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2 **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
3 **OF THE STATE OF NEVADA**

4 \* \* \* \* \*

5 )  
6 **In the Matter of Charges and** )  
7 **Complaint Against** )  
8 **TERESA CHARNIGA, M.D.,** )  
9 **Respondent.** )  
10 \_\_\_\_\_ )

NO Case No. ~~08-8567-1~~  
FILED 8<sup>th</sup> December 2008  
  
CLERK OF THE BOARD

11 **SETTLEMENT, WAIVER AND CONSENT AGREEMENT**

12 **THIS AGREEMENT** is hereby entered into by and between the Investigative Committee (IC) of  
13 the Nevada State Board of Medical Examiners (Board), composed of Charles N. Held, M.D., Chairman,  
14 Cindy Lamerson, M.D., Member, and Jean Stoess, M.A., Member, by and through Edward Cousineau,  
15 Deputy General Counsel for the Nevada State Board of Medical Examiners, and Teresa Charniga, M.D.  
16 (Respondent), as follows:

17 **WHEREAS**, on August 22, 2008, the IC of the Board filed a formal complaint in the above-  
18 referenced matter, charging Respondent with violations of the Medical Practice Act (NRS Chapter 630), to  
19 wit: obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice  
20 medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete  
21 statement, a violation of NRS 630.304(1), and

22 **WHEREAS**, Respondent has received a copy of the Complaint, reviewed it, understands the  
23 nature and significance of the Complaint, and Respondent is fully advised concerning her rights and  
24 defenses to the Complaint, as well as the possible sanctions that may be imposed if the Board finds and  
25 concludes that she has violated one or more provisions of the Medical Practice Act; and

26 **WHEREAS**, Respondent understands and agrees that she has certain rights under the United  
27 States Constitution and the Constitution of the state of Nevada, as well as under the Medical Practice Act  
28 (NRS Chapter 630) and the Nevada Administrative Procedures Act (NRS Chapter 233B), including but

1 not limited to the right to a formal hearing on the charges against her, the right to representation by counsel  
2 in the preparation and presentation of her defense, the right to confrontation and  
3 cross-examination of witnesses against her, the right to present evidence and witnesses on her own behalf,  
4 the right to written findings, conclusions and order regarding a final decision by the Board, and the right to  
5 judicial review of any final decision by the Board that is adverse to her; and

6 **WHEREAS**, provided this Agreement is approved by the Board, Respondent agrees to waive all  
7 of her rights under the United States Constitution, the Constitution of the state of Nevada, the Medical  
8 Practice Act, and the Nevada Administrative Procedures Act, including but not limited to the right to a  
9 hearing on the charges and written findings of fact, conclusions of law and order, and she agrees to settle  
10 and resolve this matter of the formal complaint against her by way of, and in accordance with, this  
11 Settlement, Waiver and Consent Agreement; and

12 **WHEREAS**, Respondent understands and agrees that this Agreement is entered into by and  
13 between herself and the Board's IC, and not with the Board, but that the IC will present this Agreement to  
14 the Board for consideration in open session at a regularly-scheduled quarterly meeting, duly noticed, and  
15 that the IC shall advocate approval of this Agreement by the Board, but that the Board has the right to  
16 decide in its own discretion whether or not to approve this Agreement; and

17 **WHEREAS**, Respondent and the IC each understand and agree that if the Board approves the  
18 terms, covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated  
19 below shall be binding and enforceable upon Respondent and the Board's IC;

20 **NOW THEREFORE**, in order to resolve the above-captioned case and charges brought against  
21 her by the Board's Investigative Committee in said matter, Respondent and the IC hereby agree to the  
22 following terms, covenants and conditions:

23 1. **Jurisdiction.** Respondent is, and at all times mentioned in the complaint filed in the  
24 above-captioned matter was, a physician licensed to practice medicine in the state of Nevada subject to the  
25 jurisdiction of the Board to hear and adjudicate charges of violations of the Medical Practice Act  
26 (NRS 630), and to impose sanctions as provided by the Act.

27 2. **Representation by Counsel.** Respondent is represented by L. Kristopher Rath, whom  
28 Respondent covenants and agrees is fully capable, competent, and fully advised in these circumstances,

1 and Respondent further covenants and agrees that she enters into this Agreement knowingly, willingly and  
2 intelligently after full consultation with and upon the advice of counsel.

3           3.       **Waiver of Rights.** Respondent covenants and agrees that she enters into this Agreement  
4 knowingly, willingly, and intelligently and that he has been afforded the opportunity to consult with legal  
5 counsel prior to entering into this Agreement. In connection with this Agreement, and the terms, covenants  
6 and conditions contained herein, Respondent knowingly, willingly and intelligently, provided the Board  
7 accepts this Agreement, waives all rights arising under or pursuant to the United States Constitution, the  
8 Constitution of the state of Nevada, NRS Chapter 630 and NRS Chapter 233B that may be available to her  
9 or that may apply to her in connection with the proceeding on the complaint filed herein, the defense of  
10 said complaint and the adjudication of the charges in said complaint, and Respondent further agrees that  
11 the matter of the disciplinary action commenced by complaint herein may be settled and resolved in  
12 accordance with this Agreement without a hearing or any further proceeding, and without the right to  
13 judicial review.

14           4.       **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and agrees  
15 that the Board's IC has a reasonable basis to believe that Respondent violated one or more provisions of  
16 the Medical Practice Act.

17           5.       **Consent to Entry of Order.** In order to resolve the matter of these disciplinary  
18 proceedings pending against her without any further cost and expense of providing a defense to the  
19 complaint, Respondent hereby agrees that an order may be entered herein by the Board against her, finding  
20 that Respondent has violated the Medical Practice Act to wit: obtaining, maintaining or renewing a license  
21 by false, misleading, inaccurate or incomplete statement, a violation of NRS 630.304(1), that Respondent  
22 will be publicly reprimanded, that Respondent will be fined in the amount of \$1,000.00, that Respondent  
23 agrees to pay the costs of investigation and prosecution of this matter in the current amount of  
24 \$2,858.52 along with the further costs to conclude the matter, if any, along with the aforementioned  
25 fine, within ninety (90) days of the Board's acceptance and approval of this Agreement;

26           6.       **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall  
27 recommend approval and adoption of the terms, covenants and conditions contained herein by the  
28 Board in resolution of the disciplinary proceedings pending herein against Respondent pursuant to the

1 formal complaint. In the course of seeking Board approval, adoption and/or acceptance of this  
2 Agreement, counsel for the IC may communicate directly with the Board staff and members of the panel  
3 of the Board who would adjudicate this case if it were to go to hearing. Respondent covenants and  
4 agrees that such contacts and communication may be made or conducted ex parte, without notice or  
5 opportunity to be heard on her part or on the part of his counsel, and that such contacts and  
6 communications may include, but not be limited to, matters concerning this Agreement, the complaint,  
7 the allegations in the complaint, any and all evidence that may exist in support of the complaint, and any  
8 and all information of every nature whatsoever related to the complaint against Respondent.

9       7.     **Board Approval Required.** This Agreement will be placed on the next available Agenda  
10 of a regularly scheduled and duly noticed quarterly Board meeting. It is expressly understood that this  
11 Agreement will only become effective if the Board approves the recommendation of the IC for acceptance.

12       8.     **Effect of Acceptance of Agreement by Board.** In the event the Board approves,  
13 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the IC  
14 will cause to be entered herein the Board's Order finding Respondent violated NRS 630.304(1) and will  
15 be sanctioned in accordance with the previously cited terms.

16       9.     **Effect of Rejection of Agreement by Board.** In the event the Board does not approve,  
17 accept and adopt the terms, covenants and conditions set out in this Agreement, this Agreement shall be  
18 null, void, and of no further force and effect except as to the following covenant and agreement  
19 regarding disqualification of adjudicating Board panel members. Respondent agrees that,  
20 notwithstanding rejection of this Agreement by the Board, nothing contained herein and nothing that  
21 occurs pursuant to efforts of the IC or its counsel to seek acceptance and adoption of this Agreement by  
22 the Board shall disqualify any member of the adjudicating panel of the Board from considering the  
23 charges against Respondent and participating in the disciplinary proceedings in any role, including  
24 adjudication of the case, and Respondent further agrees that she shall not seek to disqualify any such  
25 member absent evidence of bad faith.

26       10.    **Release From Liability.** In execution of this Agreement, the Respondent, for herself,  
27 her executors, successors and assigns, hereby releases and forever discharges the state of Nevada, the  
28 Board, the Nevada Attorney General, and each of their members, agents and employees in their

1 representative capacities, and in their individual capacities absent evidence of bad faith, from any and  
2 all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands  
3 whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or  
4 claim to have, against any or all of the persons or entities named in this paragraph arising out of or by  
5 reason of this investigation, this disciplinary action, this settlement or its administration, in connection  
6 with the complaint. The IC hereby agrees to accept this Agreement in full settlement of all claims  
7 related to the complaint, with the understanding that the final decision rests with the Board.

8 11. **Binding Effect.** Respondent covenants and agrees that this Agreement is a binding and  
9 enforceable contract upon Respondent and the Board's IC, which contract may be enforced in a court or  
10 tribunal having jurisdiction.

11 12. **Forum Selection Clause.** Respondent covenants and agrees that in the event either  
12 party is required to seek enforcement of this Agreement in the district court, she consents to such  
13 jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second Judicial District  
14 Court of the State of Nevada in and for the County of Washoe.

15 13. **Attorneys Fees and Costs.** Respondent covenants and agrees that in the event an action  
16 is commenced in the district court to enforce any provision of this Agreement, the prevailing party shall  
17 be entitled to recover reasonable costs and attorneys' fees.

18 Dated this 6<sup>th</sup> day of October, 2008.

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20 Edward Cousineau, Esq.  
21 Attorney for the Investigative Committee  
22 of the Nevada State Board of Medical Examiners  
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I am in agreement with all of the terms of the foregoing Settlement, Waiver and Consent Agreement signed on the 22<sup>nd</sup> day of September, by Edward Cousineau, Esq., Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners.

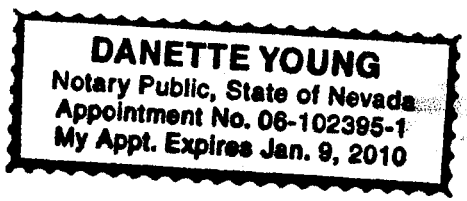
Dated this 30 day of Sept. 2008.

T. Charniga MD  
Teresa Charniga, M.D.  
Respondent

Signature of Teresa Charniga, M.D.  
subscribed and sworn to before me  
this 30<sup>th</sup> day of September 2008

Danette Young  
Notary Public

LKRath  
L. Kristopher Rath  
Attorney for Teresa Charniga



OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
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## ORDER

IT IS HEREBY ORDERED that the foregoing SETTLEMENT, WAIVER AND CONSENT AGREEMENT is approved and accepted by the Nevada State Board of Medical Examiners on the 5<sup>th</sup> day of December 2008.



Benjamin J. Rodriguez, Vice President  
NEVADA STATE BOARD OF MEDICAL EXAMINERS