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19 **UNITED STATES DISTRICT COURT**
 20 **DISTRICT OF NEVADA**

21 U.S. EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
 22 Plaintiff,)
 v.)
 23 NEVADA HEALTH CENTERS, INC., ULTRACARE)
 24 LAS VEGAS and Does 1-5 Inclusive,)
 25 Defendants.)

Case No.: 2:16-cv-01495-JAD-PAL

**CONSENT DECREE RE: DEFENDANT
 NEVADA HEALTH CENTERS, INC.;**
ORDER

ECF No. 42

1 Plaintiff U.S. Equal Employment Opportunity Commission (the "EEOC") and Defendant
2 Nevada Health Centers, Inc. ("NHC" or "Defendant") hereby stipulate and agree to entry of this Consent
3 Decree (the "Decree") to fully and finally resolve Plaintiff's complaint against Defendant in *U.S. Equal*
4 *Employment Opportunity Commission v. Nevada Health Centers, Inc., Ultracare Las Vegas, and Does*
5 *1-5, inclusive*; Case No. 2:16-cv-01495-JAD-PAL (the "Action"). On June 23, 2016, Plaintiff EEOC filed
6 this Action in the United States District Court, District of Nevada, alleging that during 2012 NHC
7 discriminated against Charging Party David Matlock on the basis of gender in violation of Title VII of
8 the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et. seq.*

9
10 **II.**

11 **PURPOSES AND SCOPE OF THE CONSENT DECREE**

12 The Decree is made and entered into by and between the EEOC and NHC and shall be binding
13 on and enforceable against NHC, as well as their officers, directors, agents, successors and assigns.
14 Collectively, the EEOC and NHC are referred to hereinafter as the "Parties."

15 B. The Parties have entered into this Decree for the following purposes:

- 16 1. To provide appropriate monetary and injunctive relief;
- 17 2. To ensure employment practices in compliance with federal law;
- 18 3. To ensure a work environment free from discrimination and retaliation; and
- 19 4. To ensure appropriate record keeping reporting, and monitoring

20 C. This Decree, as described in further detail in Section IX and X below will be
21 implemented by NHC on a company wide basis.

22 **III.**

23 **RELEASE OF CLAIMS**

24 A. This Decree fully and completely resolves all issues, claims, and allegations raised by the
25 EEOC against NHC in this Action.

26 B. Nothing in this Decree shall be construed to limit or reduce NHC's obligation to comply
27 fully with Title VII or any other federal employment statute.

28 C. Nothing in this Decree shall be construed to preclude the EEOC from bringing suit to
enforce this Decree in the event that any party fails to perform the promises and representations

1 contained herein.

2 D. This Decree in no way affects the EEOC's right to bring, process, investigate or litigate
3 other charges that may be in existence or may later arise against NHC in accordance with standard
4 EEOC procedures.

5 IV.

6 **JURISDICTION**

7 A. The Court has jurisdiction over the Parties and the subject matter of this litigation. The
8 Action asserts claims that, if proven, would authorize the Court to grant the equitable relief set forth in
9 this Decree. The terms and provisions of this Decree are fair, reasonable and just. This Decree
10 conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights
11 or privileges of any person.

12 B. The Court shall retain jurisdiction of this action during the duration of the Decree for the
13 purposes of entering all orders, judgments and decrees that may be necessary to implement the relief
14 provided herein.

15 V.

16 **EFFECTIVE DATE AND DURATION OF DECREE**

17 A. The provisions and agreements contained herein are effective immediately upon the date
18 which this Decree is entered by the Court (the "Effective Date").

19 B. Except as otherwise provided herein, this Decree shall remain in effect for 2.5 years after
20 the Effective Date.

21 VI.

22 **MODIFICATION AND SEVERABILITY**

23 A. This Decree constitutes the complete understanding of the Parties with respect to the
24 matters contained herein. No waiver, modification or amendment of any provision of this Decree will
25 be effective unless made in writing and signed by an authorized representative of each of the Parties.

26 B. If one or more provisions of the Decree are rendered unlawful or unenforceable, the
27 Parties shall make good faith efforts to agree upon appropriate amendments in order to effectuate the
28

1 purposes of the Decree. In any event, the remaining provisions will remain in full force and effect
2 unless the purposes of the Decree cannot, despite the Parties' best efforts, be achieved.

3 C. By mutual agreement of the Parties, this Decree may be amended or modified in the
4 interests of justice and fairness in order to effectuate the provisions herein.

5 **VII.**

6 **COMPLIANCE AND DISPUTE RESOLUTION**

7 A. The Parties expressly agree that if the EEOC has reason to believe that NHC has failed to
8 comply with any provision of this Consent Decree, the EEOC may bring an action before this Court to
9 enforce the Decree. Prior to initiating such action, the EEOC will notify NHC and/or its/their legal
10 counsel of record, in writing, of the nature of the dispute. This notice shall specify the particular
11 provision(s) that the EEOC believes NHC breached. Absent a showing by either party that the delay
12 will cause irreparable harm, NHC shall have thirty (30) days to attempt to resolve or cure any non-
13 monetary breach and shall have five (5) days to attempt to resolve or cure any monetary breach.

14 B. The Parties agree to cooperate with each other and use their best efforts to resolve any
15 dispute referenced in the EEOC notice.

16 C. After thirty (30) days have passed with respect to any non-monetary breach, or five (5)
17 days have passes with respect to any monetary breach, if the Parties have reached no resolution or
18 agreement to extend the time further, the EEOC may petition this Court for resolution of the dispute,
19 seeking all available relief, including an extension of the term of the Decree, the EEOC's costs and any
20 attorneys' fees incurred in securing compliance with the Decree, and/or any other relief the court deems
21 appropriate.

22 **VIII.**

23 **MONETARY RELIEF**

24 A. Within fourteen (14) days of the Effective Date, Defendant will pay a total of \$35,000 to
25 Charging Party David Matlock ("Mr. Matlock") in monetary relief to resolve this action. The EEOC has
26 full and complete discretion under the terms of this Decree to determine the characterization of such
27 payment as backpay or otherwise, as hereinafter described in this Decree. Mr. Matlock will provide
28 NHC with an executed IRS Form W-9 on or before the Effective Date.

1 B. The payment of \$35,000 to Mr. Matlock is deemed to be payment for compensatory
2 damages. Defendant shall prepare and distribute 1099 tax reporting forms to Mr. Matlock at the time
3 the check is sent to Mr. Matlock. No tax withholding may be made and a check in the amount of
4 \$35,000 shall be delivered to Mr. Matlock.

5 C. Within three (3) business days of the issuance of the settlement check, NHC shall submit
6 a copy of the check, tax reporting forms, and related correspondence to Anna Y. Park, Regional
7 Attorney, U.S. Equal Employment Opportunity Commission, Los Angeles District Office, 255 East
8 Temple Street, 4th Floor, Los Angeles, CA, 90012.

9 **IX.**

10 **GENERAL INJUNCTIVE RELIEF**

11 A. **Non-Discrimination:**

12 NHC, including all managerial and non-managerial employees, and all those in active concert or
13 participation with them, are hereby enjoined from discriminating against persons on the basis of gender
14 in hiring decisions, termination decisions, performance evaluations, transfers, demotions, promotions, or
15 any terms and conditions of employment, including but not limited to, barring male ultrasound
16 technicians from performing ultrasounds. NHC shall ensure that any agreement with a third party agent
17 will include language prohibiting the vendor from making hiring and/or assignment decisions regarding
18 ultrasound technicians based on gender.

19 B. **Retaliation:**

20 NHC, including all managerial and non-managerial employees, and all those in active concert or
21 participation with them, or any of them, are hereby enjoined from implementing or permitting any
22 action, policy or practice that retaliates against any current or former employee or applicant of NHC,
23 because he or she has in the past, or during the term of this Decree:

- 24 1. Opposed any practice made unlawful under Title VII;
25 2. Filed a charge of discrimination alleging such practice;
26 3. Participated in any manner in an internal or external investigation or proceeding
27 relating to this case or any claim of a violation of Title VII;
28 4. Was identified as a possible witness or claimant in this action;

5. Asserted any right under this Decree; or
6. Sought and/or received any relief in accordance with this Decree.

X.

SPECIFIC INJUNCTIVE RELIEF

A. Policies and Procedures

NHC, on a company-wide level, shall review, revise, distribute, and implement its policies and procedures against discrimination and retaliation prohibited by Title VII (the "Policy"). The Policy shall include:

1. A clear explanation of prohibited conduct;
2. The Policy shall ensure and provide assurance that applicants and employees are provided equal employment opportunities in the terms and conditions of employment and that gender shall not be a factor in the offer of any employment opportunities;
3. Assurance that employees who make complaints of discrimination or who provide information related to such complaints are protected against retaliation;
4. A clearly described complaint process for gender discrimination, harassment, and retaliation that provides accessible avenues of complaint against co-workers, including the complainant's supervisors, that allows for complaints to be initiated verbally, although it may require that the substance of the complaint be recorded later in writing;
5. An assurance that NHC will protect the confidentiality of discrimination complaints to the extent possible from being disclosed to those who do not need to know;
6. A complaint process that provides a prompt, thorough, and impartial investigation;
7. A requirement that any employee in a supervisory position who receives a complaint of discrimination, whether formal or informal, written or verbal, report such complaint to the human resources department within 48 hours of receiving said complaint;

1 8. An assurance that NHC's disciplinary policies hold employees, managers,
2 supervisors and human resources accountable for failing to take appropriate action or for engaging in
3 conduct prohibited under this Decree;

4 9. A procedure for communicating with the complainant in writing regarding the
5 status of the complaint / investigation, results of the investigation, and if any remedial action was
6 taken; and

7 10. An assurance that NHC will take prompt and appropriate corrective action when it
8 determines that discrimination and/or retaliation has occurred.

9 Within ninety (90) days of the Effective Date of this Decree, NHC shall provide to the EEOC a
10 copy of the Policy. Within ninety (90) days of the Effective Date, NHC shall ensure that it has
11 distributed its Policy to all employees. Within ninety (90) days of the Effective Date, NHC shall submit
12 to the Commission a statement confirming distribution of the Policy. For each new employee hired after
13 the initial distribution of the Policy described above, NHC shall ensure that the new employee receives
14 the Policy within ten (10) days of employment.

15 B. Training

16 1. Within one hundred twenty (120) days of the Effective Date of this Decree and
17 once each year thereafter during the terms of the Decree, NHC shall provide training of at least two
18 hours in duration to each employee involved in the recruitment and/or hiring process. The training shall
19 include the Policy and federal laws regarding non-discriminatory recruitment and/or hiring practices to
20 ensure that all NHC employees involved in the hiring process can (1) prevent applicants from being
21 deterred or otherwise not selected on the basis of gender; (2) maintain proper record-keeping; and (3)
22 implement non-discriminatory hiring practices at NHC. All persons required to attend such training
23 shall verify their attendance in writing. Within thirty (30) days of each training, NHC shall submit to the
24 EEOC written confirmation that the training occurred and a list of the names and job titles of the
25 attendees.

26 2. Within one hundred twenty (120) days of the Effective Date of this Decree and
27 once each year thereafter during the term of the Decree, NHC shall provide enhanced training of at least
28 two hour duration to each employee in the Human Resources Department covering the Policy and

1 federal laws regarding employment discrimination on the basis of gender, with an emphasis on
2 recruitment, hiring, and terms and conditions of employment, as well as the specific role of Human
3 Resources employees in assuring compliance with the Policy and federal law. All persons required to
4 attend such training shall verify their attendance in writing. Within thirty (30) days of each training,
5 NHC shall submit to the EEOC written confirmation that the training occurred and a list of the names
6 and job titles of the attendees.

7 C. Performance Evaluations

8 For the upcoming review cycle, NHC shall ensure that its performance evaluation forms for
9 managers and supervisors includes a criteria that takes into account compliance with the Policy.

10 D. Posting

11 Within ten (10) business days after the Effective Date and throughout the term of this Decree,
12 NHC shall post the notice attached to the Decree as Exhibit A, in a clearly visible location frequented by
13 employees at any NHC location providing obstetric services within the state of Nevada during the term
14 of this Decree. The notice shall remain posted for the duration of the decree.

15 E. Record Keeping

16 NHC shall establish a record-keeping procedure that provides for the centralized tracking of
17 recruitment, hiring, discrimination complaints, and investigations of complaints alleging discrimination
18 or retaliation related to their obstetrics department. The records to be maintained shall include:

- 19 1. All documents related to a job opening;
 - 20 2. All documents pertaining to recruitment for each job opening;
 - 21 3. All applications for employment and all documents collected from an applicant or
22 third party about an applicant in relation to a job opening;
 - 23 4. All documents pertaining to the selection process;
 - 24 5. A list of all persons involved in the hiring process for each job opening during the
25 reporting period;
 - 26 6. All documents pertaining to the salary, benefits, probationary period, and job
27 assignments in the offer of employment made to the selected applicant(s);
- 28

1 7. A summary of the reason for selection of the applicant(s) for each job opening
2 during the reporting period;

3 8. All documents and communications such as notes or emails pertaining to an
4 applicant's and/or employee's qualification and/or job performance;

5 9. All documents and communication pertaining to any discipline or counseling of
6 an employee and/or worker;

7 10. All documents generated in connection with any complaint, investigation into, or
8 resolution of every complaint of gender discrimination or retaliation for the duration of the Decree and
9 the identities of the parties involved;

10 11. All documents generated in connection with the monitoring, counseling, or
11 disciplining of employees whom Defendant determined to have engaged in behavior that may be
12 discriminatory, harassing, and/or retaliatory;

13 12. All documents generated in connection with Defendant's confidential follow-up
14 inquiries into whether any complainant believes he or she has been retaliated against;

15 13. All forms acknowledging any employee or manager's receipt of the Policy as
16 required under this Decree;

17 14. All documents verifying the occurrence of all training sessions and names and
18 positions of all attendees for each session as required under this Decree; and

19 15. All documents generated in connection with the establishment or review of
20 performance evaluation measures for managers, supervisors, and human resource employees.

21 Defendant will make the aforementioned records available to the EEOC within ten (10) days
22 following a written request by the EEOC.

23 F. Reporting

24 NHC shall provide the following reports annually throughout the term of this Decree:

25 1. The attendance lists of all attendees for all training sessions required under this
26 Decree that took place during the previous twelve months;

27 2. A copy of the policy against and complaint procedure for gender discrimination,
28 harassment, and retaliation in compliance with the Consent Decree;

1 3. Confirmation of the Notice Posting requirement as set forth in Section D during
2 the relevant reporting period throughout the Decree term;

3 4. A description of all gender discrimination and/or retaliation complaints made
4 since the submission of the immediately preceding report hereunder. This description shall include the
5 names of the individuals alleging gender discrimination or retaliation, the nature of the discrimination or
6 retaliation, the names of the alleged perpetrators of gender discrimination or retaliation, the dates of the
7 alleged gender discrimination or retaliation, a brief summary of how each complaint was resolved, and
8 the identity of the NHC employee(s) who investigated and/or resolved each complaint. If no results
9 have been reached as of the time of the report, the result shall be included in the next report;

10 5. A summary of NHC's investigation into any complaint about gender
11 discrimination, harassment, and/or retaliation for complaining about gender discrimination and/or
12 harassment, as exemplified by the spreadsheet attached hereto as Exhibit B. The summary shall include
13 the following information:

14 (a). the name and title of the complaining party(ies);

15 (b). the date of the complaint;

16 (c). the name and title of the alleged harasser(s)/offender(s);

17 (d). the name and title of the person(s) who conducted the investigation into
18 the complaint;

19 (e). the nature of the complaint (i.e. comments, acts, etc.);

20 (f). the name and job title of the manager or supervisor to whom the complaint
21 was made, the date on which the manager or supervisor received the complaint, a
22 description of the action taken by the manager or supervisor in response to the
23 complaint, and a description of how and when the manager or supervisor
24 responded to the complaint and/or forwarded the complaint to human resources
25 and steps taken thereafter;

26 (g). the date of the commencement and completion of the investigation;

27 (h). a brief description of the investigation (i.e. number of persons interviewed,
28 materials reviewed);

- 1 (i). the outcome of the investigation and any action taken; and.
2 (j). whether previous gender discrimination and/or harassment complaints had
3 been made regarding the alleged harasser(s)/offender(s). If so, the report should
4 also include the outcome of the prior investigations.

5 6. A description of all recruitment efforts made by NHC and what steps NHC has
6 taken to recruit from a gender-diverse applicant pool;

7 7. A summary of non-discriminatory hiring as exemplified by the spreadsheet
8 attached hereto as Exhibit C that lists the job recruitment, the dates the recruitment was posted, a copy
9 of applications and other submitted materials, the names and gender of selected applicants, the reason
10 for selection, and the placement of selected applicants. In the event NHC and/or its contractor does not
11 allow men to administer ultrasounds, that NHC shall provide a summary of the surrounding
12 circumstances;

13 8. All documents and communications exchanged between NHC and any third party
14 ultrasound provider regarding NHC's policy to provide non-discriminatory placement for ultrasound
15 technicians regardless of gender; and

16 All reports under this Paragraph shall be directed to: U.S. Equal Employment Opportunity
17 Commission, Attn. Regional Attorney, 255 E. Temple Street, 4th Floor, Los Angeles, CA 90012.

18 **XI.**

19 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**
20 **OF CONSENT DECREE**

21 NHC shall bear all costs associated with its administration and implementation of its obligations
22 under this Consent Decree.

23 **XII.**

24 **COSTS AND ATTORNEYS' FEES**

25 Each party shall bear its own costs of suit and attorneys' fees.

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1 **XIII.**

2 **MISCELLANEOUS PROVISIONS**

3 A. During the term of this Consent Decree, NHC shall provide any potential successor-in-
4 interest with a copy of this Consent Decree within a reasonable time of not less than thirty (30) days
5 prior to the execution of any agreement for acquisition or assumption of control of any or all of NHC's
6 facilities, or any other material change in corporate structure, and shall simultaneously inform the EEOC
7 of same.

8 B. During the term of this Consent Decree, NHC shall assure that each of its officers,
9 managers and supervisors is aware of any term(s) of this Decree which may be related to his/her job
10 duties.

11 C. Unless otherwise stated, all notices, reports and correspondence required under this
12 Decree shall be delivered to the attention of Anna Y. Park, Regional Attorney, U.S. Equal Employment
13 Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles, CA, 90012; facsimile
14 number (213) 894-1301.

15 D. The Parties agree to entry of this Decree and judgment subject to final approval by the
16 Court.

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1 All parties, through the undersigned, respectfully apply for and consent to this entry of this
2 Consent Decree.

3 Respectfully submitted,

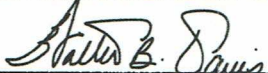
4 U.S. EQUAL EMPLOYMENT
5 OPPORTUNITY COMMISSION

6 Date: 6/27/17


7 By: Anna Y. Park, Regional Attorney
8 Attorneys for Plaintiff EEOC

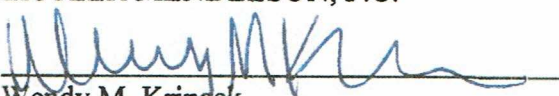
9 NEVADA HEALTH CENTERS, INC.

10 Date: 06/26/17


11 By: Walter B. Davis, Chief Executive Officer

12 LITTLER MENDELSON, P.C.

13 Date: 6/26/17


14 By: Wendy M. Krincek
15 Attorney for Defendant Nevada Health Centers

16 **ORDER**

17 The provisions of the foregoing Consent Decree are hereby approved and compliance with all
18 provisions thereof is HEREBY ORDERED.

19 The Clerk of Court is directed to CLOSE THIS CASE.

20 
21 U.S. District Judge Jennifer Dorsey
22 July 6, 2017

EXHIBIT A

EXHIBIT A



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Los Angeles District Office**

NOTICE OF CONSENT DECREE

This Notice is being posted pursuant to a Consent Decree entered by the Federal Court in the case of U.S. Equal Employment Opportunity Commission v. Nevada Health Centers, Inc., Ultracare Las Vegas, and Does 1-5, inclusive; Case No. 2:16-cv-01495-JAD-PAL, settling a lawsuit filed by the United States Equal Employment Opportunity Commission (“EEOC”).

The EEOC is a government agency that enforces federal anti-discrimination laws in the workplace. In June 2016, the EEOC filed a lawsuit in the United States District Court against Nevada Health Centers alleging that Nevada Health Centers and Ultracare Las Vegas discriminated against Charging Party David Matlock on the basis of gender.

Federal anti-discrimination law prohibits harassment or discrimination against any employee or applicant for employment because of a person’s age, disability, race, sex, color, religion or national origin.

Nevada Health Centers is committed to complying with federal anti-discrimination laws in all respects, including preventing and remedying gender discrimination and retaliation. Nevada Health Centers will not tolerate discrimination against employees on the basis of that person’s sex, race, national origin, color, religion, disability, and age, and prohibits retaliation against any employee who complains about discrimination, files a charge of discrimination, or participates, gives testimony, or assists in any investigation regarding discrimination.

If you believe that you have been discriminated against because of your sex, national origin, age, race, color, religion, or disability, or retaliated against, you may seek assistance from:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**333 Las Vegas Blvd. South, Suite 8112
Las Vegas, NV 89101
1-800-669-4000**

EXHIBIT B

EXHIBIT B

EXHIBIT B - DISCRIMINATION INVESTIGATION REPORTING

NAMES/TITLE OF COMPLAINANT	COMPLAINT DATE	NAME/TITLE OF ALLEGED OFFENDERS	NAME/TITLE OF INVESTIGATOR	NATURE OF COMPLAINT	MANAGER/ SUPERVISOR ACTION	INVESTIGATION COMMENCEMENT / COMPLETION DATE	INVESTIGATIO N DESCRIPTION	INVESTIGATION OUTCOME	PREVIOUS GENDER DISCRIMINATI ON / RETRALIATION COMPLAINTS
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EXHIBIT C

EXHIBIT C

EXHIBIT C - APPLICANT/PLACEMENT REPORTING

JOB RECRUITMENTS	DATES POSTED	APPLICATIONS AND OTHER SUBMITTED MATERIALS	NAMES OF SELECTED APPLICANTS	GENDER OF SELECTED APPLICANTS	REASON FOR SELECTION	PLACEMENT OF SELECTED APPLICANTS
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