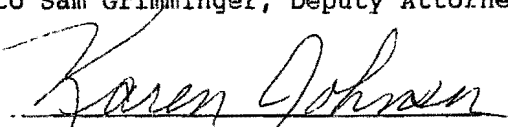
You shall have the opportunity to appear and defend against said Petition at said time and place. You are further notified that you may present such witnesses and such evidence at said time and place as you may care to present in answer to the charges of said Petition and that you may be represented by legal counsel at said hearing.

DATED this 4 day of August, 1992.


Terry R. Schaaf
Attorney at Law
Hearing Office

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 4 day of August, 1992, a copy of the foregoing NOTICE OF HEARING was sent by certified United States mail, postage prepaid, return receipt requested, to LeRoy H. Carhart, M.D., 16401 South 27th, Bellevue, Nebraska 68123 and to Sam Grimmer, Deputy Attorney General, 2115 State Capitol.


Karen Johnson
Office of the Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF HEALTH
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.
DON STENBERG, Attorney General,

Plaintiff,

v.

LEROY H. CARHART, M.D.,

Defendant.

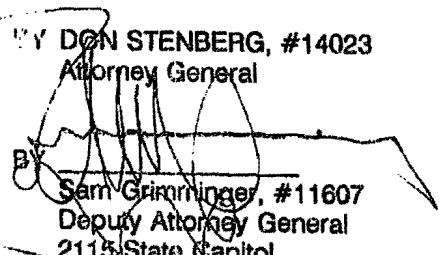
PRAECIPE

TO: MARK HORTON, M.D., M.S.Ph., Director, Department of Health of the State of
Nebraska, 301 Centennial Mall South, Lincoln, NE 68509.

Notice of the filing with you of the Petition in the above-entitled matter and of the
time and place of hearing shall be served upon the defendant at least ten (10) days prior
to the hearing as provided in 184 NAC 1.005 and in Neb.Rev.Stat. §§71-153 and 71-154
(Reissue 1990) and (1991 Supp.).

STATE OF NEBRASKA, ex. rel.,
DON STENBERG, Attorney General,
Plaintiff,

BY DON STENBERG, #14023
Attorney General

BY 
Sam Grimmer, #11607
Deputy Attorney General
2115 State Capitol
Lincoln, NE 68509
Tel: (402) 471-2682

Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 14 day of January, 1993, a copy of the foregoing ORDER ON MOTION FOR CONTINUANCE was sent by certified United States mail, postage prepaid, return receipt requested, to LeRoy H. Carhart, M.D., 105 E. Mission Ave., Bellevue, Nebraska 68005 and by interoffice mail to Sam Grimminger, Deputy Attorney General, 2115 State Capitol.



Tammy Honnor
Tammy Honnor
Office of the Director

RECEIVED

JAN 14 1993

BEAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA