

## Preamble

We are now in a new era of Health Care Reform - intended to help patients. Sadly, these reforms do not include any “Lawsuit Reforms” that would dramatically reduce costs for patients and also promote a better environment for patients and their physicians. In a recent nationwide poll<sup>1</sup> 83% of the nation’s electorate wanted Congress to address the medical malpractice system as part of the Health Care Reform plan. We wish Congress had taken action implementing reforms that both doctors and patients could support. And the majority of patients agree. Congress missed the opportunity. Because of that we have taken action with the single goal of enhancing the relationship between patients and the physician.

We take great pride in our reputation for providing the highest levels of quality medical care to our patients. However, we realize there are times when some patients will not be satisfied with the outcomes of their treatments. We also recognize that in these instances, a patient has every right to pursue legal action if he/she feels we have been negligent in some way. We respect every patient’s right to do so.

While some healthcare legal claims are justified, there are also frivolous legal claims filed in our country—claims that are driving up insurance rates and impacting court decisions for the patients who truly deserve compensation. We believe that an agreement early in the treatment process regarding the use of board-certified experts will help expedite resolution of concerns.

### OUR COMMITMENT TO YOU

We commit to using only American Board of Medical Specialties (ABMS) board-certified expert medical witness(es) in any legal situation, who follow the code of ethics of our national specialty society. These steps ensure that expert medical witnesses we use have passed examinations, demonstrated expertise in their field and adhere to a solid code of ethics.

We demonstrate this commitment to you with our signature on this form.

### WHAT WE ARE ASKING YOU TO DO

We are asking you or any representative to commit to this process also, by using only board-certified physicians expert medical witness(es) if you are dissatisfied with your medical care and decide on legal action.

We hope, and believe, you will never have to consider this again. But if you do, we will honor this commitment to you.

Note<sup>1</sup> Poll conducted by *Clarus Research Group* ([www.ClarusRG.com](http://www.ClarusRG.com)), a nonpartisan survey research firm based in Washington, DC.

**PLEASE READ CAREFULLY**  
**AGREEMENT AS TO RESOLUTION OF CONCERNS**

“T”, “Patient/Guardian” shall be understood to mean \_\_\_\_\_ . (*insert name of patient or guardian*)

“Physician” shall be understood to mean **Dr. Neil T. Chen / Plastic Surgery Institute of New Mexico, PC.**

I understand that I am entering into a contractual relationship with Physician for professional care. I further understand that meritless and frivolous claims for medical malpractice have an adverse effect upon the cost and availability of medical care to patients and may result in irreparable harm to a medical provider. As additional consideration for professional care provided to me by the Physician, I, the Patient/Guardian, agree not to initiate or advance, directly or indirectly, any meritless or frivolous claims of medical malpractice against the Physician.

Should I initiate or pursue a meritorious medical malpractice claim against Physician, I agree to use as expert witnesses (with respect to issues concerning the standard of care), only physicians who are board certified by the American Board of Medical Specialties in the same specialty as the Physician. Further, I agree that these physicians retained by me or on my behalf to be expert witnesses will be members in good standing of the **American Society of Plastic Surgeons.**

I agree the expert(s) will be obligated to adhere to the guidelines or code of conduct defined by the **American Society of Plastic Surgeons** and that the expert(s) will be obligated to fully consent to formal review of conduct by such society and its members.

I agree to require any attorney I hire and any physician hired by me or on my behalf as an expert witness to agree to these provisions.

In further consideration, Physician also agrees to exactly the same above-referenced stipulations.

Each party agrees that a conclusion by a specialty society affording due process to an expert will be treated as supporting or refuting evidence of a frivolous or meritless claim.

Patient/guardian and Physician agree that this Agreement is binding upon them individually and their respective successors, assigns, representatives, personal representatives, spouses and other dependents.

Physician and Patient/guardian agree that these provisions apply to any claim for medical malpractice whether based on a theory of contract, negligence, battery or any other theory of recovery.

Patient/guardian and Physician acknowledge that monetary damages may not provide an adequate remedy for breach of this Agreement. Such breach may result in irreparable harm to Physician’s reputation and business. Patient/guardian and Physician agree in the event of a breach to allow specific performance and/or injunctive relief.

Patient/guardian acknowledges that he/she has been given ample opportunity to read this agreement and to ask questions about it.



\_\_\_\_\_  
Physician

\_\_\_\_\_  
Patient/Guardian

\_\_\_\_\_  
Effective from Date of Treatment:

\_\_\_\_\_  
Date of Signature