


THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
 DIVISION OF PUBLIC HEALTH
 STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,)	
JON BRUNING, Attorney General)	10-2141
)	
Plaintiff,)	ORDER
)	
v.)	
)	
DANIEL HARKINS, M.D.,)	
)	
Defendant.)	

THIS MATTER came on for consideration on the Department's affidavit for summary suspension for Defendant's failure to submit required reports/forms as outlined in paragraphs 7, 9, 11, 13 and 15 of the Petition to Revoke Probation filed September 16, 2013, required by the probation/limitation terms and conditions imposed by the June 20, 2011, Order.

IT IS ORDERED that the Defendant's license is hereby suspended, effective January 29, 2014 and shall remain suspended until the Defendant submits the required materials to the Department.

DATED this 15 day of January, 2014

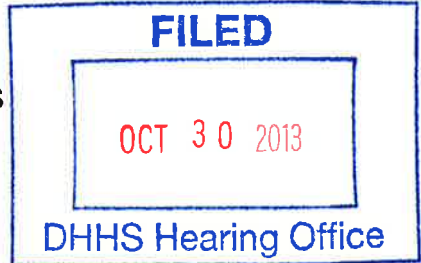

 Joseph M. Aciermo, M.D., J.D.
 Chief Medical Officer
 Director, Division of Public Health
 Department of Health and Human Services

CERTIFICATE OF SERVICE

The undersigned certifies that on the 16th day of January 2014, a copy of the foregoing Order was sent by Certified Mail and by regular United States mail, postage prepaid, to Daniel Harkins, MD, 1821 First Ave, Scottsbluff NE 69361.


 Ruth Schuldt, RN
 Licensure Compliance Monitor

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel., JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
DANIEL HARKINS, MD,)
)
Defendant.)

Case No.: 10-2141


ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on October 21, 2013.

ORDER

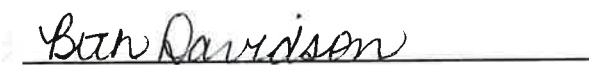
1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the Petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.
4. The civil penalty payment(s) shall be mailed to DHHS Division of Public Health, Licensure Unit, ATTN: Diane Pearson, 301 Centennial Mann-South, P.O. Box 94986, Lincoln, NE 68509.

DATED this 30 day of October, 2013.


Joseph Acierno, M.D., J.D.
Chief Medical Officer
Director, Division of Public Health
Dept. of Health & Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 30th day of October, 2013, a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent certified United States Mail, postage prepaid, return receipt requested to Daniel Harkins, 1821 First Avenue, Scottsbluff, NE 69261 and by e-mail to Julie Agena, Assistant Attorney General, at the e-mail address: ago.health@nebraska.gov.


DHHS Hearing Office
P.O. Box 98914
Lincoln, Nebraska 68509-8914
P. (402) 471-7237 F. (402) 742-2376

10/21/2013

In Camera Only

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

**STATE OF NEBRASKA ex rel.
JON BRUNING, Attorney General**

Plaintiff,

Vs.

DANIEL HARKINS, M.D.,

Defendant.

AGREED SETTLEMENT

The Plaintiff and the Defendant, Daniel Harkins, MD, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Daniel Harkins, was issued a probationary license (#17710) to practice as a physician by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
2. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Chief Medical Officer which approves the terms of this Agreed Settlement.
3. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.
4. The Defendant acknowledges that he is not licensed to practice as a physician in any state other than Nebraska.

5. The Defendant acknowledges that he has read the Petition to Revoke Probation filed by the Attorney General's Office. The Defendant admits the allegations of the Petition to Revoke Probation.
6. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a final disciplinary order which finds the allegations of the Petition to Revoke Probation are true and impose the sanction of a censure and a civil penalty in the amount of Five Hundred Dollars (\$500.00). The civil penalty shall be payable in full within six (6) months from the date the Chief Medical Officer enters a disciplinary order in accordance with this Agreed Settlement. In the event the Defendant fails to pay the civil penalty in full by the stated deadline, the Chief Medical Officer may summarily suspend the Defendant's license, which suspension shall remain in effect until the civil penalty is paid in full.
7. In addition, the Defendant shall submit the required reports/forms as outlined in the Petition to Revoke Probation within thirty (30) days from the date the Chief Medical Officer enters a disciplinary order in accordance with this Agreed Settlement. In the event the Defendant fails to submit any of the required materials by the stated deadline, the Chief Medical Officer may summarily suspend the Defendant's license, which suspension shall remain in effect until the required materials are submitted.
8. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

By: *D. Harkins MD*
Daniel Harkins, M.D.
Defendant

State of Nebraska)
County of Scotts Bluff) ss.

Acknowledged before me by Daniel Harkins, M.D., on this 21st day of
OCTOBER, 2013.



Patrick Thomas Parks
Notary Public
My Commission Expires: Nov 11, 2013

THE STATE OF NEBRASKA, ex rel.
JON BRUNING, Attorney General
Plaintiff,

By: JON BRUNING, #20351
Attorney General

By: *Julie L. Agena*
Julie L. Agena, #23137
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509

Attorneys for the Plaintiff.



THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.)	H10-2141
JON BRUNING, Attorney General,)	
)	
Plaintiff,)	
v.)	PETITION TO REVOKE
)	PROBATION
DANIEL HARKINS, M.D.,)	
)	
Defendant.)	

The Plaintiff alleges as follows:

1. On July 13, 1988, the Defendant was issued an initial license to practice as a physician.
2. On June 29, 2010, a Petition for: Disciplinary Action and Temporary License Suspension was filed against the Defendant, alleging:
 - a. The Defendant refused to cooperation or failed to furnish requested information during a licensing or discipline investigation when he failed to provide subpoenaed medical records during the course of the investigation;
 - b. The Defendant demonstrated unprofessional conduct by writing prescriptions for Suboxone without the necessary DEA registration or waiver;
 - c. The Defendant demonstrated unprofessional conduct by failing to produce records of treatment;
 - d. The Defendant's treatment of three separate patients was below the normal standard of care in Nebraska;

- e. The Defendant's treatment of a physician assistant working under his supervision was a boundaries violation;
 - f. The Defendant demonstrated unprofessional conduct by self medicating;
 - g. The Defendant demonstrated a pattern of care below the normal standard of care in Nebraska in his treatment of three separate patients;
 - h. The Defendant demonstrated unprofessional conduct and violated the Uniform Controlled Substances Act by failing to maintain controlled substances in a controlled premises;
 - i. The Defendant failed to report in his change in hospital privileges status within the mandatory reporting period.
3. On June 29, 2010, an Order for Temporary License Suspension and Notice of Hearing was issued.
4. On July 8, 2010, the Defendant's license to practice as a physician was suspended.
5. On June 20, 2011, an Order on Amended Agreed Settlement was issued, which imposed the following sanctions:
- a. Censures the Defendant's license and suspends his license to practice medicine for one (1) year from the date of the immediate suspension, July 8, 2010;
 - b. The Defendant's license will be reinstated on July 9, 2011, on probation for a period of five (5) years, with the following conditions:
 - i. Condition 7g: The Defendant shall comply with all aftercare treatment recommendations of Defendant's chemical dependency

treatment provider, including any recommendations for counseling and attendance at support group meetings and shall maintain a sponsor;

- ii. Condition 7h: The Defendant shall attend a minimum of three (3) Narcotics Anonymous or Alcoholics Anonymous or other chemical dependency support group meetings per week;
- iii. Condition 7n: The Defendant shall pay any costs associated with insuring compliance with the Agreed Settlement to include, but not be limited to, the costs of the random body fluid/chemical testing;
- iv. Condition 7p: Any period the Defendant may hold an inactive Nebraska license or any period that he is not working as a physician for a minimum of one hundred and thirty (130) hours per quarter shall not reduce the probationary period or satisfy the terms and conditions of probation;
- v. Condition 7s: The Defendant shall follow all recommendations of his mental health treatment provider to include individual counseling and pharmacological therapy. The treatment provider shall provide the Department on a quarterly basis a complete copy of all progress notes for each individual counseling session and other contacts the provider has with the Defendant.

c. Limits the Defendant's medical license in the following ways:

- i. Defendant shall not treat chronic pain patients;

- ii. Defendant shall not provide medical treatment for any of his staff or employees or their family members;
 - iii. Defendant shall not prescribe any controlled substances, ultram, tramadol, Soma, or carisoprodol;
 - iv. Defendant shall not supervise a physician assistant nor enter into an integrated practice agreement with an advanced practice nurse;
 - v. Defendant shall not simultaneously keep a medical practice or practice medicine in more than one location or office setting.
6. On August 3, 2011, the Defendant's license to practice medicine was reinstated with the above probationary terms and limitation. Probation was to remain effective until August 3, 2016.
7. The last sponsor report was received from the Defendant on January 24, 2013. Reminder letters were sent to the Defendant on June 3, 2013, and June 24, 2013, requesting the reports for February 1, 2013, to the present. To date, the Defendant has failed to respond to the letters or provide sponsor reports.
8. The Defendant violated condition 7(g) of said probation as stated above and this is grounds for discipline.
9. The last report of attendant at support group meetings was received on January 10, 2013, for the dates October 1, 2012, to December 31, 2012. Reminder letters were sent to the Defendant on June 3, 2013, and June 24, 2013, requesting support group meeting records for January 1, 2013, to the

present. To date, the Defendant has failed to respond to the letters or provide support group attendant records.

10. The Defendant violated condition 7(h) of said probation as stated above and this is grounds for discipline.
11. The last payment received from the Defendant for the costs of random body fluid/chemical testing was on August 6, 2012. Letters have been sent to the Defendant requesting a payment plan or payment. The Defendant's outstanding balance he owes is over \$700.00. To date, the Defendant has failed to respond to the letters, establish a payment plan or make a payment.
12. The Defendant violated condition 7(n) of said probation as stated above and this is grounds for discipline.
13. The last attestation of work hours from the Defendant was received on January 10, 2013, for the dates of October 1, 2012, to December 31, 2012. Reminder letters were sent to the Defendant on June 3, 2013, and June 24, 2013, requesting his Quarterly Attestation of work hours for January 1, 2013, to the present. To date, the Defendant has failed to respond to the letters or provide attestation of his work hours.
14. The Defendant violated condition 7(p) of said probation as stated above and this is grounds for discipline.
15. The last counselor report was received regarding the Defendant on February 8, 2013. Reminder letters were sent to the Defendant on June 3, 2013, and June 24, 2013, requesting the quarterly progress notes for individual counseling and contacts for February 1, 2013, to the present. To date, the

Defendant has failed to respond to the letters or provide verification of continued treatment including individual counseling and pharmacological therapy.

16. The Defendant violated condition 7(s) of said probation as stated above and this is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition to Revoke Probation for hearing pursuant to Neb. Rev. Stat. § 38-183 (Reissue 2008), and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General



BY: _____
Julie L. Agena, #23137
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-1815

Attorneys for the Plaintiff.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,)
JON BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
DANIEL HARKINS, M.D.,)
)
Defendant.)

H10-2141


ORDER ON AMENDED
AGREED SETTLEMENT

A proposed Amended Agreed Settlement was filed with the Department on June 15, 2011.

ORDER

1. The Amended Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Amended Agreed Settlement.

DATED this 20 day of June, 2011.



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 22nd day of June, 2011 a copy of the foregoing **ORDER ON AMENDED AGREED SETTLEMENT** was sent by United States certified mail, postage prepaid, return receipt requested, to **Kim Sturzenegger, Boucher Law Firm, West Gate Bank Building, 5555 S. 27th Street, Suite A, Lincoln, NE 68512-1611** and by interoffice mail to **Susan M. Ugai**, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.



Keith B. Roland
DHHS Legal Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402)742-2376

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
DANIEL T. HARKINS, M.D.,)
)
Defendant.)

H10-2141

AMENDED AGREED SETTLEMENT

The Plaintiff and the Defendant, Daniel T. Harkins, M.D., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Daniel T. Harkins, M.D., was issued a license (#17710) by the Nebraska Department of Health and Human Services Division of Public Health ("Department") to practice as a physician in the State of Nebraska. The license is currently held by the Defendant.

2. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Chief Medical Officer which approves the terms of this Agreed Settlement.

3. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

4. The Defendant acknowledges that he is not licensed to practice as a physician in any state other than Nebraska.

5. The Defendant acknowledges that he has read the Petition For: Disciplinary Action and Temporary License Suspension filed by the Attorney General's Office. The Defendant admits the allegations of the Petition For: Disciplinary Action and Temporary License Suspension. The Defendant further admits that he has a diagnosis of Opioid Dependence.

6. The Defendant and the Plaintiff consent to the Chief Medical Officer entering a final disciplinary order which censures Defendant's license and suspends Defendant's license for one (1) year from the date of the immediate suspension in this matter, July 8, 2010.

7. The Defendant and the Plaintiff consent to the Chief Medical Officer entering a final disciplinary order which reinstates the Defendant's license on July 9, 2011, on probation for a period of five (5) years, on the following probationary conditions.

a. The Defendant shall provide notification of his disciplinary action and any probation violations and subsequent disciplinary action to all educational institutions, employers, practice partners, hospitals with whom he has staff privileges and to the licensing authority in any state where he has or obtains an active medical license within five (5) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer and within five (5) days of any change in employment or any subsequent out-of-state licensure. Such notification shall include providing copies of the Petition For: Disciplinary Action and Temporary License Suspension, this Agreed Settlement, and the Order on Agreed Settlement entered by the Chief Medical Officer. Written confirmation of this notification shall be provided by the Defendant to the Department within thirty (30) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer or change in employment or any subsequent out-of-state licensure.

b. The Defendant shall abstain from the use of alcohol and shall not consume products or medications containing alcohol to include but not limited to mouthwash and over-the-counter medications unless prescribed by a physician.

c. The Defendant shall abstain from the personal use or possession of controlled substances and all other prescription drugs, unless prescribed for or

administered to the Defendant by a licensed physician or authorized licensed practitioner for a current diagnosed medical condition.

d. The Defendant shall be subject to random body fluid or chemical testing at his expense at such time and places as the Department may direct. The Defendant shall follow the instructions and directives of the Department for body fluid/chemical testing.

e. The Defendant shall report the use of any controlled substances and prescription drugs to the Department on such frequency as is directed by the Department.

f. The Defendant shall advise all personal treating physicians and other treating practitioners, prior to treatment, of his history of chemical dependency/abuse and of all medications he is taking at the time of treatment. The Defendant authorizes all treating physicians and other treating practitioners to inform the Department of all conditions for which the Defendant is treated, including any drugs or medications, prescribed or over-the-counter, included in any treatment.

g. The Defendant shall comply with all aftercare treatment recommendations of Defendant's chemical dependency treatment provider, including any recommendations for counseling and attendance at support group meetings and shall maintain a sponsor.

h. The Defendant shall attend a minimum of three (3) Narcotics Anonymous or Alcoholics Anonymous or other chemical dependency support group meetings per week.

i. The Defendant shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, or telephone.

j. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department.

k. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of probation.

l. The Defendant shall obey all state and federal laws and the rules and regulations regarding the practice of medicine.

m. The Defendant shall provide such written authorizations which may be requested by the Department for all records, information, and reports concerning any alcohol or chemical dependency treatment or counseling

including such forms of authorization to permit the obtaining and use of records, information and reports by the Department and by the Nebraska Attorney General in conformity with 42 Code of Federal Regulations, Part 2.

n. The Defendant shall pay any costs associated with insuring compliance with this Agreed Settlement to include, but not be limited to, the costs of the random body fluid/chemical testing.

o. The Defendant shall appear at any meetings of the Board of Medicine and Surgery when requested.

p. Any period the Defendant may hold an inactive Nebraska license or any period that he is not working as a physician for a minimum of one hundred and thirty (130) hours per quarter shall not reduce the probationary period or satisfy the terms and conditions of probation.

q. The Defendant shall provide to the Department a list of all hospitals at which he has staff privileges within ten (10) days from the date of the signing of the Order on Agreed Settlement by the Chief Medical Officer in such manner as the Department directs.

r. If the Defendant becomes employed as a medical doctor by a clinic or facility, it shall be by only an employer who provides employer quarterly reports to the Department. Employer quarterly reports shall be submitted to the Department by the Defendant's supervisor. Reports shall include a description of the Defendant's work habits and continued abstinence from non-prescribed drugs and alcohol. Reports shall be due no later than the 10th day of the month following the end of each quarter. An initial employer report shall be submitted as directed by the Department. A final employer report shall be due not less than thirty (30) days before the expiration of the probationary period.

s. The Defendant shall follow all recommendations of his mental health treatment provider to include individual counseling and pharmacological therapy. The treatment provider shall provide the Department on a quarterly basis a complete copy of all progress notes for each individual counseling session and other contacts the provider has with the Defendant.

t. The Defendant shall follow all recommendations of his medical treatment providers. The treatment providers shall provide the Department on a quarterly basis a complete copy of all progress notes for each individual appointment and other contacts the provider has with the Defendant.

u. Within the first six (6) months of his probation, Defendant will enroll in and successfully complete a Board pre-approved Professional Boundaries course, with the entire cost of and all expenses related to such course paid by

Defendant. Defendant shall provide written verification of successful completion of the Professional Boundaries course to the Department.

8. In the event the Defendant violates any of the above terms of probation, the Chief Medical Officer, after motion by the Attorney General and a hearing, may take further disciplinary action against the Defendant's license to practice as a medical doctor, including revocation of his license.

9. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a disciplinary order limiting the Defendant's medical license under the following conditions:

a. The Defendant shall not treat chronic pain patients as part of his medical practice.

b. The Defendant shall not provide medical treatment for any physician assistant, other medical professional, or employee working under his supervision or their family members.

c. The Defendant shall not prescribe any controlled substances, ultram, tramadol, Soma, or carisoprodol.

d. The Defendant shall not maintain any controlled substances, ultram, tramadol, carisoprodol, or Soma on the premises at any location where he is engaged in the practice of medicine and surgery.

e. The Defendant shall not supervise a physician assistant nor enter into an integrated practice agreement with an advanced practice nurse.

f. The Defendant shall not simultaneously keep a medical practice or practice medicine in more than one location or office setting.

g. The Defendant shall not request that these limitation(s) be removed or modified until his substance abuse treatment provider has released him from further treatment.

h. These limitation(s) may be removed or modified only by the Defendant first petitioning the Board of Medicine and Surgery to recommend removal or modification of the limitation(s), the Board of Medicine and Surgery recommending removal or modification of the limitation(s), and the Department's

Chief Medical Officer entering an order, in her discretion, which agrees with the Board of Medicine and Surgery's recommendation.

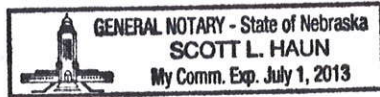
10. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY: *D. Harkins*
Daniel T. Harkins, M.D.
Defendant.

State of Nebraska)
County of *Scotts Bluff*) ss.
)

Acknowledged before me by Daniel T. Harkins, M.D., on this *6th* day of *June*, 2011.



Scott L. Haun
Notary Public
My Commission Expires:

THE STATE OF NEBRASKA, ex rel.
JON BRUNING, Attorney General,
Plaintiff,

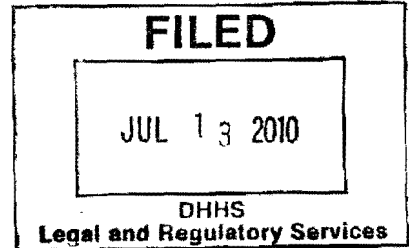
BY: JON BRUNING, #20351
Attorney General

BY: *Susan M. Ugai*
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-9658
Attorneys for Plaintiff.

#5793



Donald J. Murphy, Sheriff
James E. Lowry, Undersheriff
Bryan D. Morehouse, Captain
2120 East "B" Street • Torrington, WY 82240



AFFIDAVIT OF SERVICE

I Troy Erwin being first duly sworn, on oath deposes and says that he/she is the identical person appointed by the Clerk of Court as above shown to make service of Order for Temporary Suspension and Continuance of Hearing issued in the foregoing action; that he/she is over the age of majority and is not a party in the foregoing action or interested therein, and that he/she made service of said Order and Continuance in the County aforesaid on the 8th day of July 20 10, by delivering a copy of the same to:

Daniel T. Harkins, personally and in person
at 2910 West A Street, Torrington, WY at
1755 hrs.

Troy A Erwin
Sheriff/Deputy

Subscribed and sworn to before me this 8th day of July 20 10.



[Signature]
Notary Public

My Commission Expires:

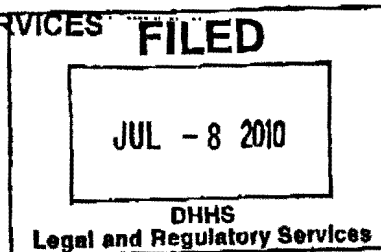
Service Fees: \$ NA

LICENSURE UNIT

JUL 13 2010

RECEIVED

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
DANIEL T. HARKINS, M.D.,)
)
Defendant.)

ORDER FOR TEMPORARY
LICENSE SUSPENSION AND
CONTINUANCE OF HEARING

COPY

THIS MOTION TO CONTINUE came on for consideration before the Nebraska Department of Health and Human Services Public Health Division's Chief Medical Officer. The Chief Medical Officer finds that there is reasonable cause to believe that grounds exist under NEB. REV. STAT. §§ 38-183 and 38-178 (Reissue 2008) for the suspension of the license of the Defendant to practice as a physician on the basis that the Defendant's continued practice at this time would constitute an imminent danger to public health and safety.

IT IS THEREFORE ORDERED:

1. The license (#17710) of the Defendant, DANIEL T. HARKINS, M.D., to practice medicine is suspended effective upon service of this Order upon the Defendant in accordance with NEB. REV. STAT. §§ 38-183 (Reissue 2008).

2. Pursuant to NEB. REV. STAT. § 38-183, the hearing on the merits of the allegations of the Petition shall be held on the 16th day of July, 2010, beginning at 9:00 o'clock a.m. at the DHHS Hearing Room, Gold's Galleria, 1033 O Street, Suite 113, Lincoln, NE, Vital Records Entrance, corner of 11th & N Streets.

COPY

FAX COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Goshen County Sheriff
RE: Daniel T. Harkins, MD
FAX NO: 307-532-7590 DATE: 07/08/10

TOTAL NUMBER OF PAGES 60, INCLUDING COVER LETTER.

- FROM: Ashlea Cedrone, Admin. Secretary (402) 471-0384
- Jason C. Demman, Attorney (402) 471-7245
- Jeff Goltz, Attorney (402) 471-4166
- Jim Smith, Attorney (402) 471-7238
- Judy Auman, Admin. Secretary (402) 471-7237
- Laura Maurstad, Attorney (402) 471-7241
- Pam Hagaman, Paralegal (402) 471-8916
- Tammy Eigenheer, Attorney (402) 471-7239
- Keith Roland

Health and Human Services
Legal Services Hearing Office
220 South 17th Street, Lower Level
P.O. Box 98914
Lincoln, NE 68509-8914
FAX: (402) 742-2376

SPECIAL INSTRUCTIONS:

- Please review and respond
 - Make changes and return by FAX
 - Please call
 - Hard copy in the mail
- As per our conversation/your request
- For your information/file/records
- Please file
- Other (See Note):

NOTE:

Thank you.

**IF YOU DO NOT RECEIVE ALL PAGES,
*PLEASE CALL (402) 471-7237, AS SOON AS POSSIBLE.**

NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE REVIEW AND USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS.

Attached pages within this transmission may include protected health information, under the standards established per the Health Insurance Portability and Accountability Act of 1996, and Neb. Rev. Stat., section 68-313, if this information has been received in error, the recipient is directed to return to sender or destroy the information and notify this office of the error immediately. Failure to do so may lead to civil or criminal penalties.

July 8, 2010, 2010

Frank: →

Goshen County Sheriff
Attn: Civil Process - *Gayle E. Luders*
2120 East B Street
Torrington, WY 82240

Please serve documents to:

DANIEL T. HARKINS, MD

Residence Address:
2910 West A Street
Torrington, WY 82240

RE: H10-2141 Order for Temporary License Suspension and Notice of Hearing

Please bill our office for processing. - *There will be no bill for this service -*

Thank you,

Frank

To: →

Keith Roland

Please mail and fax return receipt to:

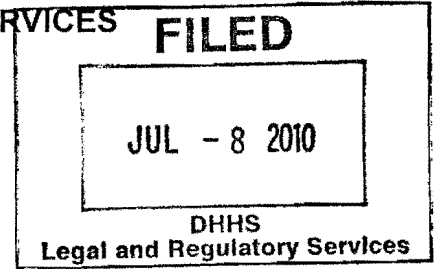
Keith Roland
Nebraska Department of Health and Human Services
Legal and Regulatory Services
PO Box 98914
Lincoln, NE 68509-8914

N.G. → Fax: ~~402-471-7237~~ - 402-742-2376 (O.K.)

DHHS Billing Information:

DHHS Licensure Unit
Attn: Sue Dorffler
301 Centennial Mall South
PO Box 94986
Lincoln NE 68509-4986
402-471-2105

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
DANIEL T. HARKINS, M.D.,)
)
Defendant.)

ORDER FOR TEMPORARY
LICENSE SUSPENSION AND
CONTINUANCE OF HEARING
LICENSURE UNIT

JUL 09 2010

RECEIVED

THIS MOTION TO CONTINUE came on for consideration before the Nebraska Department of Health and Human Services Public Health Division's Chief Medical Officer. The Chief Medical Officer finds that there is reasonable cause to believe that grounds exist under NEB. REV. STAT. §§ 38-183 and 38-178 (Reissue 2008) for the suspension of the license of the Defendant to practice as a physician on the basis that the Defendant's continued practice at this time would constitute an imminent danger to public health and safety.

IT IS THEREFORE ORDERED:

1. The license (#17710) of the Defendant, DANIEL T. HARKINS, M.D., to practice medicine is suspended effective upon service of this Order upon the Defendant in accordance with NEB. REV. STAT. §§ 38-183 (Reissue 2008).

2. Pursuant to NEB. REV. STAT. § 38-183, the hearing on the merits of the allegations of the Petition shall be held on the 16th day of July, 2010, beginning at 9:00 o'clock a.m. at the DHHS Hearing Room, Gold's Galleria, 1033 O Street, Suite 113, Lincoln, NE, Vital Records Entrance, corner of 11th & N Streets.

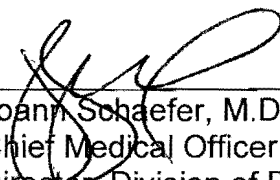
3. James J. Smith is the designated Hearing Officer with authority over the hearing as provided by Title 184 – Nebraska Administrative Code, Chapter 1 – Rules of Practice and Procedure of the Department of Health for Administrative Hearings.

4. The Defendant shall have the opportunity to appear and defend against the Petition at such time and place. The Defendant is further notified that he may present such witnesses and such evidence at said time and place as he may care to present in answer to the allegations of the Petition, and he may be represented by legal counsel at said hearing. Hearings are conducted according to NEB. REV. STAT. §§ 38-186 and 84-901, et seq. (Reissue 2008; 2006 Cum. Supp.), and the Rules of Practice and Procedure of the Department 184 NAC 1. If auxiliary aids or reasonable accommodations are needed for participation in the hearing, please call Keith Roland, (402) 471- 7237, or for persons with hearing impairments, (402) 471-9570 TDD, or the Nebraska Relay System, (800) 833-7352 TDD, prior to the hearing date.

5. The Sheriff of Goshen County, Wyoming, is appointed, pursuant to 184 NAC 006.01E, to personally serve the Defendant with copies of this Order and the Petition.

DATED this 8 day of July, 2010.

BY:



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

JUL 01 2010

RECEIVED

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
DANIEL T. HARKINS, M.D.,)
)
Defendant.)

ORDER FOR TEMPORARY
LICENSE SUSPENSION AND
NOTICE OF HEARING

THIS MATTER came on for consideration before the Nebraska Department of Health and Human Services Public Health Division's Chief Medical officer on Plaintiff's Petition For: Disciplinary Action and Temporary License Suspension ("Petition") and upon the affidavit in support of the request for temporary suspension. The Chief Medical Officer finds that there is reasonable cause to believe that grounds exist under NEB. REV. STAT. §§ 38-183 and 38-178 (Reissue 2008) for the suspension of the license of the Defendant to practice as a physician on the basis that the Defendant's continued practice at this time would constitute an imminent danger to public health and safety.

IT IS THEREFORE ORDERED:

1. The license (#17710) of the Defendant, DANIEL T. HARKINS, M.D., to practice medicine is suspended effective upon service of this Order upon the Defendant in accordance with NEB. REV. STAT. §§ 38-183 (Reissue 2008).

2. Pursuant to NEB. REV. STAT. § 38-183, the hearing on the merits of the allegations of the Petition shall be held on the 13th day of July, 2010, beginning at 2:00

o'clock p.m. at the DHHS Hearing Room, Gold's Galleria, 1033 O Street, Suite 113, Lincoln, NE, Vital Records Entrance, corner of 11th & N Streets.

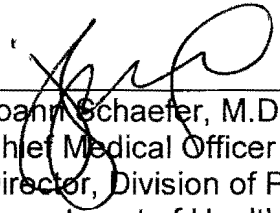
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4. The Defendant shall have the opportunity to appear and defend against the Petition at such time and place. The Defendant is further notified that he may present such witnesses and such evidence at said time and place as he may care to present in answer to the allegations of the Petition, and he may be represented by legal counsel at said hearing. Hearings are conducted according to NEB. REV. STAT. §§ 38-186 and 84-901, et seq. (Reissue 2008; 2006 Cum. Supp.), and the Rules of Practice and Procedure of the Department 184 NAC 1. If auxiliary aids or reasonable accommodations are needed for participation in the hearing, please call Ashlea Whitney, (402) 471- 7237, or for persons with hearing impairments, (402) 471-9570 TDD, or the Nebraska Relay System, (800) 833-7352 TDD, prior to the hearing date.

5. The Sheriff of Scotts Bluff County, is appointed, pursuant to 184 NAC 006.01E, to personally serve the Defendant with copies of this Order and the Petition.

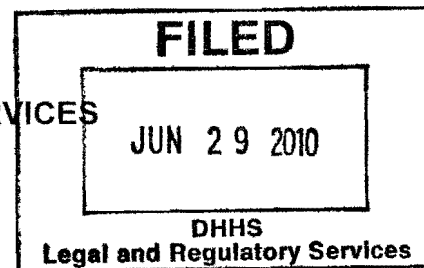
DATED this 29 day of June, 2010.

BY:



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA, ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
DANIEL T. HARKINS, M.D.,)
)
Defendant.)

PETITION FOR:
DISCIPLINARY ACTION
And
TEMPORARY LICENSE
SUSPENSION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on NEB. REV. STAT. §§ 38-183, 38-184, 38-186 (Reissue 2008) and 71-150 (Reissue 2003).
2. At all times relevant herein, the Defendant, Daniel T. Harkins, M.D., has been the holder of license #17710 which was issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department") for his practice as a physician.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of physicians.
4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to NEB. REV. STAT. §§ 38-1,105, 38-1,106 (Reissue 2008), 71-168.01(7), and 71-168.01(8) (Reissue 2003).
5. Defendant prescribed Suboxone for Patient 3 on ten occasions from February 28, 2009, through March 9, 2010, a total of 570 2-mg tabs.

6. Defendant prescribed Suboxone for Patient 6 on twenty eight occasions from January 21, 2009, through March 15, 2010, a total of 1,700 2-mg – 0.5 tabs.

7. Defendant has not registered under the Narcotic Addict Treatment Act to treat opioid addiction with Schedule III, IV, and V opioid medications or combinations of such medications that have been specifically approved by the Food and Drug Administration (FDA) for that indication. This includes the drug Suboxone.

8. Defendant has not received a waiver of registration for the Narcotic Addict Treatment Act under the Drug Addiction Treatment Act of 2000, which would authorize him to prescribe Suboxone.

9. On March 4, 2010, Defendant received a subpoena for the medical records of patients Sh.V.N. and St.V.N. from Investigator J.N. On April 1, 2010, J.N. inquired about the subpoenaed medical records. Defendant said he would not be providing the records until he received further notice from his attorney. On April 1, 2010, Defendant was served with subpoenas for the records of nine additional patients. No medical records have been received by J.N. as of June 28, 2010.

10. St.V.N. is a physician assistant working under the supervision of Defendant. Defendant is a shareholder in B.H.C.C., the medical clinic owned and operated by St.V.N. In addition, Defendant treats St.V.N. and his wife Sh.V.N. as patients.

11. Dr. B.T. (M.D.) performed an Addiction Medicine Evaluation of Defendant and made an expert review of several of Defendant's patients' pharmacy profiles. Defendant submitted to the evaluation at the request of the Board of Medicine and Surgery.

12. From July 2009 to the end of February 2010, prescriptions for patient St.V.N., almost exclusively written by Defendant, included:

Hydrocodone/APAP: 2420 tablets, average 10/day;

Hydrocodone (unspecified strength/formation): 3170 tabs, average 13/day;

Hydrocodone cough syrup: 480 (ml-16 ounces total);

Soma (starting 8/3/09): 1500 tablets, average 8/day.

13. In regard to these prescriptions, Dr. B.T. stated: "this is well above what any rational or safe prescribing pattern would be; even if there is need for this level of opioids, the dose of acetaminophen is highly risky for illness or death from liver toxicity. In addition, the rational use of these doses of opioids would strongly favor longer acting drugs than these, if indeed opioids were appropriate in this case."

14. Dr. B.T. also stated: "prescribing narcotics chronically for one's employee/business partner is outside the range of ethical ... boundaries in most people's views." "[T]here is a very strong sense of blurring of boundaries in the multiple relationships between Defendant and his physician assistant. In addition, the doses are clearly aberrant."

15. During the last twelve months, Defendant has prescribed the following for patient Sh.V.N.:

Lorazepam, 1 mg: 3750 tablets, average 10/day;

Soma, 350 mg:1820 tablets, average 5/day.

16. Dr. B.T. Found that "[b]oth are above the doses or durations of therapy generally seen as wise or safe, particularly when added to the narcotic drugs also prescribed: between the short acting (Percocet or equivalent) and long acting (OxyContin or equivalent) oxycodone, over 60,000 milligrams were prescribed, equal to more than 160 milligrams per day, or the equivalent oxycodone in 32 regular strength Percocet daily. This

is in addition to regularly prescribed fentanyl transdermal patches of 25 micrograms about every other day.”

17. Dr. B.T. also reviewed the prescription profile for patient J.R. He stated: “[t]his record shows a picture of chronic prescribing of opioids together with several different sedative drugs, including barbiturates, benzodiazepines, and carisoprodol, a muscle relaxant which is often abused – it metabolizes to an old tranquilizer, meprobamate. This kind of combination of drugs is hazardous in increasing the risk of medical complications of respiratory depression, cognitive impairment, falls/injuries, and death. Frequently it is a marker for addiction.”

18. Defendant admitted to Investigator J.N. on March 1, 2010, that he takes Lexapro, Lipitor, Avandia, Metformin, and Kapidex daily, that he does not have a prescription for these medications, and that he obtains the medications from samples in his office.

19. Defendant also admitted that he does not keep a log of samples in his office, including controlled substances, e.g. Lunesta.

20. Defendant submitted to a random body fluid screen on March 22, 2010. He tested positive for hydromorphone. Defendant admitted taking Vicodin from an old prescription.

21. Dr. B.T. stated: “In summary, there is a pattern here of inappropriate practice of medicine. Whether this represents incompetence, fraud, impairment (by mood disorder, substance use disorder or cognitive dysfunction), or inattention (or a combination) is not possible to determine from this single evaluation.” “I strongly recommend further

evaluation and development of an appropriate treatment plan from one of the centers specializing in evaluating complex physician health and behavior issues.”

22. In December of 2005, Defendant was given conditional privileges at R.W.M.C. When these privileges expired in 2007, Defendant did not complete an application for reappointment. Defendant does not currently have hospital privileges at any facility.

23. Defendant did not report the change in status of his hospital privileges to the Department within thirty days.

FIRST CAUSE OF ACTION

24. Paragraphs 1 through 23 are incorporated herein by reference.

25. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

26. NEB. REV. STAT. §§ 38-179 (Reissue 2008) and 71-148 (Reissue 2003) define unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation regardless of whether a person, patient or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.

27. NEB. REV. STAT. §§ 38-179(15) (Reissue 2008) and 71-148(22) (Reissue 2003) define unprofessional conduct as such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder or registrant with the approval of the Department.

28. Title 172 Chapter 88-013.5 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as the refusal to cooperate or the failure to furnish requested information during a licensing or discipline investigation by the Department.

29. Defendant's refusal to provide medical records during the course of this investigation is unprofessional conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

30. Paragraphs 1 through 29 are incorporated herein by reference.

31. Title 172 Chapter 88-013.13 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as violating any federal law or regulation relating to controlled substances.

32. NEB. REV. STAT. § 38-179(13) (Reissue 2008) defines unprofessional conduct as the failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession.

33. Defendant's conduct in writing prescriptions for Suboxone without the necessary DEA registration or waiver is unprofessional conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

34. Paragraphs 1 through 33 are incorporated herein by reference.

35. Title 172 Chapter 88-013.26 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as failure to keep and maintain adequate records of treatment or service; adequate records means legible medical records

containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment; and, when investigative or unproven therapies are utilized, the records must include written informed patient consent.

36. Defendant's failure to produce records of treatment constitutes unprofessional conduct and is grounds for discipline.

FOURTH CAUSE OF ACTION

37. Paragraphs 1 through 36 are incorporated herein by reference.

38. Title 172 Chapter 88-013.21 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public.

39. Defendant's treatment of patients St.V.N., Sh.V.N., and J.R. is below the normal standard of care in Nebraska and is grounds for discipline.

FIFTH CAUSE OF ACTION

40. Paragraphs 1 through 39 are incorporated herein by reference.

41. Title 172 Chapter 88-013.1 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any departure from or failure to conform to the ethics of the medical profession, as found in the American Medical Association's Code of Medical Ethics and Opinions.

42. The American Medical Association's Principles of Medical Ethics VIII states: A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

43. Defendant's conduct in treating patient St.V.N. is a boundaries violation and is grounds for discipline.

SIXTH CAUSE OF ACTION

44. Paragraphs 1 through 43 are incorporated herein by reference.

45. The American Medical Association's Code of Medical Ethics and Opinions § 8.19 Self-Treatment or Treatment of Immediate Family Members also provides: "Physicians generally should not treat themselves . . . Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves".

46. Defendant's self medication is unprofessional conduct and is grounds for discipline.

SEVENTH CAUSE OF ACTION

47. Paragraphs 1 through 46 are incorporated herein by reference.

48. NEB. REV. STAT. §§ 38-178(6)(d) and 71-147(5) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for practice of the profession in a pattern of negligent conduct in performing the duties of the profession.

49. Defendant's treatment of patients St.V.N., Sh.V.N., and J.R. is a pattern of care below the normal standard of care in Nebraska and is grounds for discipline.

EIGHTH CAUSE OF ACTION

50. Paragraphs 1 through 49 are incorporated herein by reference.

51. NEB. REV. STAT. §§ 38-178(17) (Reissue 2008) and 71-147(17) (2006 Cum.Supp.) provide that a professional license may be disciplined for a violation of the Uniform Controlled Substance Act.

52. The Defendant violated NEB. REV. STAT. § 28-411 (Reissue 2008) by failing to keep a record of such controlled substances received by him and a record of such controlled substances administered or professionally used by him, other than by medical order issued by a practitioner authorized to prescribe.

53. The Defendant violated NEB. REV. STAT. § 28-428 (Reissue 2008) and the Uniform Controlled Substance Act by not maintaining controlled substances in a controlled premises.

54. The Defendant's conduct is unprofessional conduct and is grounds for discipline.

NINTH CAUSE OF ACTION

55. Paragraphs 1 through 54 are incorporated herein by reference.

56. Neb. Rev. Stat. §§ 38-178(18) and 71-147(20) (2006 Cum. Supp.) provide that a professional license may be disciplined for failing to file a report required by §§ 38-1,125 (Reissue 2008) and 71-168 (2006 Cum. Supp.) within thirty days.

57. Defendant's conduct in failing to report his change in hospital privileges status within the mandatory reporting time to the Department is grounds for discipline.

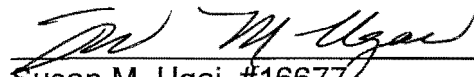
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition for: Disciplinary Action and Temporary License Suspension for hearing and enter an order

for appropriate disciplinary action pursuant to NEB. REV. STAT. § 38-183 (Reissue 2008),
and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON BRUNING,
Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 

Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-2682

Attorneys for the Plaintiff.

34-975b-14

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

LICENSURE UNIT
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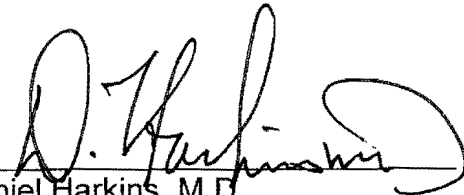
IN THE MATTER OF)
)
THE LICENSE OF) **ASSURANCE OF COMPLIANCE**
)
DANIEL HARKINS, M.D.)

Daniel Harkins, M.D. ("Dr. Harkins") and the Attorney General's Office for the State of Nebraska enter into this Assurance of Compliance by agreeing as follows:

1. Dr. Harkins is the holder of a license to practice medicine (#17710) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
2. It is alleged that Dr. Harkins employed physician's assistant H.F. without having a license to serve as H.F.'s Supervising Physician from September 2, 2008, through December 11, 2008.
3. Dr. Harkins agrees to only employ physician's assistants to perform medical services that have approved Supervising Physicians.
4. NEB. REV. STAT. §§ 38-2047 (Reissue 2008) and 71-1,107.17 (Reissue 2003) requires that a physician's assistant may only perform medical services under the supervision of a physician approved by the Board of Medicine and Surgery.
5. Under the provisions of NEB. REV. STAT. § 38-178(21) (Reissue 2008), any violation of this Assurance of Compliance is grounds for discipline.
6. This Assurance of Compliance is not a disciplinary action against Dr. Harkins' license to practice medicine.

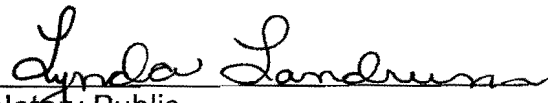
7. This Assurance of Compliance is entered into pursuant to NEB. REV. STAT. § 38-1,108 (Reissue 2008) and shall become effective ten (10) days from the date it is signed by the Attorney General's Office.

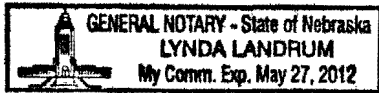
Dated this 8th day of July, 2009.


Dr. Daniel Harkins, M.D.

State of Nebraska)
) ss.
County of Scotts Bluff)

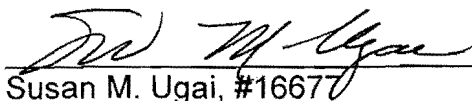
The above Assurance of Compliance was acknowledged before me by Dr. Daniel Harkins, M. D., on this 9th day of July, 2009.


Notary Public
My Commission Expires:



Dated this 13th day of July, 2008.

BY: JON BRUNING, #20351
Attorney General

BY: 
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-9658