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June 28, 1993

LeRoy H. Carhart, M.D.  
c/o Bellevue Health & Emergency Clinic, Inc.  
105 East Mission Avenue  
Bellevue, NE 68005

Re: State v. LeRoy H. Carhart, M.D.

Dear Dr. Carhart:

Please find enclosed the Order of Dismissal signed by Mark B. Horton, M.D., M.S.P.H., Director of Health, Department of Health, State of Nebraska.

Sincerely,

MONAGHAN, TIEDEMAN & LYNCH



Thomas J. Monaghan

TJM/mg

Enclosure

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KANSAS STATE BOARD OF  
HEALING ARTS

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. )

ORDER OF DISMISSAL

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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 22nd 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

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KANSAS STATE BOARD OF  
HEALING ARTS

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

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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:

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HEALING ARTS

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 to 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

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HEALING ARTS**

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.

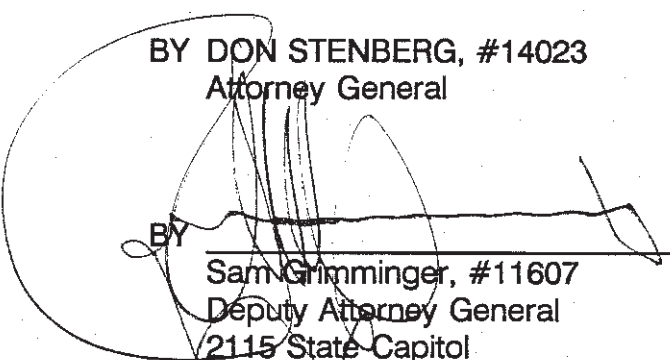
WHEREFORE, plaintiff prays that the Director of the Department of Health set this matter down for hearing and for relief as hereinafter set forth.

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

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

Attorneys for Plaintiff.

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HEALING ARTS

BEFORE THE DIRECTOR OF HEALTH  
OF THE STATE OF NEBRASKA

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

BUREAU OF EXAMINING BOARDS  
LINCOLN, NEBRASKA

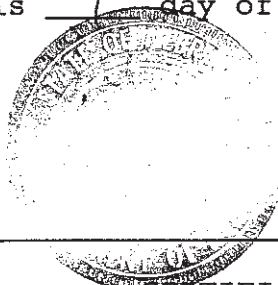
NOTICE OF HEARING

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*  
Terry R. Schaaf  
Attorney at Law  
Hearing Office

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CERTIFICATE OF SERVICE

KANSAS STATE BOARD OF  
HEALING ARTS

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 Grimminger, Deputy Attorney General, 2115 State Capitol.

*Karen Johnson*

Karen Johnson  
Office of the Director

COPY

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

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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

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KANSAS STATE BOARD OF  
HEALING ARTS

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

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

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;

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HEALING ARTS




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 \_\_\_\_ day of May, 1993.

  
\_\_\_\_\_  
LeRoy H. Carhart, M.D.

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HEALING ARTS