

Delivery alert until NaN

Abortion drug at center of complaint

By Olivier Uyttebrouck / Journal Staff Writer

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An anti-abortion group filed a complaint this month with the New Mexico Board of Nursing alleging that a nurse practitioner for Planned Parenthood illegally prescribed a drug routinely used to cause abortions in violation of a state law.

Planned Parenthood officials responded Monday that the nonprofit won a lawsuit in 2007 in which a judge ruled that nurse practitioners can legally prescribe the drug mifepristone, an abortion drug, to patients without violating the state's criminal abortion law.

Attorney Angelo Artuso, who filed the complaint in conjunction with Protest ABQ on April 6 with the Board of Nursing, said Monday the 2nd Judicial District Court ruling is not binding because it was never appealed to a state appellate court.

"A district court order is not precedent," Artuso said. Planned Parenthood "believe they have cover, but it doesn't mean that the Board of Nursing isn't going to investigate and find that it is contrary to the licensing regulations."

Since the 2007 ruling, New Mexico's Medicaid program has reimbursed Planned Parenthood for mifepristone prescriptions provided to Medicaid patients by properly trained and certified nurse practitioners, Planned Parenthood responded in a written statement.

"Nurse practitioners with prescriptive authority prescribe mifepristone as requested by a patient," Planned Parenthood spokeswoman Whitney Phillips said in a written statement. "No surgical abortions are being performed by any nurse practitioners."

A certified nurse practitioner is a registered nurse who is specially trained and licensed by the Board of Nursing for advanced practice, such as diagnosing and treating illnesses and prescribing drugs.

Mifepristone, also known by the brand name Mifeprex, is a drug that can cause abortions by blocking the effects of progesterone, causing contractions of the uterus, according to the U.S. Food and Drug Administration.

New labeling guidelines issued by the FDA last month allow women to take an initial dose of mifepristone up to 70 days after the start of their most recent menstrual period, up from 49 days under the previous guidelines.

The complaint alleges that the state's criminal abortion law permits only licensed physicians to perform abortions and that the Planned Parenthood nurse practitioner violated the law by performing abortions through the prescribing of mifepristone.

The complaint was based on state Medicaid billing records obtained from the state Human Services Department by Tara Shaver, co-founder of Protest ABQ, under the state's Inspection of Public Records Act.

The records show that Vivian Clark, a certified nurse practitioner, was reimbursed about \$42,000 from 2013 to 2015, largely for medically induced abortion by oral medications.

The New Mexico Board of Nursing confirmed that it received the complaint naming Clark and referred it to the board’s investigators, but that no action has been taken.

“The current complaint before the state Board of Nursing is yet another baseless attack by a group dedicated to outlawing safe and legal abortion, and is intended to intimidate and harass providers,” said Carmen Feldman, general counsel for Planned Parenthood of New Mexico.

Artuso responded that the complaint is intended to require Planned Parenthood to follow state law.

“The New Mexico Legislature decided that when abortions are performed, they should be performed by licensed physicians,” he said. “We think it’s a good law. If that’s harassment and intimidation, then why not let anyone perform abortions?”

Contact the writer.

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