

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

3 * * * * *

4 **In The Matter of Charges and**)
5 **Complaint Against**)
6 **CLIFFORD CARROL, M.D.**)
7 **Respondent.**)
8)
9)

Case No. 10-11702-1

FILED

JUN 13 2011

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: _____

10 **SETTLEMENT, WAIVER AND CONSENT AGREEMENT**

11 **THIS AGREEMENT** is entered into by and between the Investigative Committee (IC) of
12 the Nevada State Board of Medical Examiners (the Board) composed of
13 Charles N. Held, M.D, Theodore B. Berndt, M.D. and Ms. Valerie Clark, BSN, RHU, LUTCF by
14 and through counsel, Lyn E. Beggs, Esq.; and Clifford Carrol, M.D. (Respondent), by and through
15 his counsel Sherman Mayor, Esq., as follows:

16 **WHEREAS**, on August 11, 2010, the Board's IC filed a Complaint in the above
17 referenced matter charging Respondent with engaging in conduct that is grounds for discipline
18 pursuant to the Medical Practice Act (NRS Chapter 630 and NAC Chapter 630) to wit: one count
19 of malpractice as defined by NAC 630.040, a violation of NRS 630.301(4); and

20 **WHEREAS**, Respondent has received and reviewed a copy of the Complaint, understands
21 it, and has consulted with competent counsel Sherman Mayor, Esq., concerning the nature and
22 significance of the Complaint and Respondent is fully advised concerning his rights and defenses
23 to the Complaint as well as the possible sanctions that may be imposed if the Board finds and
24 concludes that he has engaged in conduct that is grounds for discipline pursuant to the Medical
25 Practice Act; and

26 **WHEREAS**, Respondent understands and agrees that this Agreement is entered into by
27 and between himself and the Board's Investigative Committee, and not with the Board, but that the
28 Investigative Committee will present this Agreement to the Board for consideration in open

1 session at a Board meeting, appropriately noticed, and that the Investigative Committee shall
2 advocate approval of this Agreement by the Board, but that the Board has the right to decide in its
3 own discretion whether or not to approve this Agreement; and

4 **WHEREAS**, Respondent and the Investigative Committee each understand and agree that
5 if the Board approves the terms, covenants and conditions of this Agreement, then the terms,
6 covenants and conditions enumerated below shall be binding and enforceable upon Respondent
7 and the Board's Investigative Committee; and

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

11 1. **Consent to Entry of Order.** The Board filed a Complaint against Respondent
12 alleging that Respondent engaged in conduct that is grounds for discipline pursuant to the
13 Medical Practice Act to wit: malpractice as set forth in count I of the Complaint, a violation of
14 NRS 630.301(4). In order to resolve the matter of these proceedings against him without any
15 further costs and expense of providing a defense to the Complaint or to any other amended
16 Complaints, Respondent does not wish to contest the allegations set forth in count I of the
17 Complaint but does not make any admissions as to the conduct as alleged. To resolve and settle
18 this Complaint, the Board and Respondent have agreed that Respondent shall complete eight
19 hours of continuing medical education (CME) on the subject of documentation of colonoscopies
20 (if available) and/or the subject of advances in colonoscopy (to be pre-approved by the Board)
21 within twelve months of the date of acceptance of this Agreement by the Board. Respondent
22 shall also submit to random reviews of his charts for a period of six months beginning on the
23 date of acceptance of this Agreement by the Board and pay the costs associated with such
24 reviews, within thirty days of receiving an invoice for said costs. Furthermore, Respondent shall
25 be ordered to reimburse the Board the reasonable costs and expenses incurred in the
26 investigation and prosecution of this case, the current amount being \$5,664.82. These costs
27 shall be paid to the Nevada State Board of Medical Examiners within ninety (90) days of the
28 acceptance of this Agreement by the Board. The terms of this Agreement take into

1 consideration the fact that Respondent has demonstrated in this matter that he has addressed the
2 issue of proper documentation in his records, the primary concern noted in the Complaint.

3 2. **Jurisdiction.** Respondent was at all times mentioned in the Complaint filed in the
4 above-captioned matter a licensed Physician in the State of Nevada subject to the jurisdiction of
5 the Board to hear and adjudicate charges of violations of the Medical Practice Act (NRS and
6 NAC 630), and to impose sanctions as provided by the Act.

7 3. **Waiver of Rights.** Respondent covenants and agrees that he enters into this
8 Agreement knowingly, willingly, and intelligently with the advice of above identified counsel. In
9 connection with this Agreement, and the terms, covenants and conditions contained herein,
10 Respondent knowingly, willingly and intelligently, waives all rights arising under or pursuant to
11 the United States Constitution, the Constitution of the State of Nevada, NRS Chapter 630 and
12 NRS Chapter 233B that may be available to Respondent or that may apply to Respondent in
13 connection with the proceeding regarding the Complaint filed herein, the defense of said
14 Complaint and the adjudication of the charges in said Complaint, and Respondent further agrees
15 that the matter of the disciplinary action commenced by the filing of the Complaint herein may be
16 settled and resolved in accordance with this Agreement without a hearing or any further
17 proceeding, and without the right to judicial review. In the event this Agreement is not approved
18 by the Board, this Agreement shall have no force and effect and Respondent shall have all rights
19 arising under or pursuant to the United States Constitution, the Constitution of the State of Nevada,
20 NRS Chapter 630 and NRS Chapter 233B that may be available to Respondent or that may apply
21 to Respondent in connection with the proceeding on the Complaint filed herein.

22 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
23 agrees that the Board's Investigative Committee had a reasonable basis to believe that Respondent
24 violated one or more provisions of the Medical Practice Act.

25 5. **Procedure for Adoption of Agreement.** It is expressly understood that this
26 Agreement will only become effective if the Board approves the recommendation of the
27 Investigative Committee for acceptance. The Investigative Committee and counsel for the
28 Investigative Committee shall recommend approval of the terms, covenants and conditions

1 contained herein by the Board in resolution of the disciplinary proceedings pending herein
2 against Respondent pursuant to the Complaint. In the course of seeking Board approval of this
3 Agreement, counsel for the Investigative Committee may communicate directly with the Board
4 staff and members of the panel of the Board who would adjudicate this case if it were to go to
5 hearing. Respondent covenants and agrees that such contacts and communication may be made
6 or conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
7 counsel, if any, until the public Board meeting where this Agreement is discussed, and that such
8 contacts and communications may include, but not be limited to, matters concerning this
9 Agreement, the Complaint and the allegations therein, any and all evidence that may exist in
10 support of the Complaint, and any and all information of every nature whatsoever related to the
11 Complaint against Respondent. The Investigative Committee and its counsel agree that
12 Respondent and his counsel, if any, may appear at the Board meeting where this Agreement is
13 discussed in order to respond to any and all questions that may be addressed to the Investigative
14 Committee or its counsel at such meeting.

15 6. **Effect of Acceptance of Agreement by Board.** In the event the Board approves
16 the terms, covenants and conditions set out in this Agreement, counsel for the Investigative
17 Committee will cause to be entered herein the Board's Order approving this Settlement, Waiver
18 and Consent Agreement, ordering full compliance with the terms herein and ordering that this
19 case be closed, subject to the provisions in Paragraph 1.

20 7. **Effect of Rejection of Agreement by Board.** In the event the Board does not
21 approve the terms, covenants and conditions set out in this Agreement, this Agreement shall be
22 null, void, and of no further force and effect except as to the following covenant and agreement
23 regarding disqualification of adjudicating Board panel members. Respondent agrees that,
24 notwithstanding rejection of this Agreement by the Board, nothing contained herein and nothing
25 that occurs pursuant to efforts of the Investigative Committee or its counsel to seek acceptance
26 and adoption of this Agreement by the Board shall disqualify any member of the adjudicating
27 panel of the Board from considering the charges against Respondent and participating in the
28

1 disciplinary proceedings in any role, including adjudication of the case, and Respondent further
2 agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

3 8. **Release From Liability.** In execution of this Agreement, the Respondent, for
4 himself, his executors, successors and assigns, hereby releases and forever discharges the State
5 of Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
6 employees in their representative capacities, and in their individual capacities absent evidence of
7 bad faith, from any and all manner of actions, causes of action, suits, debts, judgments,
8 executions, claims and demands whatsoever, known and unknown, in law or equity, that
9 Respondent ever had, now has, may have or claim to have, against any or all of the persons or
10 entities named in this paragraph arising out of or by reason of this investigation, this disciplinary
11 action, this settlement or its administration, in connection with the Complaint. The Investigative
12 Committee hereby agrees to accept this Agreement in full settlement of all claims related to the
13 Complaint, with the understanding that the final decision rests with the Board.

14 9. **Binding Effect.** Respondent covenants and agrees that this Agreement is a
15 binding and enforceable contract upon Respondent and the Board's Investigative Committee,
16 which contract may be enforced in a court or tribunal having jurisdiction.

17 10. **Forum Selection Clause.** Respondent covenants and agrees that in the event
18 either party is required to seek enforcement of this Agreement in the district court, he consents
19 to such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second
20 Judicial District Court of the State of Nevada in and for the County of Washoe.

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

24 12. **Failure to Comply With Terms.** In the event the Board enters its Order
25 approving this Agreement, upon receipt of credible information that Respondent has failed to
26 comply with any term or condition of this Order, the Board shall be authorized to immediately
27 suspend Respondent's license until Respondent complies with the term or condition. Failure to
28 comply with the terms recited herein may result in additional disciplinary action being initiated

1 against Respondent for a violation of an Order of the Board in accordance with NRS
2 630.3065(2)(a).

3 Furthermore, any failure to pay any fine, fee, or cost ordered herein will also result in such legal
4 action as determined to be necessary to collect the unpaid fine, fee, or cost.

5
6 Dated this 3rd day of May 2011.

Dated this 28th day of April, 2011.

7
8 By: [Signature]
9 Lyn E. Beggs, Esq.
10 Attorney for the Investigative Committee

By: [Signature]
Sherman Mayor, Esq.
Attorney for Respondent

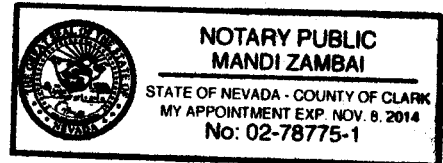
11 UNDERSTOOD AND AGREED:

12 [Signature]
13 Clifford Carrol, M.D., Respondent


14 Dated this 29 day of April, 2011.

15
16 Subscribed and sworn to before me
17 this 29th day of April 2011.

18 [Signature]
19 _____
20 Notary Public



1 IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement, is
2 approved and accepted by the Nevada State Board of Medical Examiners on the 10th day of
3 June 2011, with the final total amount of costs due of \$5,664.82.

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6 Charles N. Held, M.D., President
7 NEVADA STATE BOARD OF MEDICAL EXAMINERS

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