

AFFIDAVIT OF VIVIANNE CLARK

I, Vivianne Clark, upon my oath, depose and state as follows:

1. My name is Vivianne Clark. I work for Planned Parenthood of New Mexico.
2. I hold two New Mexico Board of Nursing Licenses. I am a licensed Registered Nurse, License Number RN-71112 and a licensed Certified Nurse Practitioner, License Number CNP-01603.
3. I have held a Registered Nurse license in the states of Arizona, Washington, Idaho and New Mexico for a combined total of 39 years. I have held a Certified Nurse Practitioner's license in the states of Washington, Idaho and New Mexico for a combined total of 28 years. I have never had a complaint filed against me prior to the one filed in this case.
4. I am not a licensed physician.
5. Between 2013 and 2015, I prescribed FDA approved medications whose function is to induce medication abortions. These medication abortions were only administered to women who were 63 days pregnant or less. In each of these cases, a vaginal ultrasound was conducted in accordance with medically accepted practices to determine the gestation period. In each of these cases, a physician supervised me in a manner approved by the FDA.
6. It is my understanding that on August 8, 2005, the New Mexico Board of Nursing affirmed that it is within the scope of practice of a duly licensed Certified Nurse Practitioner to administer medication abortion using mifepristone and misoprostol so long as all state and federal laws were followed and so long as the Certified Nurse Practitioner has adequate education, training, knowledge, ability and skill.
7. I have been trained in the practice of medication abortions on approximately 3 occasions since 2009. In addition, I have been trained in the practice of administering vaginal ultrasounds for the purpose of determining the gestation period of a fetus three times. I have been certified by Planned Parenthood to conduct vaginal ultrasounds through proficiency testing.
8. I have never performed surgical abortions.

9. I have no role in determining the billing codes utilized in billing Medicaid for reimbursement of medication abortion services. This is handled by the billing department for Planned Parenthood.



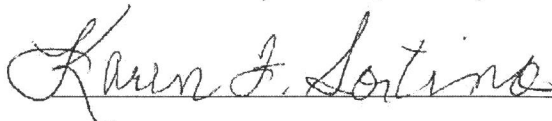
Vivianne Clark

STATE OF NEW MEXICO)

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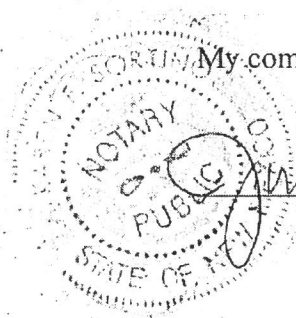
COUNTY OF SANTA FE)

SUBSCRIBED AND SWORN to before me this 8th day of June, 2016 by
Vivianne Clark.



Notary Public

My commission expires:



July 25, 2017

Presbyterian serves as a Medicaid Managed Care Organization and reimburses for services based on the Medicaid fee schedule.

9. In his letter, Mr. Tafoya instructed to use the following codes for “state-funded terminations:”

S01090 (Mifepristone)

S10191 (Misoprostol)

S2260 (Induced abortion, 17-24 weeks, any surgical method)

S2262 (Abortion for maternal indication, 25 weeks or greater)

S2265 (Abortion for fetal indication, 25-28 weeks)

S2266 (Abortion for fetal indication, 29-31 weeks)

S2267 (Abortion for fetal indication, 32 weeks or greater)

10. Shortly thereafter, PPNM started providing medication abortion services. Since Medicaid’s instructions were not updated to include the procedure code specific to medication abortion – **S0199**, which is to be used in conjunction with the codes **S0190** and **S0191** for the medications - PPNM continued to bill Medicaid using the same code they used for all other first trimester terminations- **S2260**.
11. Nevertheless, even when PPNM billed Medicaid for services provided by Vivianne Clark using the code **S2260**, at no point did Ms. Clark provide induced abortions at the gestational range of 17-24 weeks. Ms. Clark only provided medication abortions up to a gestational age of 63 days.
12. Realizing that there is a procedure code that fits better for the purposes of medication abortions, PPNM health centers began billing Medicaid with the **S0199** code and were in fact reimbursed.
13. To this date, that code is not listed as one of the codes Medicaid instructs to bill for pregnancy terminations.
14. In fact, section 8.325.7 in the New Mexico Administrative Code, which outlined pregnancy termination specifically, no longer exists. It was repealed effective 1/1/14 and

AFFIDAVIT OF AMY DICKSON

I, Amy Dickson, being first duly sworn, depose and state:

1. I serve as Senior Vice President of Clinical Operations of Planned Parenthood of the Rocky Mountains, Inc. d/b/a Planned Parenthood of New Mexico, Inc. ("PPNM").
2. I am over the age of 18 years. I am of sound mind.
3. I am fully competent to testify to all matters set forth in this Affidavit based upon my own personal knowledge and I am familiar with New Mexico Medicaid billing instructions.
4. New Mexico Medicaid reimbursement only covers medically necessary abortion services.
5. In the past, New Mexico Medicaid billing instructions for pregnancy termination procedures (See Exhibit A) listed the following codes to be used for all medically necessary induced abortions:

S2260 Induced abortion, 17-24 weeks, any surgical method

S2262 Abortion for maternal indication, 25 weeks or greater

S2265 Abortion for fetal indication, 25-28 weeks

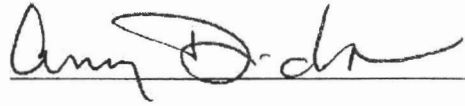
S2266 Abortion for fetal indication, 29-31 weeks

S2267 Abortion for fetal indication, 32 weeks or greater

6. In 2004, in an email to Dr. Bruce Ferguson (See Exhibit B), another abortion provider in Albuquerque who retired in 2011, New Mexico Medicaid's reproductive services program manager, Joanie Roybal, instructed to use CPT code **S2260** "to bill for the first trimester pregnancy termination."
7. Dr. Ferguson shared Ms. Roybal's instructions with Sue Steketee, who was then the medical director of PPNM. Based on that direction, code **S2260** has been used to bill for all first trimester procedures.
8. In 2006, PPNM received a letter from Steve Tafoya (See Exhibit C), Director of Provider Reimbursement at Presbyterian Health Services ("Presbyterian") (See Exhibit C).

replaced by 8.310.2 which is "General Benefit Description." While Section O covers pregnancy termination services, it does not give billing instructions.

Further the affiant sayeth naught.



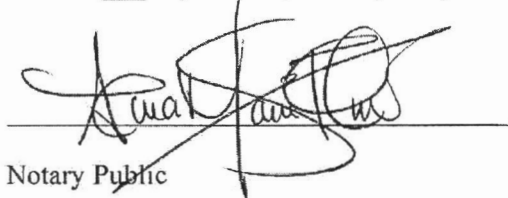
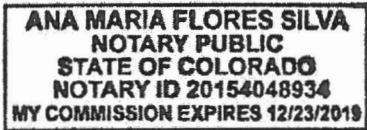
Amy Dickson

STATE OF NEW COLORADO)

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COUNTY OF Front)

SUBSCRIBED AND SWORN to before me this 2nd day of June, 2016 by Amy Dickson.

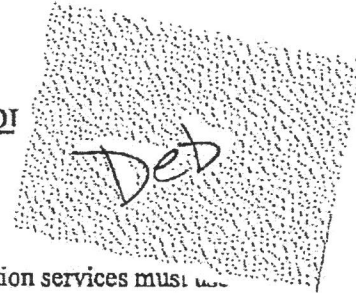


Notary Public

My commission expires:

12/23/19

**BILLING INSTRUCTIONS
SPECIALITY SERVICES
PREGNANCY TERMINATION PROCEDURES**



ATTACHMENT A

Allowed Procedure Code: Providers of pregnancy termination services must use the following HCPCS procedure code to bill Medicaid for reimbursement:

A medically necessary abortion service does not require a certification to be attached to the claim. The claims for these services may be submitted electronically to MAD claims processing contractor. The provider must retain required documentation in the recipient's medical record.

**Induced Abortion Codes for Medical Necessity
(Other than Rape, Incest or Life Endangerment)**

| PROCEDURE CODE | DESCRIPTION |
|----------------|---|
| S2260* | Induced abortion, 17-24 weeks, any surgical method |
| S2262* | Abortion for maternal indication, 25 weeks or greater |
| S2265* | Abortion for fetal indication, 25-28 weeks |
| S2266* | Abortion for fetal indication, 29-31 weeks |
| S2267* | Abortion for fetal indication, 32 weeks or greater |

***Modifiers That Are To Be Used With Induced Abortion Codes For Medical Necessity**

| MODIFIER | DESCRIPTION |
|----------|--|
| U1 | Induced abortion, by dilation and curettage |
| U2 | Induced Abortion, by dilation and evacuation |
| U3 | Induced Abortion by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits, delivery of fetus and secundines |
| U4 | Induced abortion, by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits, delivery of fetus and secundines with dilation and curettage and/or evacuation |
| U5 | Induced abortion, by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits delivery of fetus and secundines with dilation and curettage and/or evacuation with hysterotomy (failed intra-amniotic injection) |
| U6 | Induced abortion, by one or more vaginal suppositories (e.g., prostaglandin) with or without cervical dilation (e.g., laminaria), including hospital admission and visits, |

BI - 1

delivery of fetus and secundines; with dilation and
curettage and/or evacuation

If the service is for treatment following spontaneous abortion or fetal death (miscarriage), use the appropriate CPT code. Do not use one of the above codes.

Pregnancy Termination Services - Code For Oral Medication

| <u>PROCEDURE</u> | <u>CODE DESCRIPTION</u> |
|-------------------------|--------------------------------|
| S0190 | Mifepristone, oral, 200mg |

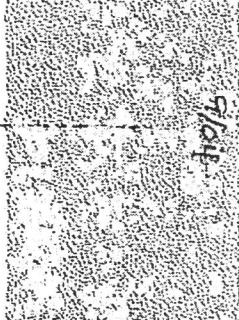
Abortion services using CPT codes noted below require physician certification that the procedure was due to rape, incest or life endangerment to the mother. Submit the claim by selecting the appropriate code based on description contained in the Current Procedural Terminology (CPT) guidelines with the necessary physician certification. If the procedure was not for one of these reasons you must bill using a HCPC code for a medically necessary abortion for which a certification does not need to be attached to the claim.

Abortion Codes As A Result of Rape, Incest, Or Life Endangerment

PROCEDURE CODE

- 59850
- 59851
- 59852
- 59840
- 59841
- 59855
- 59856
- 59857

If the service is for treatment following spontaneous abortion or fetal death (miscarriage), use the appropriate CPT code. Do not use one of the above codes.



Sue Stekete

From: Gbferguson@aol.com
Sent: Tuesday, September 21, 2004 12:45 PM
To: boyd02@covad.net; sue.stekete@ppnewmex.org
Subject: Fwd: FW: Procedure codes for medically necessary pregnancy termination s

Here is at least a written instruction from Joanie Roybal of MAD-HSD instructing us to use S2260 for first trimester pregnancy termination, even though the HCPCS book says only 17-24 weeks. I replied to her asking for further clarification of the various codes and modifiers, but save this an "evidence" that we are using the codes MAD has told us to use.

Bruce Ferguson

In a message dated 9/21/2004 9:19:02 AM Mountain Daylight Time, Joanie.Roybal@state.nm.us writes:

Dr. Ferguson,

The procedure codes that you would use to bill for the first trimester pregnancy termination would be S2260, along with one of the modifiers. If you have additional questions, please do not hesitate to call me at (505) 827-6227.

-----Original Message-----

From: Alcon, Virginia
Sent: Friday, September 17, 2004 7:24 AM
To: 'Gbferguson@aol.com'
Cc: Roybal, Joanie L
Subject: RE: Procedure codes for medically necessary pregnancy terminations

Good Morning.
The attachment contains the information that you have requested. Joanie Roybal is the program manager for reproductive services which includes pregnancy termination services. If you have any other questions, please do not hesitate to contact Ms. Roybal.

Virginia Alcon
(505) 827-1339

-----Original Message-----

From: Gbferguson@aol.com [mailto:Gbferguson@aol.com]
Sent: Thursday, September 16, 2004 4:50 PM
To: virginia.alcon@state.nm.us
Subject: Procedure codes for medically necessary pregnancy terminations

We have been using S2260 for first trimester medically necessary pregnancy termination surgical procedures. I can no longer find the information about the various codes and what they represent (definitions). Can you send them to me by email or fax?

Bruce Ferguson, M.D.
fax 505-242-1901

B
EXHIBIT

Sue Steketee

From: Roybal, Joanie L. [Joanie.Roybal@state.nm.us]
Sent: Tuesday, September 21, 2004 9:18 AM
To: 'Gbferguson@aol.com'
Cc: Wolf, Eric C; Alcon, Virginia
Subject: FW: Procedure codes for medically necessary pregnancy terminations

Dr. Ferguson,

The procedure codes that you would use to bill for the first trimester pregnancy termination would be S2260, along with one of the modifiers. If you have additional questions, please do not hesitate to call me at (505) 827-6227.

-----Original Message-----

From: Alcon, Virginia
Sent: Friday, September 17, 2004 7:24 AM
To: 'Gbferguson@aol.com'
Cc: Roybal, Joanie L
Subject: RE: Procedure codes for medically necessary pregnancy terminations

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Virginia Alcon
(505) 827-1339

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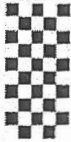
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Bruce Ferguson, M.D.
fax 505-242-1901

This email has been scanned by the MessageLabs Email Security System.
For more information please visit <http://www.messagelabs.com/email>

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message. — This email has been



From:

11/06/2013 17:03

#283 P.004/005



*Survey 1
FHI
Case*

Health Plan
P.O. Box 27489
Albuquerque, NM 87125-7489
Phone (505) 923-5700
www.phs.org

October 4, 2006

Dear Healthcare Practitioner and Office Staff Members:

Presbyterian is dedicated to ensuring that you are properly reimbursed for the covered medical care you provide to our members.

This letter serves to clarify that the Salud Managed Care Agreement and the State Coverage Insurance (SCI) Agreement only allow for payment of pregnancy termination procedures that meet the requirements for federal funding as described below. Pregnancy termination procedures that are covered by Medicaid but not eligible for federal funding will now be paid for under a supplemental Administrative Services Only (ASO) Agreement between the Human Services Department and Presbyterian. Therefore, it is imperative that claims for these services be correctly coded in order to effect payment under the appropriate Agreement.

Federally Funded terminations:

CPT codes – 59850, 59851, 59852, 59840, 59841, 59855, 59856, and 59857.

Federally funded terminations of pregnancy (those that are represented by the above CPT codes) are limited to those situations where:

- The procedure is necessary to terminate an ectopic pregnancy; or
- The procedure is necessary because the pregnancy aggravates a pre-existing condition, makes treatment of a condition impossible, interferes with or hampers a diagnosis, or has a profound negative impact upon the physical or mental health of an individual; or
- The procedure is necessary due to rape, incest, or threat to the life of the mother (modifier G7 is required).

Please note that payment of claims for terminations of pregnancy under these codes is conditioned upon receipt of a physician's certification. A copy of the certification form is enclosed. HSD currently requires that Presbyterian receive a hard copy of the certification **before the claim is paid**. You may fax the certification on the date of service or submit this certification any time prior to the submitting the claim in one of the following ways:

1. Submit your certification by fax at 505-923-5489, or
2. Submit your certification by mail by sending to:
Presbyterian Health Services
P.O. Box 92085
Albuquerque, NM 87199-2085
Attention: Medical Records

Please understand that Presbyterian is requiring the certification for purposes of processing the claim only, and not for purposes of prior authorization.

State-Funded terminations:

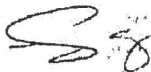
HCPCS codes – S0190, S0191, S2260, S2262, S2265, S2266, and S2267.

All pregnancy terminations for Salud or SCI members that do not meet the criteria for federal funding described above but are covered under Salud and SCI will require that the provider retain the certification form in the member's medical record, however, it is not necessary to submit the certification form with the claim.

If you should have any questions, please contact me by e-mail at sttafoya@phs.org or by phone at (505) 923-8782.

We appreciate your commitment to providing excellent care and service to our members. As always, thank you for partnering with us to improve the health of individuals, families, and communities.

Sincerely,



Steve Tafoya
Director of Provider Reimbursement
Presbyterian Provider Services
Sttafoya@phs.org
(505) 923-8782
PPC 030618

S0190 - mifepristone, oral 200mg
S0191 - Misoprostol, oral 200mcg
S0199 - Medically induce abortion by
oral ingestion of medication
including all associated services
and supplies (pt. counseling, office
visit)

C
EXHIBIT

New Mexico Board of Nursing
6301 Indian School Rd., N.E.
Albuquerque, New Mexico 87110

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NURSE'S NAME Vivianne Clark F/U Appointment Time _____

PLEASE PRINT ALL RESPONSES: Provide information where applicable. If necessary attach additional information on separate sheet(s).

| | | | | | |
|---|--|-------------------------|--|--------------------|---------------------|
| Name: <u>Vivianne Clark</u> | | Maiden: <u>Hartmann</u> | | Other Names: | |
| Street Address <u>5 Bisbee Ct, Ste 109-254</u> | | City <u>Santa Fe</u> | | State <u>NM</u> | Zip <u>87508</u> |
| Home Phone | | Cell Phone | | Work Phone | |

LIST ALL NURSING EDUCATION PROGRAMS COMPLETED:

| Name of Nursing School | Location (City/State) | Year of Graduation | Type of Degree |
|--------------------------------------|-------------------------|--------------------|---------------------------------------|
| <u>University of Arizona</u> | <u>Tucson, AZ</u> | <u>1977</u> | <u>RN</u> |
| <u>School of Health Care Science</u> | <u>Sheppard AFB, TX</u> | <u>1988</u> | <u>Nurse Practitioner Certificate</u> |
| <u>Drexel University</u> | <u>Philadelphia, PA</u> | <u>2004</u> | <u>Master of Science in Nursing</u> |

LIST ALL PREVIOUS AND CURRENT LICENSES REGISTRATIONS:

| Type of Licensure or Registration | State | License/Registration Number | Year of License/Registration | Active, Inactive, or Lapsed |
|-----------------------------------|--------------|-----------------------------|------------------------------|-----------------------------|
| <u>CNP</u> | <u>NM</u> | <u>CNP-01603</u> | <u>2010</u> | <u>Active</u> |
| <u>RN</u> | <u>NM</u> | <u>RN-7112</u> | <u>2010</u> | <u>Active</u> |
| <u>RN</u> | <u>AZ</u> | <u>RN 036424</u> | <u>1977</u> | <u>Inactive</u> |
| <u>RN</u> | <u>Idaho</u> | <u>25552</u> | <u>2000</u> | <u>Inactive</u> |
| <u>RN</u> | <u>WA</u> | <u>RN 00673201</u> | <u>1981</u> | <u>Inactive</u> |

LICENSE/REGISTRATION INFORMATION

| | |
|--|---|
| Total Years of Nursing Experiences (LPN, RN APPN): <u>39-RN; 28 APPN</u> | Length of Time of Employment at Facility of Occurrence: <u>June 2010 - Present</u> |
| State of Initial License/Registration: | Length of Time Worked in Unit/Dept Where the Incident Occurred: |
| Year of Initial License/Registration as Nurse: <u>1977</u> | Length of Time in Specific Nursing Role at Time of Incident (i.e., 12 yrs of ER; 2 yrs in long term; 4 yrs in assisted living). <u>11 yrs Ward Nurse (A in Force) & Navy's 28 yrs Women's Health Nurse Practitioner</u> |
| Type(s) of Continued Competence or Professional Development that You Have Completed in the Last 5 Years? | |
| <input checked="" type="checkbox"/> Continued education <input checked="" type="checkbox"/> Work site monitor/mentor/sponsor <input type="checkbox"/> Workshop/conference presentation 2 hours and above <input type="checkbox"/> Other _____ | |
| <input type="checkbox"/> Formal nursing education <input type="checkbox"/> Writing articles, publishing <input type="checkbox"/> Workshop conference or presentation | |
| The Nurse Practice Act (www.bon.state.nm.us) governs your nursing practice - when was the last time you reviewed the information? <u>2015</u> | |

List ALL Previous Nursing/CNA/ Employment: Start with current or most recent employment as number 1:

| Facility Name | City/State | Dates of Employment | Telephone number | Reason for Leaving: Enrolled in school, currently employed, resigned, resigned in lieu of termination, terminated |
|-----------------------------------|--------------------------|-----------------------|---------------------|---|
| <u>1. Planned Parenthood</u> | <u>Santa Fe, NM</u> | <u>6/2010-Present</u> | <u>505-944-2000</u> | <u>Currently Employed</u> |
| <u>2. Planned Parenthood</u> | <u>Boise, Idaho</u> | <u>8/2000-4/2009</u> | <u>300-769-0045</u> | <u>Moved To New Mexico</u> |
| <u>3. U. S. Air Force</u> | <u>Numerous Bases</u> | <u>10/81-8/2000</u> | <u>Unknown</u> | <u>Retired from Active Duty</u> |
| <u>4. Fort Townsend Hospital</u> | <u>Fort Townsend, WA</u> | <u>4/81-10/81</u> | <u>Unknown</u> | <u>Resigned To Join Air Force</u> |
| <u>5. Philadelphia Naval Home</u> | <u>Philadelphia, PA</u> | <u>4/78-2/81</u> | <u>Unknown</u> | <u>Resigned from Navy</u> |

COMPLETE BELOW INFORMATION FOR THE CURRENT OR MOST RECENT EMPLOYER:

| | |
|--|----------------------------------|
| Director of Nursing or Supervisor <u>Angie Hanan</u> | Phone number <u>505-265-5976</u> |
| Address <u>719 San Mateo</u> | City <u>Albuquerque</u> |
| State <u>NM</u> | Zip <u>87108</u> |

What triggered this event being reported to the Board of Nursing? Describe in detail on the last page (s).

See letter from Dan Cron, which accompanies this form

Medical History. List all visits with healthcare providers within the past year. Use additional sheet if needed.

| Date | Practitioner Name | Clinic | Reason for Visit |
|------|-------------------|--------|------------------|
| | | | |
| | | | |
| | | | |

Medication information. List all Current Medication. Be Very Specific to Include All Prescription Medications, Samples, and Over the Counter (OTC) Products. Use Additional Sheets if Necessary.

| Date | Medication | Dosage | Quantity | Refills | Physician Provider | Pharmacy | Reason for Medication |
|------|------------|--------|----------|---------|--------------------|----------|-----------------------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Legal or Court Action. List All Prior, Current, and Pending Criminal Activities or Convictions:

| Date | Violation | Court Date | Outcome | Probation/Incarceration |
|------------|-----------|------------|---------|-------------------------|
| <u>N/A</u> | | | | |
| | | | | |

History and Account of Incident:

| | |
|--|---|
| Date of incident _____ ? | Time of incident _____ ? |
| Type of Shift <input type="checkbox"/> 8 hour <input type="checkbox"/> 10 hour <input type="checkbox"/> 12 hour <input type="checkbox"/> on call _____ hours <input type="checkbox"/> other _____ | Shift start time _____ ? Shift end time _____ ? |
| Number of days work in a row at time of incident _____ ? | Where you working in temporary capacity? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Type of Assignment: <input type="checkbox"/> Direct patient care <input type="checkbox"/> Team Leader <input type="checkbox"/> Charge <input type="checkbox"/> Nurse Mg/supervisor <input type="checkbox"/> Combination leadership/patient care | Number of patients assigned directly to you at the time of incident _____ ? Number of staff member you were responsible for supervising at time of incident _____ ? Number of patients you were responsible for overall which would include direct care patients and those you supervised _____ ? |

Individual Factors- Check All Factors for You that Contributed to this Incident:

| | | |
|---|--|--|
| <input type="checkbox"/> Language barrier | <input type="checkbox"/> Cognitive impairment | <input type="checkbox"/> High work volume/stress |
| <input type="checkbox"/> Fatigue/lack of sleep | <input type="checkbox"/> Drug/alcohol impairment/abuse | <input type="checkbox"/> Functional ability deficient |
| <input type="checkbox"/> Inexperience/training | <input type="checkbox"/> No rest breaks/meal breaks | <input type="checkbox"/> Lack of orientation/training |
| <input type="checkbox"/> Overwhelming assignment | <input type="checkbox"/> Mental health issues | <input type="checkbox"/> Lack of team support |
| <input type="checkbox"/> Conflict with team members | <input type="checkbox"/> Personal Pain management | <input type="checkbox"/> Other (describe in detail or use additional paper if needed). |

Patient Demographics:

| | |
|--|----------------|
| Was Patient's family/friend present at the | Patient Gender |
|--|----------------|

| | | |
|---|---|-------------------|
| time of incident? <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Female <input type="checkbox"/> Male | Patient Age _____ |
| Pertinent patient characteristics at the time of incident (mark all that apply): <input type="checkbox"/> Agitation/combativeness <input type="checkbox"/> Altered level of consciousness <input type="checkbox"/> Pain/discomfort <input type="checkbox"/> Incontinence <input type="checkbox"/> Sensory deficits (hearing/vision/touch) <input type="checkbox"/> Insomnia <input type="checkbox"/> Communication/language <input type="checkbox"/> Communication/language difficulty <input type="checkbox"/> Depressed/anxious <input type="checkbox"/> Inadequate coping/stress management <input type="checkbox"/> None <input type="checkbox"/> unknown <input type="checkbox"/> Other _____ | | |

Healthcare Team Involvement: Please provide names and contact information for other health care team members involved or witnessing the incident.

| | | | |
|--|------|------------------------------|----------|
| Select other health care team areas that were involved in the incident: <input type="checkbox"/> Supervisory nurse/personnel <input type="checkbox"/> Floating/temporary staff <input type="checkbox"/> Patient <input type="checkbox"/> Physician <input type="checkbox"/> Nurse aide of UAP <input type="checkbox"/> Patient family/friend <input type="checkbox"/> Other prescribing provider <input type="checkbox"/> Medication aid <input type="checkbox"/> Other health care professionals (PT, RT, OT) <input type="checkbox"/> Staff nurse <input type="checkbox"/> Pharmacist <input type="checkbox"/> Other _____ | | | |
| Name of Witness | | Phone Number (home and cell) | |
| Address of Witness | City | State | Zip code |

If there are more witness names, list on the back of this page or attach a separate sheet

| | | | |
|--------------------|------|------------------------------|----------|
| Name of Witness | | Phone Number (home and cell) | |
| Address of Witness | City | State | Zip code |

Identify factors related to the health care team that may have contributed to the incident:

| | |
|--|--|
| <input type="checkbox"/> Breakdown of health care team communication | <input type="checkbox"/> Lack of multidisciplinary care planning |
| <input type="checkbox"/> Lack of patient education | <input type="checkbox"/> Lack of patient involvement in their plan of care |
| <input type="checkbox"/> Lack of family/caregiver education | <input type="checkbox"/> Majority of staff had not worked together previously |
| <input type="checkbox"/> Illegible handwriting | <input type="checkbox"/> Intradepartmental conflict/non-supportive environment |
| <input type="checkbox"/> Intimidating/threatening behavior | <input type="checkbox"/> Other _____ |

System and Environment

| | | |
|--|--|--------------------------------------|
| Community population: <input type="checkbox"/> Less than 10,000 <input type="checkbox"/> 10,000 to 50,000 <input type="checkbox"/> Greater than 50,000 | | |
| Type of Facility: Number of beds in facility _____ | | |
| <input type="checkbox"/> Ambulatory Care | <input type="checkbox"/> Behavioral Health/Mental Health | <input type="checkbox"/> Hospital |
| <input type="checkbox"/> Critical Access Hospital | <input type="checkbox"/> Home Care | <input type="checkbox"/> Clinic |
| <input type="checkbox"/> Long Term Care | <input type="checkbox"/> Assisted living | <input type="checkbox"/> Other _____ |
| Type of medical record system: | | |
| <input type="checkbox"/> Electronic documentation | <input type="checkbox"/> Electronic physician orders | |
| <input type="checkbox"/> Electronic medication administration | <input type="checkbox"/> Paper documentation | |
| <input type="checkbox"/> Combined paper/electronic records | <input type="checkbox"/> Other _____ | |
| Identify any staffing issues that may have contributed to the incident: | | |
| <input type="checkbox"/> Lack of supervisory/management support | <input type="checkbox"/> Lack of other health care team support | |
| <input type="checkbox"/> Lack of experienced nurses | <input type="checkbox"/> Lack of nursing support staff | |
| <input type="checkbox"/> Lack of clerical support | <input type="checkbox"/> Other _____ | |
| Identify system elements that may have contributed to the incident – Check all that apply: COMMUNICATION FACTORS: | | |
| <input type="checkbox"/> No adequate channels for resolving disagreements | <input type="checkbox"/> Communication systems equipment failure | |
| <input type="checkbox"/> Medical records not accessible | <input type="checkbox"/> Computer system failure | |
| <input type="checkbox"/> Shift change (patient hand-off) | <input type="checkbox"/> Patient identification failure | |

| | |
|---|---|
| <input type="checkbox"/> Patient transfer (hand-off) | <input type="checkbox"/> Intradepartmental communication breakdown/conflict |
| <input type="checkbox"/> Patient name similar/same | <input type="checkbox"/> Lack of patient education |
| <input type="checkbox"/> Lack of ongoing education/training | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> None | <input type="checkbox"/> Other _____ |
| LEADERSHIP/MANAGEMENT FACTORS: | |
| <input type="checkbox"/> Poor supervision/support by others | <input type="checkbox"/> Unclear scope and limits of authority/responsibility |
| <input type="checkbox"/> Inadequate/outdated policies/procedures | <input type="checkbox"/> Assignments or placement of inexperienced staff |
| <input type="checkbox"/> Nurse shortage, sustained at institution level | <input type="checkbox"/> Inadequate patient acuity system to support staff assignment |
| <input type="checkbox"/> None | <input type="checkbox"/> Unknown <input type="checkbox"/> Other _____ |
| CHECK ALL THAT APPLY IN EACH CATEGORY | |
| ENVIRONMENTAL FACTORS: | |
| <input type="checkbox"/> Poor lighting | <input type="checkbox"/> Increased noise volume |
| <input type="checkbox"/> Frequent interruptions/distractions | <input type="checkbox"/> Physical hazards |
| <input type="checkbox"/> Lack of adequate supplies/equipment | <input type="checkbox"/> Multiple emergency situations |
| <input type="checkbox"/> Patient transfer (hand-off) | <input type="checkbox"/> Intradepartmental communication breakdown/conflict |
| <input type="checkbox"/> Code situation | <input type="checkbox"/> Equipment Failure |
| <input type="checkbox"/> Lack of ongoing education/training | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> None | <input type="checkbox"/> Other _____ |
| BACKUP AND SUPPORT FACTORS: | |
| <input type="checkbox"/> Ineffective system for provider coverage | <input type="checkbox"/> Lack of adequate provider response |
| <input type="checkbox"/> Inadequate/outdated policies/procedures | <input type="checkbox"/> Assignments or placement of inexperienced staff |
| <input type="checkbox"/> Lack of nursing expertise system for support | <input type="checkbox"/> Lack of adequate response by other depts. |
| <input type="checkbox"/> None | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> Other (List) | |

NARRATIVE OVERVIEW (PRINT RESPONSE): In your own words, provide details of incident from your viewpoint on the matter. Include your response to the action, your observations regarding contributing factors, and your recommendation for preventing reoccurrence of this incident. Attach additional information as needed.

See accompanying letter from Dan Cron

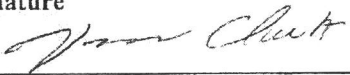
** Additional licensure information*

CNP Idaho License # NP 291A - Licensure Year - 2000
CNP Washington # AP 30004470 - 1988 (Appendix)

New Mexico Board of Nursing
6301 Indian School Rd., N.E.
Albuquerque, New Mexico 87110

Page -5

The information I have provided to the New Mexico Board of Nursing is true, complete and correct.

| | |
|---|-----------------|
| Your signature  | Date: 6/3/16 |
|---|-----------------|



August 8, 2005

Michelle L. Featheringill, President/CEO
Planned Parenthood of New Mexico, Inc.
719 San Mateo NE
Albuquerque, NM 87108

Dear Ms. Featheringill:

I am writing in reply to your letter dated June 14, 2005 regarding scope of practice issues for Certified Nurse Practitioners.

The official opinion from the Board of Nursing as to whether medication abortion using mifepristone and misoprostol falls within the scope of practice of adequately trained Certified Nurse Practitioners (CNP), so long as the CNP complies fully with all applicable state and federal laws, is that there is nothing in the New Mexico Nurse Practice Act that would disallow this practice for this specified group of practitioners as long as adequate education, training, knowledge, ability and skill can be shown. We would reference specifically the rules section of the Nurse Practice Act; 16.12.2.13 O. (3) "The CNP may assume specific functions and/or perform specific procedures which are beyond the advanced educational preparation and certification of the CNP provided the knowledge and skills required to perform the function and/or procedure emanates from a recognized body of knowledge and/or advanced practice of nursing and the function or procedure is not prohibited by any law or statute...."

As stated by you in your letter of June 14, 2005, "...although in the State of New Mexico CNPs may generally practice "independently and without supervision of a physician", the federal law currently would not permit CNPs to provide mifipristone to a patient except under the supervision of a physician."

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Allison Kozeliski".

Allison Kozeliski, RN
Executive Director

/ak



NEW MEXICO
BOARD OF NURSING

Governor Susana Martinez
Dr. L. Ann Green, Board Chair
Demetrius Chapman, Executive Director

Mission: Protect the public safety through effective regulation of nursing care and services.

March 14, 2018

Vivianne Clark
5 Bisbee Ct. Ste. 109
Santa Fe, NM 87508-1419

Case No. 071-16-04-Aa, b, c
License No. RN-71112, CNP-01603, RN-25552

Ms. Clark:

This letter is to inform you regarding the status of complaint #071-16-04-Aa, b, c filed against your license on April 08, 2016. The complaint was presented before the New Mexico Board of Nursing Board meeting on Friday, March 02, 2018, during the Disciplinary Session. The Board voted to close the complaint against your license.

If you have any questions pertaining to this letter, please do not hesitate to contact Thomas Dow, Director of Compliance at (505) 803-2845 or thomas.dow@state.nm.us.

Sincerely,

A handwritten signature in cursive script that reads "Demetrius Chapman".

Demetrius Chapman, MPH, MSN(R), RN
Executive Director

DC/sv

CC: complainant
File



New Mexico Board of Nursing Discipline/Petition/Complaint Motion Slip

| | | | | | | | |
|---|---|--|-------------------------------------|-----------|----------------|----------------|-------------------------------------|
| Board Meeting Date: | | March 2, 2018 | | | | | |
| Respondent: | | For complaints this is anonymous until after the motion: | | | | | |
| Case Number #: | | 071-16-04-Aa,b | | | | | |
| License/Certificate/Application # | | For complaints this is anonymous until after the motion: | | | | | |
| Move To... | | | | | | | |
| EO to offer Settlement, then NCA | ...order the Executive Officer to negotiate a Pre-NCA settlement agreement with discipline and conditions in line with previous board actions. If an agreement can't be reached then refer the matter to the Administrative prosecutor to issue a Notice of Contemplated Action | | | | | | |
| Accept Settlement | ...accept the settlement agreement as written. | | | | | | |
| SLOC | ...order the Executive Officer to issue a serious letter of concern. | | | | | | |
| Reprimand | ...issue a reprimand | | | | | | |
| Probation | See back of form | | | | | | |
| Suspension | ...suspend the license/certificate for () months or () years () The respondent MAY be automatically reinstated at the end of the suspension () The respondent MAY NOT be automatically reinstated at the end of the suspension. The respondent must petition the Board for a reinstatement order. | | | | | | |
| Revoke | ...revoke the license/certificate. The respondent may not petition the Board to lift the revocation for at least () months or () years. | | | | | | |
| Revoke by Default | ...revoke the license/certificate by default. () The respondent may not petition the Board to lift the revocation for at least () months. | | | | | | |
| Deny Application | ...deny the application. The applicant may not reapply for licensure or certification for () years. | | | | | | |
| Lift Revocation | ... lift the revocation of the license/certificate. Reinstatement the license/certificate when all appropriate documents are provided and fees are paid. | | | | | | |
| NCA | ...refer the matter to the administrative prosecutor to issue a notice of contemplated action. | | | | | | |
| SLOC | ...order the Executive Officer to issue a serious letter of concern. | | | | | | |
| Close | ...to close the matter <input checked="" type="checkbox"/> | | | | | | |
| Return | ... return to the investigator for additional investigation regarding: | | | | | | |
| Deny Application | ...deny the application. The applicant may not reapply for licensure or certification for () years. | | | | | | |
| DP Discharge | ... discharge the participant from the DP program. | | | | | | |
| Other | _____ _____ _____ _____ | | | | | | |
| Board Member | Moved by | Second by | Yes | No | Abstain | Recused | Absent |
| Claudia Saiz | | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | | | | |
| L. Ann Green | | | <input checked="" type="checkbox"/> | | | | |
| Kris Willingham | | | <input checked="" type="checkbox"/> | | | | <input checked="" type="checkbox"/> |
| Kirk Irby | | | <input checked="" type="checkbox"/> | | | | |
| Johnathan Palmer | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | | | | |
| Sally Schutte | | | <input checked="" type="checkbox"/> | | | | |



1005
CNR 01603
Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

ADVANCED PRACTICE ENDORSEMENT APPLICATION
ALL FEES ARE NONREFUNDABLE

AP 0210-0310

| | |
|---|-----------|
| PLEASE SELECT ONE: | |
| <input checked="" type="checkbox"/> Nurse Practitioner | \$ 100.00 |
| <input type="checkbox"/> Nurse Practitioner & Temporary License | \$ 160.00 |
| <input type="checkbox"/> Certified Registered Nurse Anesthetist | \$ 100.00 |
| <input type="checkbox"/> Certified Registered Nurse Anesthetist & Temporary License | \$ 160.00 |
| <input type="checkbox"/> Clinical Nurse Specialist | \$ 100.00 |
| <input type="checkbox"/> Clinical Nurse Specialist and Temporary License | \$ 160.00 |

Acceptable forms of payment: Cashier's Check, Money Order, Business Check, Credit Card
No personal checks/demand drafts/Debit cards accepted; money orders must be drawn on US bank

SELECT A CREDIT CARD: MasterCard Visa

CREDIT CARD # _____ **EXPIRATION DATE:** _____

LEGAL SIGNATURE *Juan Clark*
(Please type or print clearly with black ballpoint)

LEGAL NAME: CLARK VIVIANNE MURIEL HARTMANN
Last First Middle Maiden

MAILING ADDRESS: 3511 Hill Rd Boise Id 83703- USA
Number Street Apt City / State Zip + 4 County/Country

Phone _____ Email Address _____

Birth Date 1955 US Social Security Number _____ Male Female

LIST ANY OTHER NAME(S), (Surname, First or Middle) EVER USED FOR ADVANCE PRACTICE LICENSE:

(or indicate NONE)

DECLARATION OF PRIMARY STATE OF RESIDENCE IS MANDATORY FOR LICENSURE In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of Idaho is my primary state of residence and that such constitutes my permanent and principle home for legal purposes. ("primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) Upon licensure in New Mexico, I intend to practice in the state (s) of New Mexico

(we are moving to New Mexico & will be living there as our new domicile) as of Apr 2010

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BOARD OF NURSING



ADVANCED PRACTICE ENDORSEMENT APPLICATION (cont'd)

| ADVANCED PRACTICE NURSING EDUCATION | NAME OF SCHOOL | CITY, STATE | DATE BEGAN AND COMPLETED | CERTIFICATE OR DEGREE GRANTED |
|-------------------------------------|----------------------------|------------------|--------------------------|-------------------------------|
| OB/GYN NP | School Health Care Science | Sheppard AFB, TX | 1/88-5/88 | Certificate |
| MSN | Drexel | Phil PA | 12/02-12/04 | Masters |
| | | | | |
| | | | | |

NATIONAL CERTIFICATION SPECIALTY

NURSE PRACTITIONER

INDICATE SPECIALTY(S) Women's Health

CLINICAL NURSE SPECIALIST

INDICATE SPECIALTY(S) _____

ADVANCED PRACTICE LICENSURE

STATE LICENSED Id DATE LICENSED NP 291A 04P 8/31/2010

ALL STATES EVER LICENSED AS ADVANCED PRACTICE NURSE WA, Id

TEMPORARY ADVANCED PRACTICE LICENSE: _____ CHECK IF A TEMPORARY LICENSE IS REQUESTED

DISCIPLINARY:

Has disciplinary action ever been taken against your advanced practice nursing license?
 NO YES

If YES, please indicate:
 DENIED ___ REVOKED ___ SUSPENDED ___ PROBATION ___ REPRIMAND ___ OTHER ___

Have you had disciplinary action or any action pending against you by any licensing jurisdiction, the USDA, Drug Enforcement Agency or any state drug enforcement authority?
 NO YES /State(s) _____ If YES, Give Date _____

Have you ever been convicted of a felony or are you now charged with any felony in any state or federal court? Please include any felony charges that resulted in a guilty plea, nolo contendere plea, or a deferred or suspended sentence. A felony is generally a criminal charge with the potential punishment of at least one year in prison or jail. If in doubt, disclose the charge or conviction with a copy of all relevant documents. Failure to properly disclose a charge or conviction may result in disciplinary action being taken against you by the Board of Nursing.
 NO YES If YES, List State (s) _____ Date _____

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BOARD OF NURSING

If YES to any of the above, please explain in full on separate pages and submit copies of all legal documents.



ADVANCED PRACTICE ENDORSEMENT APPLICATION (cont'd)

Please make sure that all of the following items have been checked off before mailing to the Board of Nursing. Failure to do so may slow down the licensing process.

- 1) Check off appropriate application applying for at the top of the application.
- 2) Complete application and fee
- 3) Include current mailing address or e-mail address for receipt of Temporary License.
- 4) Complete and submit Verification of Advanced Practice Licensure to other Board of Nursing.
- 5) If applicable, complete and submit with application Affidavit Validating Prescription Writing and a formulary.
- 6) Include copy of current national certification with application.
- 7) If applicable, submit copy of current compact state license with application

Applications become null and void (1) one year after being received by the Board.
Incomplete application will be returned.

I hereby make application for an advanced practice license to practice nursing in accordance with the Nursing Practice Act of the State of New Mexico and enclose the fee stated. I certify, under penalty of perjury, to the truth and accuracy of all statements, answers and representations made on this application.

LEGAL SIGNATURE *[Signature]* DATE: 2/1/10

Notice to applicants with a disability: Upon request, this publication/document can be made available to various accessible forms. Please call the Board of Nursing at (505) 841-8340 or TTY 1-800-659-8331.



AFFIDAVIT VALIDATING PRESCRIPTION WRITING

I wish to make application to prescribe controlled substances.
 YES NO

Vivian Clark 2/1/10
 NURSE PRACTITIONER'S SIGNATURE DATE

N 25552 (IO) / NP291A (NP license) 8/31/11 + 8/31/11
 NURSE PRACTITIONER'S RN LICENSE # EXPIRATION DATE

HOME ADDRESS:
3511 Hill Rd Boise Id 83703-4716 USA
 Number Street Apt City / State Zip + 4 County/Country

Home Phone Work Phone


STATE OF (IDAHO)
 COUNTY OF (ADA))SS

I hereby certify that VIVIANNE M. CLARK has signed in
 my presence TYPE OR PRINT NAME

on this 1st day of February, 2010.
 DD MM YYYY

[Signature]
 NOTARY PUBLIC SEAL:

My Commission Expires: August 12, 2011



February 25, 2010

VIVIANNE CLARK
3511 HILL RD.
BOISE, ID 83703

License #CNP-01603

RE: LICENSURE AS A CERTIFIED NURSE PRACTITIONER

- Your application for licensure to practice as a Certified Nurse Practitioner in New Mexico is complete. A Letter of Authorization to Practice is enclosed
- A current license to practice as a Certified Nurse Practitioner will be mailed under separate cover.
- You can verify your license on the board website www.bon.state.nm.us. or by phone 505-841-8340.
- Your application to prescribe/distribute dangerous drugs **OTHER THAN controlled substances** has/has not been approved.
- Your application to prescribe/distribute **controlled substances** has been approved by the Board of Nursing.
- Please contact the Board of Pharmacy (505-222-9130) for applications (must have state license and DEA # before prescribing/distributing controlled substances).
- A copy of your state controlled substance license and DEA registration has/has not been received, you may/may not prescribe/distribute controlled substances.
- Upon renewal you are required to show evidence of current national certification.
- Upon renewal in _____ if audited you will need to show evidence of 30 contact hours of approved C.E., obtained with in your current biennium. Thereafter you will need to show evidence of 50 contact hours of approved C.E. 15 of the 50 hours must be Pharmacology hours.
- Compact licensed nurses are not required to complete 50CEs for renewal of your advanced practice license. When you renew in the next renewal period, if audited, you will then need to show evidence of 20 CE (15 hours in pharmacology and 5 hours in your specialty).
- Upon renewal of your specialty license, if audited, you will need to show evidence of 50 contact hours of approved C.E. (15 of the 50 hours must be Pharmacology hours 30 hours will renew your RN license).
- Specific requirements related to formularies and requirements related to prescribing and distributing dangerous drugs including controlled substances (requires a state controlled substances license and DEA registration) may be found in the Nursing Practice Act and Rules of the Board of Nursing, which can be accessed on the board website www.bon.state.nm.us If audited, you will be required to submit a formulary.
- Enclosed is a wall certificate that validates licensure as a nurse practitioner in New Mexico. The Board is issuing this certificate **one time only** upon the advice of the Advanced Practice Advisory Committee. The advisory committee recommended that the certificates be issued, as it is customary for licensees in the health field who have the authority to practice as independent practitioners, to be granted a wall certificate by the licensing agency.

AUTHORIZATION TO PRACTICE

**VIVIANNE CLARK
3511 HILL RD.
BOISE, ID 83703**

Authorization to practice as a **Certified Nurse Practitioner** in the State of New Mexico has been granted to **VIVIANNE CLARK** license number **CNP-01603** as of **February 25, 2010**.

**Johnny Romero
Clerk Specialist**

28 January 2010

To: board of Nursing Washington State

Re: Verification of Nurse Practitioner Licensure

I had a Washington State nursing license in 1988 and obtained my NP certificate from School of Health Care Science at Shepperd AFB, Tx. I then did my preceptorship at Castle AFB in Ca. After passing the board I received my nurse practitioner license from Washington State as we moved every few years. Upon retiring I changed my license to Idaho. Now we are moving to New Mexico and they are requesting verification of original licensure. Attached are the form to send and the \$25 for processing. I was unable to put the NP license number as that was many moves ago and I don't remember it or have any documents with it.

Thank you for your assistance and please let me know if you need any other information.



Vivianne M Clark
3511 Hill Road
Boise Idaho 83703

Send \$25

Address: MSQ Customer Services Center
PO Box 1099
Olympia WA 98507

NCC

VIVIANNE
CLARK, RNC
NCC ID CLA1-0430-5664

has a(n) Certification as a Women's Health
Care Nurse Practitioner

Original Date: 12/4/1989

Date of Expiration: 12/31/2010

Francis H Byrd

President, NCC

Maintenance required every three years

FORMULARY (*I use @ Planned Parenthood
Boise Idaho*)

Birth control pills (monophasic, triphasic, progestin only)

Depo provera

Nuvaring

Ortho evra patch

Diaphragm

Menopause: estrogen and progestins

Antibiotics for STD's, UTI's, skin infections:

**i.e. Doxycycline, Rocephin, Bactrim, Amoxicillin, Keflex, Cipro,
Macrobid, Suprax, Augmentin, Clindesse, Flagyl, Metrogel, Cleocin,**

Antivirals;

Valtrex, Zovirax, Famvir, Aldara, condylox, Denavir

Antifungals:

i.e.: Diflucan, Mycolog ointment, clotrimazole

Analgesics/NSAIDS/Dysmenorrhea:

**i.e. Darvocet, Vicodin, Anaprox, Naproxyn, Tylenol with Codeine,
Motrin, Ponstel**

Smoking Cessation:

Chantix

Dysfunctional Uterine/uterine atony

Methergine

Misoprostol

Topical analgesic/anesthetic

Lidocaine gel

State of Idaho – Board of Nursing
2009-2011

VALID ONLY IN IDAHO

The following Advanced Practice Professional Nurse has complied with the requirements of the law and is entitled to practice in the category of:

- Certified Nurse-Midwife Clinical Nurse Specialist
 Nurse Practitioner Registered Nurse Anesthetist

License number: **NP-291A** Expires: August 31, 2011

Issued to: **VIVIANNE CLARK**


Valid when signed by licensee

Idaho State Board of Pharmacy

P.O. Box 83720

Boise, ID 83720-0067

VIVIANNE M CLARK NP
3668 N HARBOR LN
BOISE, ID 83703

IS REGISTERED IN THE STATE OF IDAHO:

Practitioner Controlled Substance
CS8856 Issued: 01/15/2010 Expires: 12/31/2010

| DEA REGISTRATION NUMBER | THIS REGISTRATION EXPIRES | FEE PAID |
|---|---------------------------|-------------|
| MC0641743 | 08-31-2012 | Paid |
| SCHEDULES | BUSINESS ACTIVITY | DATE ISSUED |
| 2,2N,3 3N,4,5 | MLP-NURSE PRACTITIONER | 07-02-2009 |
| CLARK, VIVIANNE M NP 3668 N HARBOR LANE BOISE, ID 83703 | | |



Verification of Certification

Congratulations: You have now successfully maintained your NCC credential.

NCC is no longer issuing maintenance cards. You can download your maintenance documentation at any time from the NCC website – www.nccwebsite.org. Maintenance cards are available for purchase for \$35.00 and will be delivered via ground Federal Express (street addresses only). You can place your order on the NCC website 24/7.

VIVIANNE CLARK WHNP-BC
3511 HILL ROAD
BOISE, ID 83703

Certification Speciality: Women's Health Care NP

ID Number: CLA1-0430-5664

Original Certification Date: 12/04/1989

Expiration Date: 12/31/2013

Payment Date: 01/27/2010 Amount: \$100.00

Document No: 02730B

RECEIVED

FEB 11 2010

BOARD OF
NURSING

*Renewed
good
12/13*

10 FEB 1 AM 10:25

STATE OF NEW MEXICO

(505) 841-8340



Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

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FEB 05 2010

BOARD OF NURSING

VERIFICATION OF NURSE PRACTITIONER LICENSURE FORM

Must be received directly from the Board of Nursing

*Current is Idaho
NP 291A*

Part I - Applicant - Complete all information in this form and forward to the NM Board of Nursing.

NURSE PRACTITIONER LICENSE NUMBER: NP 291A

NAME: CLARK Vivianne Muriel Hartmann
Last First Middle Maiden Other name(s) used

MAILING ADDRESS: 3511 Hill Rd Boise Id 83703
Number Street Apt. City / State Zip

BIRTHDATE: 55 SOCIAL SECURITY NUMBER _____
Month / Day / Year

NURSE PRACTITIONER EDUCATION PROGRAM
Name of Institution: School of Health Care Sciences Location of Program: Sheppard AFB Tx

Degree Granted: _____ OR Certificate Granted: WHNP

Date of Completion: May 1988

I authorize Board of Nursing Washington State Idaho to release my NP licensure information to the NM Board of Nursing.

APPLICANT SIGNATURE: [Signature] DATE: 1/28/2010

Part II - Board of Nursing - Please provide licensure information for the applicant.

This is to certify that _____ (Please select):

- licensed as a Nurse Practitioner.
Initially licensed as a Nurse Practitioner: _____ DATE _____
- licensed as an Advanced Practice Practitioner (state does not specify practice area)
Initially licensed as an Advanced Practice Practitioner _____ DATE _____
- State does not issue license for NP/Advanced Practice Practitioners.
(Please explain how advanced practice is recognized in the state): _____

Signature: _____ STATE SEAL: _____
Title: _____
State: _____
Date: _____



Idaho Board of Nursing -

PO Box 83720 - Boise, Idaho 83720-0061

(208) 334-3110 ext. 25

RECEIVED

FEB 05 2010

BOARD OF NURSING

VERIFICATION
OF
ADVANCED PRACTICE PROFESSIONAL NURSE LICENSURE

This is to certify that VIVIANNE MURIEL CLARK

was licensed as a NP in the State

of Idaho on MARCH 15, 1996, with license number NP-291A

This license expires August 31, 2011 and has no record of disciplinary action.

Signature:

Diana Anderson

Title:

Customer Service Representative

State:

Idaho

Date:

February 1, 2010



The Mission of the Board is to regulate nursing practice and education for the purpose of safeguarding the public health, safety and welfare.



RECEIVED

FEB 22 2010

BOARD OF NURSING
ENDORSEMENT REQUEST FORM

MUST COME DIRECTLY FROM BOARD OF ORIGINAL LICENSURE

PART I: To be completed by the applicant and forwarded to original state of licensure with their fee.

NAME CLARK Vivianne Muriel Hartmann
 Last, First Middle Maiden other name(s) used
 MAILING ADDRESS 3511 Hill Rd Boise Id 83703-4703
 Number Street Apt., City, State zip+4
 BIRTH DATE: 55 US SOCIAL SECURITY # _____
 Nursing Education Program OB/GYN Nurse Practitioner Degree Granted Certificate
 Date of Completion May 1988 Location of Program School of Health Care Science Sheppard AFB TX
 Original State of Licensure WA Date original license issued 1989

I hereby authorize Washington Board of Nursing to release my licensure data to the
 NM Board of Nursing. Signature [Signature] Date: 1/28/2010

PART II: To be completed by the licensing board of original state of licensure.

This is to certify that _____ was issued license number _____
 date issued _____ to practice registered nursing practical/vocational nursing

| | |
|--|--|
| License by: <input type="checkbox"/> Examination; <input type="checkbox"/> Endorsement; <input type="checkbox"/> Waiver | Current Licensure Status: Active? <input type="checkbox"/> yes <input type="checkbox"/> no Expiration Date: _____ |
|--|--|

Has license ever been encumbered (denied, revoked, suspended, surrendered, limited, placed on probation)? * yes no. Disciplinary Action Pending? * yes no
 *If yes, please send certified copies of particulars of action.

| | |
|--|--|
| Nursing Education Program Completed: _____ | State Approved? <input type="checkbox"/> yes <input type="checkbox"/> no |
| Location (city/state) _____ | Graduation Date _____ Type of Nursing Program <input type="checkbox"/> Diploma <input type="checkbox"/> AD <input type="checkbox"/> BSN <input type="checkbox"/> LPN |

| | STATE BOARD TEST POOL EXAM | | | | | | NCLEX | |
|--|----------------------------|---------------------|-------------------|------------------|---------------------|---|-------|-----|
| | Medical Nursing | Psychiatric Nursing | Obstetric Nursing | Surgical Nursing | Nursing of Children | LPN/LVN | RN | LPN |
| Score | | | | | | | | |
| Series/form | | | | | | | | |
| <input type="checkbox"/> State/Provincial Constructed Exam _____ Score _____ <input type="checkbox"/> Other (please explain) _____ if needed please list scores on grid above. | | | | | | Exam in English? <input type="checkbox"/> yes <input type="checkbox"/> no | | |

STATE SEAL

SIGNATURE _____

TITLE _____

STATE _____ DATE _____



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION
P.O. Box 47864 Olympia, Washington 98504-7864

Certification of Washington State Licensure

February 17, 2010

The Washington State Department of Health hereby certifies that a standard search of the available records of this office indicates the following:

| | |
|------------------|--|
| Licensee Name | VIVIANNE HARTMAN CLARK |
| License Type | Advanced Registered Nurse Practitioner (ARNP) |
| License Status | Expired |
| License Number | ARNP.AP.30004470-WHNP |
| Licensure Method | Credentials |
| Examination | N/A |
| Examination Date | N/A |
| Date of Issuance | 04/24/1996 |
| Expiration Date | 03/19/2002 |

LICENSE IS EXPIRED. NO DISCIPLINARY ACTION.

To expedite the certification process, the above format is the standard format for information available through the Department of Health.

If you require additional information, you may reach the Department of Health at the address below or by calling 360.236.4877.

Janice Pulvino

Janice Pulvino, Program Representative
Department of Health
Nursing Care Quality Assurance Commission
P.O. Box 47864
Olympia, WA 98504-7864



RECEIVED
FEB 22 2010

Questions And Answers

CLARK, VIVIANNE MURIEL

5 BISBEE CT. Ste. 109

Santa Fe, NM 875081419

Expires 4/30/2014

3/3/2014 10:00 PM To 3/4/2014 10:00PM

License # CNP-01603

Paid: 3/4/2014 12:51:26 PM

Renewed 3/5/2014

| License | Q/S | Question | Answer |
|-----------|-----|--|--------|
| CNP-01603 | Q | 1. Date of Birth: * | 1955 |
| CNP-01603 | Q | 2. CNP/CNS/CRNA Requirements: Please provide a copy of documentation by fax (505-841-8347) or mail. All faxes must be legible. If documents are not received prior to expiration date, the license can not be renewed and is subject to late fees. If you have Compact State licensure, attach a copy of your current Compact State License and each of your National Certifications. Your license will expire on the same month and year of your current Compact License. I have submitted a copy of each of my certifications (Y/N). *CRNA: Fax/Mail current copy of National Council (NBCRNA) recertification card. CNP/CNS: Fax/Mail current copy of National Certification. If you fail to provide these documents, your license will NOT be renewed! | Y |
| CNP-01603 | Q | 2(a). CEU Requirements *CNP/CNS Requirements: Have you completed 15 hours CE's in pharmacology and 5 hours CE's in specialty, APRN's with a DEA registration must obtain 5 CE's in the management of non-cancer pain within the 2 year period immediately preceding license expiration? CRNA Requirements: Current recertification by NBCRNA National Board on Certification & Recertification of Nurse Anesthetists? | Y |
| CNP-01603 | Q | 3. Since your last renewal have you been convicted of a felony or are you now charged with any felony in any state or federal court? Please include any felony charges that resulted in a guilty plea, nolo contendere plea or a deferred or suspended sentence. A felony is generally a criminal charge with the potential punishment of at least one year in prison or jail. If in doubt, disclose the charge or conviction with a copy of all relevant documents. Failure to properly disclose a charge or conviction may result in disciplinary action being taken against you by the Board of Nursing. * | N |
| CNP-01603 | Q | 4. If YES, please list Felony State(s): | |
| CNP-01603 | Q | 5. If YES, please list Felony Date(s): | |
| CNP-01603 | Q | 6. Have you had disciplinary action or have any action pending against you by: any licensing jurisdiction including New Mexico, the USDA, Drug Enforcement Agency, any state drug enforcement authority, or a branch of the US Military since your last renewal in N.M.? * | N |
| CNP-01603 | Q | 7. If YES, please list Discipline State(s): | |
| CNP-01603 | Q | 8. If YES, please list Discipline Date(s): | |
| CNP-01603 | Q | 9. In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of New Mexico is my primary state (or country if not a US citizen) of residence and that such constitutes my permanent and principal home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) * | Y |
| CNP-01603 | Q | 10. If you answered NO to question 9 you MUST enter your primary state or country of residence HERE. | |
| CNP-01603 | Q | 11. Active Military living in another state, declaring NM? (Yes or No) * | N |
| CNP-01603 | S | 1. As an ADVANCED PRACTICE NURSE in New Mexico, do you actively provide DIRECT PATIENT CARE? * | Y |
| CNP-01603 | S | 2. What is the NUMBER OF PATIENTS you see (per average week) that are DIRECTLY ASSOCIATED with patient care? * | 80 |

From:

ncc National Certification Corporation

VIVIANNE CLARK, WHNP-BC
 5 BISBEE CT #109 BOX 254 SANTA FE, NM 87508

**WOMEN'S HEALTH CARE NURSE
 PRACTITIONER**

Certified: Dec 4, 1989 to Dec 31, 2016
 NCC ID: CLA104305664

Robin L. Bissinger
 Robin L. Bissinger, NNP-BC, Ph.O., NCC President

| DEA REGISTRATION NUMBER | THIS REGISTRATION EXPIRES | FEE PAID |
|--|---------------------------|------------|
| MC0641743 | 08-31-2015 | \$731 |
| SCHEDULES | BUSINESS ACTIVITY | ISSUE DATE |
| 2,2N, 3,3N,4,5, | MLP-NURSE PRACTITIONER | 07-05-2012 |
| CLARK, VIVIANNE M NP 719 SAN MATEO NE ALBUQUERQUE, NM 87108-0000 | | |

Fax 841-8347

Vivianne Clark

CS00215298 Practitioner

Expires 07/31/2014

Schedule of Drugs: 2 2N 3 3N 4 5

RECEIVED

MAR 04 '14

BOARD OF NURSING

Questions And Answers

CLARK, VIVIANNE MURIEL

5 BISBEE CT. Ste. 109

Santa Fe, NM 875081419

Expires 5/31/2018

License # CNP-01603

Paid: 4/11/2018 12:52:43 PM

| License | Q/S | Question | Answer |
|-----------|-----|---|--------|
| CNP-01603 | Q | 1. Date of Birth: * | 1955 |
| CNP-01603 | Q | 2. CNP/CNS/CRNA Requirements: Please provide a copy of documentation by fax(505 -841-8347) or mail. All faxes must be legible. If documents are not received prior to expiration date, the license can not be renewed and is subject to late fees. If you have Compact State licensure, attach a copy of your current Compact State License and each of your National Certifications. Your license will expire on the same month and year of your current Compact License. I have submitted a copy of each of my certifications (Y/N). *CRNA: Fax/Mail current copy of National Council(NBCRNA) recertification card. CNP/CNS: Fax/Mail current copy of National Certification. If you fail to provide these documents, your license will NOT be renewed! | Y |
| CNP-01603 | Q | 2(a). CEU Requirements *CNP/CNS Requirements: Have you completed 15 hours CE's in pharmacology and 5 hours CE's in specialty, APRN's with a DEA registration must obtain 5 CE's in the management of non-cancer pain within the 2 year period immediately preceding license expiration? CRNA Requirements: Current recertification by NBCRNA National Board on Certification & Recertification of Nurse Anesthetists? | Y |
| CNP-01603 | Q | 3. Have you ever been convicted of a felony? *Please provide any official court documents related to your felony conviction. Failure to disclose a felony conviction is considered unprofessional conduct and may result in discipline on your license. | N |
| CNP-01603 | Q | 4. If YES, please list Felony State(s): | |
| CNP-01603 | Q | 5. If YES, please list Felony Date(s): | |
| CNP-01603 | Q | 6. Have you had disciplinary action or have any action pending against you by: any licensing jurisdiction including New Mexico, the USDA, Drug Enforcement Agency, any state drug enforcement authority, or a branch of the US Military since your last renewal in N.M.? * | N |
| CNP-01603 | Q | 7. If YES, please list Discipline State(s): | |
| CNP-01603 | Q | 8. If YES, please list Discipline Date(s): | |
| CNP-01603 | Q | 9. In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of New Mexico is my primary state (or country if not a US citizen) of residence and that such constitutes my permanent and principal home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) * | Y |
| CNP-01603 | Q | 10. If you answered NO to question 9 you MUST enter your primary state or country of residence HERE. | |
| CNP-01603 | Q | 11. Active Military living in another state, declaring NM? (Yes or No) * | N |
| CNP-01603 | S | 1. As an ADVANCED PRACTICE NURSE in New Mexico, do you actively provide DIRECT PATIENT CARE?* | Y |
| CNP-01603 | S | 2. What is the NUMBER OF PATIENTS you see (per average week) that are DIRECTLY ASSOCIATED with patient care?* | 75 |
| CNP-01603 | S | 3. Please enter your current e-mail address.(N/A if None):* | |
| CNP-01603 | S | (a) Do you choose to be notified of your license renewal via email instead of postmail? (in lieu of a postcard, the Board of Nursing will email renewal notices with information on how to renew your license approximately six (6) weeks prior to the end of your renewal month)* | Y |

PLANNED PARENTHOOD


APR 11 12 21

#786 P.002/003


04/11/2018 12:54

5059827204

From: planned parenthood



VIVIANNE CLARK, WHNP-BC
 5 BISBEE CT #109 BOX 254 SANTA FE, NM 87508

WOMEN'S HEALTH CARE NURSE 
PRACTITIONER

Suzanne Staebler
 Certified: Dec 4, 1989 to Dec 13, 2018 L. Staebler, DNP, APRN, NNP-BC, FAANP
 NCC ID: CL104305664 NCC President

NM BOARD OF NURSING

2016 MAY -2 AM 7:26

Angelo J. Artuso
Attorney
P.O. Box 51763
Albuquerque, NM 87181-1763
(505) 306-5063

May 4, 2016

Mr. Andrew Lucero
New Mexico Board of Nursing
6301 Indian School Road, NE
Suite 710
Albuquerque, NM 87110

Re: Case # 071-16-04-Aa,b,c

Dear Mr. Lucero:

Thank you for your letter of April 19, 2016 regarding my complaint against Vivianne Clark, RN, License #RN-71112, CNP-01603, RN-25552. I wanted to bring some additional information to your attention that is relevant to my complaint.

Specifically, I have enclosed a copy of the Court Order dated October 10, 2007 on which Ms. Clark and Planned Parenthood may rely in defense of the allegations in my Complaint. Please note the following things about this Order:

First, the order is limited in scope and only provides that if a Certified Nurse Practitioner administers *medication* for the purposes of inducing an abortion, she will not, in the Court's opinion, violate the New Mexico criminal abortion statute, NMSA §30-5-1, et seq.

Second, the order is not a legal precedent and is not binding upon any other district court. It would require a ruling from the New Mexico Court of Appeals to become binding precedent.

Third, the manner in which the Order was obtained is itself quite suspect. Planned Parenthood filed their complaint in 2007 seeking a ruling that if a Certified Nurse Practitioner provided a *medicinal* abortion, she would not be in violation of the clear requirement under the Criminal Abortion Statute, that only a licensed physician may perform abortions.

The Attorney General for the State of New Mexico filed an answer to the Complaint and then entered into a settlement agreement with Planned Parenthood giving them all of the relief that they desired. At no point did the Attorney General attempt to defend the law as written. And thus, the requirement that only a licensed physician may perform abortions was changed by a single judge without any debate or input from the New Mexico State Legislature or the signing of a bill by the Governor.

More importantly for purposes of my Complaint, I would draw your attention to the Medicaid codes for which Ms. Clark is being paid, specifically, S0199 and S2260.

S0199 is for "Medically Induced Abortion." This is the type of abortion to which the Court Order applies.

Ms. Clark has also been paid, however, under Code S2260 which is for "Induced Abortion, Any Surgical Method (17 - 23.6 Weeks). Obviously, if Ms. Clark is performing surgical abortions, she is in violation of the criminal abortion statute, which limits such work to licensed physicians only, and not within the coverage provided by the Court Order.

I have enclosed information from a presentation to the American College of Obstetricians and Gynecologists, and a document from Tufts Health Plan, both of which state that Code S2260 applies to surgical abortions.

Finally, I have enclosed an information page from the U.S. Food and Drug Administration for the drug mifepristone (Mifeprex). You will note that mifepristone should only be administered through seventy (70) days of gestation, i.e., 10 weeks. If Ms. Clark is performing medically induced abortions beyond this time limit then I believe she is doing so in contradiction to the recommendations of the FDA, which could represent potential health dangers to the patient.

Please feel free to contact me if you should have any questions regarding my complaint or the additional information submitted with this letter, or if I can be of further assistance.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Angelo J. Artuso". The signature is written in dark ink and is positioned above the printed name.

Angelo J. Artuso

NM BOARD OF NURSING

2016 MAY -9 AM 7: 21

FILED
SECOND JUDICIAL DISTRICT

2017 OCT 19 AM 10: 39

Sandra L. Stegemann

SANDRA L. STEGEMANN

SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. CV-200604230

PLANNED PARENTHOOD OF NEW MEXICO, INC., et al.

Plaintiffs,

v.

STATE OF NEW MEXICO,

Defendant.

ORDER

Plaintiffs Planned Parenthood of New Mexico, Inc., et al. (“Planned Parenthood”) and Defendant State of New Mexico (“State”) (collectively, “Parties”) have agreed to settle this litigation by way of an order based upon the stipulation agreed upon by the Parties. Upon consideration of the request, and for good cause shown, it is the opinion of the Court that the order should be issued.

Accordingly, it is ORDERED, ADJUDGED, AND DECREED, as follows:

1. NMSA 1978, § 30-5-3 provides: “Criminal abortion consists of administering to any pregnant woman any medicine, drug or other substance, or using any method or means whereby an untimely termination of her pregnancy is produced, or attempted to be produced, with the intent to destroy the fetus, and the termination is not a justified medical termination.”

2. NMSA 1978, § 30-5-1(c) provides: “[J]ustified medical termination’ means the intentional ending of the pregnancy of a woman . . . by a physician licensed by the state of New Mexico . . .”

3. Criminal abortion is a fourth degree felony, punishable by up to 18 months' imprisonment or up to a \$5,000 fine, or both. NMSA 1978, §§ 30-1-6 and 30-1-7 (1963); NMSA 1978, § 30-5-3 (1969); NMSA 1978, §§ 31-18-15(A)(10) and 31-18-15(E)(9) (2007).

4. Certified nurse practitioners ("CNPs") are advanced practice nurses who are vested with broad authority to provide health care independently to their patients. NMSA 1978, § 61-3-23.2(b) (2001); 16.12.2.13(O)(1) & (2) NMAC. New Mexico began licensing CNPs in 1975 as part of a national trend toward licensing advanced practice medical clinicians. 1975 N.M.Laws ch. 328, § 1(H). Since 1975, the Legislature has steadily expanded the scope of practice of CNPs, including granting them prescriptive authority in 1991.

5. In general, CNPs are permitted to practice autonomously, without supervision by or collaboration with a physician, although CNPs collaborate with other healthcare providers as necessary. 16.12.2.13(O)(4) NMAC. No particular function or procedure is excluded from CNP practice by the Nurse Practice Act, so long as the CNP obtains "the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise." 16.12.2.13(O)(3) NMAC.

6. CNPs who have fulfilled the requisite requirements may prescribe and dispense drugs within their scope of practice without physician supervision. NMSA 1978, § 61-3-23.2 (C) & (D) (2001); 16.12.2.13(O)(5) NMAC.

7. Medication abortion is early pregnancy termination induced by ingesting medication. The most common medications used to induce medication abortion are mifepristone (or Mifeprex) and misoprostol. Mifepristone is a synthetic steroid that acts by blocking

progesterone, a female hormone necessary to the maintenance of early pregnancy. Misoprostol softens and opens the cervix, induces uterine contractions, and is used in combination with mifepristone.

8. The FDA approved mifepristone for use in the United States in 2000. The FDA approval of mifepristone was based on a regimen that included the use of misoprostol. Nothing in the federal approval of mifepristone limits the ability of CNPs or other advanced practice medical clinicians to prescribe, dispense, and administer mifepristone or misoprostol. Indeed, the FDA has made clear that a health care provider acting under the supervision of a qualified physician may provide mifepristone to patients, so long as doing so is legal under the laws of the state in which the health care provider is practicing. The FDA supervision requirement does not require a physician to be physically present when the advanced practice clinician provides mifepristone to the patient.

9. In 2005, Planned Parenthood sought an opinion letter from the New Mexico Board of Nursing as to whether, in the view of the Board, medication abortion is permitted within the scope of practice of CNPs under the New Mexico Nurse Practice Act. In its request, Planned Parenthood specifically asked that the Nursing Board not address the question of whether NMSA 1978, § 30-5-1(C) (1969) precludes this practice. On August 8, 2005, the Board of Nursing issued an affirmative response to Planned Parenthood's request for an official opinion. According to the New Mexico Board of Nursing:

. . . so long as the CNP complies fully with all applicable state and federal laws
. . . there is nothing in the New Mexico Practice Act that would disallow this practice for [CNPs] so long as adequate education, training, knowledge, ability

and skill can be shown.

Attached as Exhibit A to Complaint (filed May 26, 2006).

10. On May 26, 2006, Planned Parenthood filed a complaint challenging NMSA 1978, §§ 30-5-3 and 30-5-1(c) because Planned Parenthood fears that if CNPs employed by it provide medication abortion, Planned Parenthood and the CNPs will be subject to prosecution for violating the law.

11. NMSA 1978, §§ 30-5-3 and 30-5-1(c) do not prohibit any adequately trained CNP from performing medication abortion—including prescribing, dispensing, and administering mifepristone and misoprostol—in accordance with his or her scope of practice and other applicable state and federal laws and regulations, and under the supervision of a qualified physician. As used in this paragraph, the term “supervision” does not require a physician to be physically present when the CNP performs medication abortion.

12. This order shall constitute a final resolution of all issues presented by Planned Parenthood’s complaint and shall be binding upon the State, its agents and employees, and their successors in office, as well as binding upon Planned Parenthood, its agents and employees, and their successors in office.

Dated this 04 day of October, 2007.

BY THE COURT:



The Honorable Theresa Baca

Interrupted Pregnancy Coding



American College of Obstetricians
and Gynecologists

Terry Tropin, RHIA, CPC, CCS-P, ACS-OB, PCS
Content Development Expert, DecisionHealth

ACOG Committee on Coding and Nomenclature

“Interrupted Pregnancy Coding”

August 12, 2008

CONFLICT OF INTEREST DISCLOSURE: FACULTY

- ***NO DISCLOSURES TO DECLARE***

Terry Tropin, RHIA, CPC, CCS-P, ACS-OB, PCS
Savonne Montue, MBA, RHIT, ACS-OB

Septic Abortion Procedure 59830

- Administration of intravenous antibiotics prior to and during the procedure
- Sounding of uterus for size
- Serial dilation of cervix with mechanical dilators
- Emptying uterine cavity of POC using:
 - Suction apparatus OR
 - Sharp curette
- Repair of cervix
- Administration of intravenous oxytocin

Induced Abortions

- Diagnosis codes – 635-638
- Procedure codes
 - CPT – 59830-59857
 - HCPCS S procedure codes
 - S2260 (17 to 24 weeks, any surgical method)
 - S2262 (25 weeks or greater, for maternal indication)
 - S2265 (25-28 weeks, for fetal indication)
 - S2266 (29-31 weeks, for fetal indication)
 - S2267 (32 weeks or greater, for fetal indication)

Family Planning Professional Payment Policy

The following payment policy applies to Tufts Health Plan contracted ancillary providers and physicians rendering family planning services.

This policy applies to Commercial,¹ Tufts Health Freedom Plan and Tufts Medicare Preferred HMO products.

Note: Audit and disclaimer information is located at the end of this document.

POLICY

Tufts Health Plan covers family planning services in accordance with the member's benefit.

GENERAL BENEFIT INFORMATION²

Services and subsequent payment are pursuant to the member's benefit plan document. Providers and their office staff should use self-service channels to verify effective dates and copayments for members prior to initiating services.

Refer to the [Electronic Services](#) section of our website for our self-service channel options. Benefit specifics should be verified prior to initiating services by logging on to our [website](#) or by contacting [Provider Services for Commercial products and Provider Relations](#) for Tufts Medicare Preferred HMO.

Tufts Medicare Preferred HMO

Tufts Medicare Preferred HMO follows Medicare coverage guidelines. Tufts Health Plan cannot cover items and services not covered under the CMS-approved Tufts Medicare Preferred HMO benefit plan. Tufts Medicare Preferred HMO's benefit plan currently covers a limited number of non-Medicare covered items as supplemental benefits.

Note: Supplemental benefits are subject to change each year.

Laboratory Services

Family planning ancillary providers can only provide the following laboratory services: Urine Dipstick, Sensitive UCG (Pregnancy Test), Hemoglobin and HIV testing. Members should be sent to the PCP's capitated laboratory, when applicable for all other routine laboratory services. If the member's plan does not require selection of a PCP, then routine laboratory services should be performed by a Tufts Health Plan contracted laboratory. To find a contracted laboratory, refer to the [Provider Search](#) functionality on the Tufts Health Plan website.

Imaging Services

Imaging services are restricted to the specialist limitations of the Tufts Health Plan Radiology Privileging Program. Refer to the [Tufts Health Plan Imaging Privileging Program](#) chapter within the Provider Manual for additional information.

Pharmacy Services

Contraceptive drugs, devices or preparations are only covered when they are acquired through a member's pharmacy drug rider, unless otherwise specified in the list of procedure codes and services.

Obstetrical, maternity, assisted reproductive technology (ART), and infertility services are not part of the family planning benefit. Care related to these services should be referred back to the member's PCP. Refer to the [Obstetrics/Gynecology Professional Payment Policy](#), [ART Payment Policy](#), [Infertility Services Medical Necessity Guidelines \(MA\)](#), and [Infertility Services Medical Necessity Guidelines \(RI\)](#) for additional information.

¹ Commercial products include HMO, POS, PPO & CareLinkSM when Tufts Health Plan is Primary Administrator.

² Eligibility may be subject to retroactive reporting of disenrollment.

| Procedure Code | Description |
|----------------|---|
| 87210 | Wet Mount |
| 96372 | Therapeutic, prophylactic, or diagnostic injection (specify substance or drug); subcutaneous or intramuscular |
| 99000 | Lab Collection Fee |
| A4261 | Cervical Cap |
| A4266 | Diaphragm |
| J1050 | Injection, medroxyprogesterone acetate, 1 mg. |
| J2788 | Rhogam, Mini Dose, 50 mcg (250 i.u.) |
| J2790 | Rhogam, Full Dose, 300 mcg (1500 i.u.) |

Pregnancy Termination Services

Family Planning ancillary providers credentialed and contracted to provide pregnancy termination services should bill using the specific CPT or HCPCS codes listed below:

Surgical Pregnancy Termination CPT and HCPCS Procedure Codes

| Procedure Code | Description |
|----------------|---|
| 59841 | Surgical Abortion |
| S2260 | Induced Abortion, Any Surgical Method (17–23.6 weeks) |

Medical Pregnancy Termination HCPCS Procedure Codes

| Procedure Code | Description |
|----------------|----------------------------|
| S0190 | Mifepristone, Oral 200 MG |
| S0191 | Misoprostol, Oral 200 MCG |
| S0199 | Medically Induced Abortion |

Members who have coverage for pregnancy terminations, but do not have a prescription drug coverage benefit, would be covered for the cost of the medication as long as it was billed as part of the medical claim.

Note: Compensation for these contracted procedure codes includes, but is not limited to, pre-operative counseling, ultrasound, anesthesia, post-operative surgical procedures and as necessary, a post-pregnancy termination visit.

Contraceptive Devices

Contracted physicians rendering family planning services should bill using the specific CPT or HCPCS codes listed below:

| Procedure Code | Description |
|----------------|--|
| J7300 | Intrauterine Copper Contraceptive Device (Paragard IUD) |
| J7301 | Levonorgestrel-Releasing Intrauterine Contraceptive System, 13.5 mg (Skyla) |
| J7302 | Levonorgestrel-Releasing Intrauterine Contraceptive System (Mirena IUD) |
| J7307 | Etonogestrel (contraceptive) implant system, including implant and supplies (Implanon) |

COMPENSATION/REIMBURSEMENT INFORMATION

Providers are compensated according to the Tufts Health Plan network physician compensation or contracted rates regardless of the address where the service is rendered. Claims are subject to payment edits that are updated at regular intervals and generally based on CMS, specialty society guidelines, and the National Correct Coding Initiative (CCI).

Explanation of Payment (EOP)

The EOP provides information on the status of the claim(s) submitted to Tufts Health Plan. The EOP indicates status of claims payments, denials and pending claims.

U.S. Food and Drug Administration

Protecting and Promoting *Your* Health

Mifeprex (mifepristone) Information

Mifeprex is used, together with another medication called misoprostol, to end an early pregnancy. The FDA first approved Mifeprex in 2000. In 2016, the agency approved a supplemental application for Mifeprex based on data and information submitted by the drug manufacturer. After reviewing the supplemental application, the agency determined that Mifeprex is safe and effective when used to terminate a pregnancy in accordance with the revised labeling.

FDA-Approved Regimen (2016)

Mifeprex is approved, in a regimen with misoprostol, to end a pregnancy through 70 days gestation (70 days or less since the first day of a woman's last menstrual period). The approved Mifeprex dosing regimen is:

- On Day One: 200 mg of Mifeprex taken by mouth
- 24 to 48 hours after taking Mifeprex: 800 mcg of misoprostol taken buccally (in the cheek pouch), at a location appropriate for the patient
- About seven to fourteen days after taking Mifeprex: follow-up with the healthcare provider

Risk Evaluation and Mitigation Strategy (REMS)

The FDA previously approved a REMS for Mifeprex. After reviewing the supplemental application, the agency determined that a REMS (<http://www.accessdata.fda.gov/scripts/cder/remis/index.cfm?event=IndvRemisDetails.page&REMS=35>) continues to be necessary to ensure the safe use of Mifeprex. Under the REMS:

- Mifeprex must be ordered, prescribed and dispensed by or under the supervision of a healthcare provider who prescribes and who meets certain qualifications;
- Healthcare providers who wish to prescribe Mifeprex must complete a Prescriber Agreement Form prior to ordering and dispensing Mifeprex;
- Mifeprex may only be dispensed in clinics, medical offices, and hospitals by or under the supervision of a certified healthcare provider;
- The healthcare provider must obtain a signed Patient Agreement Form before dispensing Mifeprex.

Healthcare providers who prescribe Mifeprex are required under FDA regulations to provide the patient with a copy of the Mifeprex Medication Guide (FDA-approved information for patients).

To learn more, please see [Mifeprex \(mifepristone\) Questions and Answers \(/Drugs/DrugSafety/Postmarket-DrugSafetyInformationforPatientsandProviders/ucm492705.htm\)](#).

Do Not Buy Mifeprex Over the Internet



April 18, 2016

Hand Delivery by Investigator: Andrew Lucero

Vivianne Clark
5 Bisbee Ct. Ste 109
Santa Fe, NM 87508-1419

In re: Complaint filed against your License #RN-71112, CNP-01603, RN-25552

Dear Ms. Clark,

This is to inform you that this office is in the process of gathering information with regard to the complaints and allegations filed against your Nursing License # RN-71112, CNP-01603, RN-25552, alleging violation of the Nursing Practice Act, 61-3-28 (A) (6) and 16.12.1.9 (C) (2) (Q). The NPA rules and violation codes are listed on our website, which is www.BON.state.nm.us.

We request you complete the enclosed form and return it to Investigator Andrew Lucero at the New Mexico Board of Nursing. Your response will be included as part of our investigative process. **You have twenty (20) days of receipt of this letter to respond to the allegations.** I have enclosed a copy of the complaints for your review.

You may contact Andrew Lucero directly to discuss the complaint process. Mr. Lucero's direct dial number is (505) 841-9061, our fax number is (505) 841-8347 and his email address is AndrewA.Lucero@state.nm.us.

Sincerely,

A handwritten signature in black ink, appearing to read "ALucero", with a long horizontal flourish extending to the right.

Andrew Lucero
Investigator
New Mexico Board of Nursing

Enclosure as stated.



April 19, 2016

VIA CERTIFIED MAIL: 7004 2510 0004 3260 7762

Vivianne Clark
5 Bisbee Ct. Ste 109
Santa Fe, NM 87508-1419

In re: Complaint filed against your License #RN-71112, CNP-01603, RN-25552

Dear Ms. Clark,

This is to inform you that this office is in the process of gathering information with regard to the complaints and allegations filed against your Nursing License # RN-71112, CNP-01603, RN-25552, alleging violation of the Nursing Practice Act, 61-3-28 (A) (6) and 16.12.1.9 (C) (2) (Q). The NPA rules and violation codes are listed on our website, which is www.BON.state.nm.us.

We request you complete the enclosed form and return it to Investigator Andrew Lucero at the New Mexico Board of Nursing. Your response will be included as part of our investigative process. **You have twenty (20) days of receipt of this letter to respond to the allegations.** I have enclosed a copy of the complaints for your review.

You may contact Andrew Lucero directly to discuss the complaint process. Mr. Lucero's direct dial number is (505) 841-9061, our fax number is (505) 841-8347 and his email address is AndrewA.Lucero@state.nm.us.

Sincerely,

A handwritten signature in black ink, appearing to read "ALucero", written over a horizontal line.

Andrew Lucero
Investigator
New Mexico Board of Nursing

CERTIFIED MAIL NO: 7004 2510 0004 3260 7762

Enclosure as stated.



April 19, 2016

Angelo J. Artuso
PO Box 51763
Albuquerque, NM 87181-1763

Re: Case # 071-16-04-Aa,b,c

Dear Mr. Artuso:

This letter is to acknowledge receipt of your complaint against Vivianne Clark, RN, License #RN-71112, CNP-01603, RN-25552. A copy of your complaint has been sent to the Licensee.

The Licensee has been requested to reply in writing within 20 days regarding the circumstances surrounding your complaint. When the Licensee's reply is received, the complaint will be investigated. Most investigations are completed within 90 days, however, based on the complexity of the case this time period may be extended.

Any further correspondence regarding this complaint should be referred to the attention of Investigator Andrew Lucero. Please include the above case number in all future correspondence.

You will be notified of the final disposition of this matter. Updates regarding the case investigation will not be provided. Our investigator may be contacting you in the interim to discuss this matter further. Thank you for bringing this to our attention.

Sincerely,

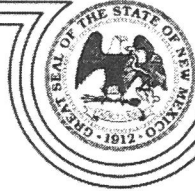
A handwritten signature in black ink, appearing to read "AL", with a long, sweeping horizontal stroke extending to the right.

Andrew Lucero
Investigator
New Mexico Board of Nursing

#071-16-04

STATE OF NEW MEXICO

(505) 841-8340



Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

(PLEASE PRINT OR TYPE INFORMATION)

IN THE MATTER OF THE COMPLAINT OF

ANGELO J. ARTUSO

Names of Complainant and Institution

P.O. Box 51763

Street Address

Albuquerque

City

Nm

State

87181-1763

Zip

Telephone Numbers: Office: 505-306-5063 Home: _____

AGAINST

Vivianne M. Clark

Name of Nurse or Certificate Holder

License or Certificate No: CNP-01603, RN-71112

Street Address PO Box City State Zip Telephone

(Write a detailed statement, directly on this form, describing the facts related to the alleged violation(s) of the Nursing Practice Act and/or rules adopted by the Board. Attach copies of records, reports, letters, etc., relative to the alleged violation(s). Additional sheets may be attached if necessary. (USE TYPEWRITER IF POSSIBLE).

PLEASE HAVE THE FORM SIGNED AND DATED ON THE FOLLOWING PAGE.

Comes now the complaint in the above entitled matter alleges

Please see page 2.

RECEIVED

APR - 8 2016

BOARD OF NURSING

New Mexico law provides that only licensed physicians are permitted to perform abortions. *See* NMSA §30-5-1, et seq.

Ms. Vivianne Muriel Clark license numbers CNP-01603 and RN-71112 is not a licensed physician but a nurse practitioner and registered nurse.

I have attached proof that Ms. Clark has been reimbursed by New Mexico Medicaid from 2013 through 2015 for abortions she performed in the first and second trimesters, up to 24 weeks of pregnancy. Ms. Clark's actions are in violation of the New Mexico Criminal Abortion Statute (§30-5-1, et seq.).

I respectfully request that the Board of Nursing investigate this matter in the interest of public safety and that you take appropriate action against Ms. Clark, including revocation of her licenses if warranted, for her violation of New Mexico law.

RECEIVED

APR - 8 2016

**BOARD OF
NURSING**

Wherefore complainant prays that an investigation be made as to the matter herein alleged, and if the facts warrant it, the appropriate action be initiated in accordance with the provisions of Section 61-3-1 through 61-3-39, NMSA, 1978 COMP. as amended.

4/6/16
DATE

Angelo J. Artus
Signature of Complainant(s)
(Please type r print name etow) b

March 3, 2016

Tara Shaver
P.O. Box 50351
Albuquerque, NM 87181

Via email to: shavermissions@gmail.com
Original not to follow

RECEIVED

APR - 8 2016

BOARD OF
NURSING

Re: New Mexico Inspection of Public Records Act Request

Dear Ms. Shaver:

This is in response to your request under the Inspection of Public Records Act, dated February 17, 2016, in which you stated:

“Pursuant to the New Mexico Inspection of Public Records Act, I request that I be permitted to inspect and copy all public records that are related to whether or not Vivianne Muriel Clark, CNP-01603, RN-71112 was reimbursed for abortion services through New Mexico Medicaid at any time between January 1, 2013 and December 31, 2015.

My request includes, but is not limited to, all documents for the requested time period that would show:

1. How many procedures she provided during this time frame and the total sum of money that was paid to her.
2. Gestational age of which each abortion was performed.
3. Which clinical location the procedures were performed at.”

Documents responsive to your request are attached to the email transmitting this letter. Please note that this report was prepared in response to your request; however, pursuant to the Inspection of Public Records Act, Section 14-2-8(B), a state agency is not required to create a public record. This data is not reported in the normal course of the department’s business and you should not expect that a similar report will be created again.

Sincerely,

Kyler Nerison
Public Records Custodian
kylerb.nerison@state.nm.us
505-827-6236

RECEIVED

APR - 8 2016

**BOARD OF
NURSING**

| Codes Billed | Number Billed | Amount Paid |
|---------------------|----------------------|--------------------|
| S0199 | 104 | \$30,596.50 |
| S2260 | 50 | \$12,415.83 |

RECEIVED

APR -8 2016

**BOARD OF
NURSING**

DAN CRON LAW FIRM, P.C.
425 SANDOVAL STREET
Santa Fe, New Mexico 87501
Email: dan@cronlawfirm.com

DAN CRON

TEL: (505) 986-1334
FAX: (505) 820-3387

June 9, 2016

SENT VIA EMAIL (AndrewA.Lucero@state.nm.us) AND REGULAR MAIL

Mr. Andrew Lucero
Investigator
New Mexico Board of Nursing
6301 Indian School NE
Suite 710
Albuquerque, New Mexico 87110

2016 JUN 10 AM 7:04
NM BOARD OF NURSING

Re: Complaint Against Vivianne Clark, License #RN-71112, CNP-01603, RN-25552

Dear Mr. Lucero:

I represent Vivianne Clark in the above referenced matter. Given the unique circumstances surrounding the complaint, I believe an answer in narrative form is the most beneficial way to provide you information for your investigation. This letter serves as the answer to the complaint lodged against her. I also enclose the form you sent Nurse Clark with information provided that seems to be pertinent. As you can see from the information I enclose concerning Nurse Clark, she has been licensed either as a Registered Nurse or Certified Nurse Practitioner for 39 years and previously has never had a disciplinary complaint filed against her.

Nurse Clark is a Certified Nurse Practitioner who works for Planned Parenthood of New Mexico. It is well known that Planned Parenthood provides a host of women's health services, a small fraction of which includes abortion counseling and abortions. The complaint in this case was not filed by any patient. Rather, the complaint is political in nature and was filed by anti-abortion advocates as part of an overall strategy that is emerging around the country to attack the licenses of professionals who provide abortion services as a method of promoting their political agenda.¹ The named complainant is Angelo J. Artuso. Mr. Artuso is a lawyer who is a long-

¹ This is not the first case in New Mexico where anti-abortion activists have attempted to further their political agenda by attacking the license of a health care professional that provides abortion services. In a case with similarities to this case, anti-abortion activists gathered information from public record requests to form the basis of a complaint to the New Mexico Medical Board against Shelly Sella, M.D. in Medical Board Case Number 2012-026. In that case, as in this one, no patient filed any complaint against the health care provider in question. The Medical Board dismissed the case. A copy of the dismissal order in that case is attached to this letter as "Exhibit 1".

Mr. Andrew Lucero
June 9, 2016
Page 2 of 4

time anti-abortion activist with an extensive history of involvement in the anti-abortion movement. He was the lawyer for Protest ABQ, which initiated a ballot initiative in Albuquerque in 2013 that unsuccessfully sought to ban abortions after 20 weeks of pregnancy. Had the ballot initiative been successful, Albuquerque would have been the first city in the United States to adopt such a ban. Mr. Artuso is also a member of the Defense League of the Catholic Church, which is a group of attorneys throughout the United States that work on Church issues, including support of the Church's anti-abortion stance. The Catholic Defense League earlier this year filed an *Amicus Curiae* Brief in the United States Supreme Court alleging that the Affordable Care Act would force the Church, as an employer and contrary to the Church's religious beliefs, to provide women's health care to employees that would include drugs that cause abortion.

In this case, Mr. Artuso had no specific information about licensure infractions by any health care providers associated with Planned Parenthood of New Mexico, Inc., so a public records request was filed for Medicaid payment information relating to reimbursement for medical abortion medications. The obvious purpose of the request was to fish for information to use to file a Board complaint.

The issue of whether a Nurse Practitioner can prescribe medication abortion medications was settled in connection with a lawsuit that was filed in 2006. The lawsuit, Planned Parenthood of New Mexico, Inc., *et al v. State of New Mexico*, Second Judicial District Court Cause Number CV-2006-0230, was filed as a declaratory judgment action to settle the precise issue raised in the Board of Nursing complaint against Nurse Clark: Whether a Certified Nurse Practitioner, acting under the supervision of a Physician, can prescribe and administer medications for a medication abortion. A copy of the Complaint for Declaratory and Injunctive Relief is attached to this letter as "Exhibit 2". A copy of the Stipulation entered into by the parties is attached to this letter as "Exhibit 3". A copy of the Order entered in the case by the District Court Judge is attached to this letter as "Exhibit 4". The Stipulation and Order each clearly permit a Certified Nurse Practitioner to prescribe and administer medications for a medication abortion. Moreover, the Board of Nursing itself approved medication abortion as being within the scope of practice of a Certified Nurse Practitioner in a letter dated August 8, 2005. (A copy of the August 8, 2005 Board of Nursing letter is attached to this letter as "Exhibit 5".)

The complaint filed by Mr. Artuso is premised on a number of untrue assertions and assumptions. First, Nurse Clark is permitted to prescribe and administer medications for a medication abortion. The Stipulation of the parties, the Court's Order and the pronouncement of the Board of Nursing referred to in the preceding paragraph make this clear. At all times relevant to the complaint, Nurse Clark was a properly trained and licensed Certified Nurse Practitioner performing services within the scope of her practice licensure while under the supervision of a physician. (See the Affidavit of Vivienne Clark, attached to this letter as "Exhibit 6".)

Mr. Andrew Lucero

June 9, 2016

Page 3 of 4

Second, Nurse Clark has not performed any surgical abortion and has not prescribed medications for medication abortions during the time specified in the complaint in any case where the gestational age of the fetus was in excess of 63 days. (See Exhibit 6.) Mr. Artuso incorrectly extrapolates from the billing codes that Nurse Clark was performing first and second trimester abortions up to 24 weeks of pregnancy. The designation of the billing code is explained in the Affidavit of Amy Dickson, attached to this letter as "Exhibit 7". In short, while medication abortions of the type performed by Nurse Clark are eligible for Medicaid reimbursement, there is no Medicaid billing code that specifies induced abortions for a gestational age of less than 17 weeks. As a result, New Mexico's Medicaid Reproductive Services Program Manager directed that CPT code S2260 be used "to bill for the first trimester pregnancy termination." (See Exhibit 7.) This bill coding was used between 2013 and 2015 as directed. So, even though the code designated in reimbursement records as it relates to Nurse Clark's services shows reimbursement as "induced abortion, 17-24 weeks, any surgical method" the actual performed services in question relating to Nurse Clark were only for medication abortions where the gestational age of the fetus was 63 days or less.

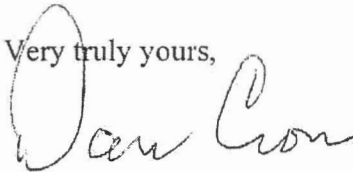
Finally, in a letter to the Board of Nursing dated May 4, 2016, Mr. Artuso posits the proposition that the outcome of *Planned Parenthood of New Mexico, Inc., et al v. State of New Mexico*, Second Judicial District Court Cause Number CV-2006-0230, is not a binding precedent. This is a disingenuous and specious position. Section 36-1-22 NMSA 1978 empowers the Attorney General of New Mexico to enter into settlements on behalf of the State of New Mexico and its agencies in lawsuits such as the one filed by Planned Parenthood of New Mexico, Inc. in 2006. The stipulation entered into between Planned Parenthood of New Mexico, Inc. and the State of New Mexico (through the Attorney General) (See Exhibit 3) creates binding precedent, in and of itself, upon the State of New Mexico and its agencies. In other words, the Stipulation is binding throughout the state. The fact that the Court entered an order that was not appealed which adopted the same terms as the Stipulation does not vitiate the independent binding agreement between the parties as set forth in the Stipulation. If Mr. Artuso or any of the anti-abortion organizations to which he belongs or for whom he advocates disagrees with the outcome of the 2006 lawsuit, the proper forum to advocate their point of view is not through the Board of Nursing by attacking the licensure of medical providers who are operating within the express parameters agreed to by the State of New Mexico, approved by Court order and expressly approved by the Board of Nursing.

We appreciate the opportunity to provide a response to the complaint against Nurse Clark. We recognize that it is important for you to have all pertinent information relating to this case. If there is any additional information we can provide to aid the Board in reaching a fair disposition of the complaint, please let me know and we will do everything we can to cooperate with the Board's inquiry. As you know, a disciplinary action against a licensee can have devastating consequences and we want to do everything we can to ensure that a determination in this case is not made precipitously.

Mr. Andrew Lucero
June 9, 2016
Page 4 of 4

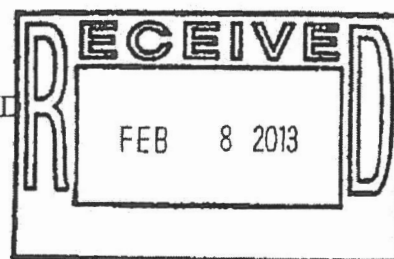
Again, thank you for the opportunity to respond and provide information concerning the complaint filed against Nurse Clark.

Very truly yours,

A handwritten signature in cursive script that reads "Dan Cron". The signature is written in black ink and is positioned below the typed name.

Dan Cron
Attorney at Law

BEFORE THE NEW MEXICO MEDICAL BOARD



IN THE MATTER OF

SHELLY SELLA, M.D.
License No. MD 2009-0759

No. 2012-026

DECISION AND ORDER

The New Mexico Medical Board adopts, for its Decision and Order, the Hearing Officer's Report submitted by David K. Thomson, Esq. and dated February 4, 2013, attached hereto and incorporated by reference herein, including the Findings of Fact and Conclusions of Law.

ORDER

The notice of contemplated action against Shelly Sella, M.D. be and hereby is dismissed.

RIGHT TO JUDICIAL REVIEW

Dr. Shelly Sella may seek judicial review of this Decision and Order pursuant to NMSA 1978, § 61-1-17 and NMSA 1978, § 39-3-1.1. The time within which to do so is thirty days from the date of filing of the Board's Decision and Order.

A handwritten signature in cursive script, appearing to read "Steven Weiner, M.D.".

STEVEN WEINER, M.D.
Chairman
New Mexico Medical Board

Date: Feb: 8, 2013

COPY

**SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

No. CV-200604230

PLANNED PARENTHOOD OF NEW MEXICO, INC., et al.

Plaintiffs,

v.

STATE OF NEW MEXICO,

Defendant.

STIPULATION

COME NOW Plaintiffs Planned Parenthood of New Mexico, Inc., et al. ("Planned Parenthood") and Defendant the State of New Mexico ("State") (collectively, "Parties"), by and through their undersigned counsel of record, and herewith adopt the following Stipulation:

1. NMSA 1978, § 30-5-3 provides: "Criminal abortion consists of administering to any pregnant woman any medicine, drug or other substance, or using any method or means whereby an untimely termination of her pregnancy is produced, or attempted to be produced, with the intent to destroy the fetus, and the termination is not a justified medical termination."

2. NMSA 1978, § 30-5-1(c) provides: "'[J]ustified medical termination' means the intentional ending of the pregnancy of a woman . . . by a physician licensed by the state of New Mexico . . ."

3. Criminal abortion is a fourth degree felony, punishable by up to 18 months' imprisonment or up to a \$5,000 fine, or both. NMSA 1978, §§ 30-1-6 and 30-1-7 (1963); NMSA 1978, § 30-5-3 (1969); NMSA 1978, §§ 31-18-15(A)(10) and 31-18-15(E)(9) (2007).

4. Certified nurse practitioners (“CNPs”) are advanced practice nurses who are vested with broad authority to provide health care independently to their patients. NMSA 1978, § 61-3-23.2(b) (2001); 16.12.2.13(O)(1) & (2) NMAC. New Mexico began licensing CNPs in 1975 as part of a national trend toward licensing advanced practice medical clinicians. 1975 N.M.Laws ch. 328, § 1(H). Since 1975, the Legislature has steadily expanded the scope of practice of CNPs, including granting them prescriptive authority in 1991.

5. In general, CNPs are permitted to practice autonomously, without supervision by or collaboration with a physician, although CNPs collaborate with other healthcare providers as necessary. 16.12.2.13(O)(4) NMAC. No particular function or procedure is excluded from CNP practice by the Nurse Practice Act, so long as the CNP obtains “the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.” 16.12.2.13(O)(3) NMAC.

6. CNPs who have fulfilled the requisite requirements may prescribe and dispense drugs within their scope of practice without physician supervision. NMSA 1978, § 61-3-23.2 (C) & (D) (2001); 16.12.2.13(O)(5) NMAC.

7. Medication abortion is early pregnancy termination induced by ingesting medication. The most common medications used to induce medication abortion are mifepristone (or Mifeprex) and misoprostol. Mifepristone is a synthetic steroid that acts by blocking progesterone, a female hormone necessary to the maintenance of early pregnancy. Misoprostol softens and opens the cervix, induces uterine contractions, and is used in combination with mifepristone.

8. The FDA approved mifepristone for use in the United States in 2000. The FDA approval of mifepristone was based on a regimen that included the use of misoprostol. Nothing in the federal approval of mifepristone limits the ability of CNPs or other advanced practice medical clinicians to prescribe, dispense, and administer mifepristone or misoprostol. Indeed, the FDA has made clear that a health care provider acting under the supervision of a qualified physician may provide mifepristone to patients, so long as doing so is legal under the laws of the state in which the health care provider is practicing. The FDA supervision requirement does not require a physician to be physically present when the advanced practice clinician provides mifepristone to the patient.

9. In 2005, Planned Parenthood sought an opinion letter from the New Mexico Board of Nursing as to whether, in the view of the Board, medication abortion is permitted within the scope of practice of CNPs under the New Mexico Nurse Practice Act. In its request, Planned Parenthood specifically asked that the Nursing Board not address the question of whether NMSA 1978, § 30-5-1(C) (1969), precludes this practice. On August 8, 2005, the Board of Nursing issued an affirmative response to Planned Parenthood's request for an official opinion. According to the New Mexico Board of Nursing:

... so long as the CNP complies fully with all applicable state and federal laws
... there is nothing in the New Mexico Practice Act that would disallow this
practice for [CNPs] so long as adequate education, training, knowledge, ability
and skill can be shown.

Attached as Exhibit A to Complaint (filed May 26, 2006).

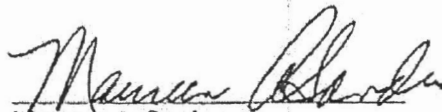
10. On May 26, 2006, Planned Parenthood filed a complaint challenging NMSA 1978, §§ 30-5-3 and 30-5-1(c) because Planned Parenthood fears that if CNPs employed by it provide medication abortion, Planned Parenthood and the CNPs will be subject to prosecution for violating the law.

11. The Parties agree that NMSA 1978, §§ 30-5-3 and 30-5-1(c) do not prohibit any adequately trained CNP from performing medication abortion—including prescribing, dispensing, and administering mifepristone and misoprostol—in accordance with his or her scope of practice and other applicable state and federal laws and regulations, and under the supervision of a qualified physician. As used in this paragraph, the term “supervision” does not require a physician to be physically present when the CNP performs medication abortion.

12. The attorney general has the power to enter into this stipulation on behalf of the State pursuant to NMSA 1978, § 36-1-22.

13. The Parties agree that this Court shall enter an order reflecting the terms of this agreement.

Dated this 4th day of October, 2007


Maureen A. Sanders
Sanders & Westbrook, PC
102 Granite Avenue, NW
Albuquerque, NM 87102
(505) 243-2243

Mimi Liu
Planned Parenthood Federation of America
1780 Massachusetts Avenue, NW
Washington, DC 20036

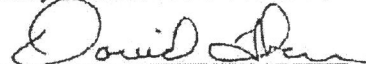
(202) 973-4800

Roger Evans
Planned Parenthood Federation of America
434 West 33rd Street
New York, NY 10001
(212) 541-7800

*Attorneys for Planned Parenthood of New
Mexico, Inc., et al.*

Dated this 3 day of Oct, 2007

Gary King
Attorney General of New Mexico

By: 
David K. Thomson
Assistant Attorney General
P.O. Drawer 1508
Sante Fe, NM 87504-1508
(505) 827-7416

Attorneys for the State of New Mexico

FILED
SECOND JUDICIAL DISTRICT
2007 OCT 10 AM 10:39

SANDRA L. STEGEMAN

Sandra L. Stegeman

SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. CV-200604230

PLANNED PARENTHOOD OF NEW MEXICO, INC., et al.

Plaintiffs,

v.

STATE OF NEW MEXICO,

Defendant.

ORDER

Plaintiffs Planned Parenthood of New Mexico, Inc., et al. ("Planned Parenthood") and Defendant State of New Mexico ("State") (collectively, "Parties") have agreed to settle this litigation by way of an order based upon the stipulation agreed upon by the Parties. Upon consideration of the request, and for good cause shown, it is the opinion of the Court that the order should be issued.

Accordingly, it is ORDERED, ADJUDGED, AND DECREED, as follows:

1. NMSA 1978, § 30-5-3 provides: "Criminal abortion consists of administering to any pregnant woman any medicine, drug or other substance, or using any method or means whereby an untimely termination of her pregnancy is produced, or attempted to be produced, with the intent to destroy the fetus, and the termination is not a justified medical termination."

2. NMSA 1978, § 30-5-1(c) provides: "'[J]ustified medical termination' means the intentional ending of the pregnancy of a woman . . . by a physician licensed by the state of New Mexico . . ."

3. Criminal abortion is a fourth degree felony, punishable by up to 18 months' imprisonment or up to a \$5,000 fine, or both. NMSA 1978, §§ 30-1-6 and 30-1-7 (1963); NMSA 1978, § 30-5-3 (1969); NMSA 1978, §§ 31-18-15(A)(10) and 31-18-15(E)(9) (2007).

4. Certified nurse practitioners ("CNPs") are advanced practice nurses who are vested with broad authority to provide health care independently to their patients. NMSA 1978, § 61-3-23.2(b) (2001); 16.12.2.13(O)(1) & (2) NMAC. New Mexico began licensing CNPs in 1975 as part of a national trend toward licensing advanced practice medical clinicians. 1975 N.M.Laws ch. 328, § 1(H). Since 1975, the Legislature has steadily expanded the scope of practice of CNPs, including granting them prescriptive authority in 1991.

5. In general, CNPs are permitted to practice autonomously, without supervision by or collaboration with a physician, although CNPs collaborate with other healthcare providers as necessary. 16.12.2.13(O)(4) NMAC. No particular function or procedure is excluded from CNP practice by the Nurse Practice Act, so long as the CNP obtains "the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise." 16.12.2.13(O)(3) NMAC.

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progesterone, a female hormone necessary to the maintenance of early pregnancy. Misoprostol softens and opens the cervix, induces uterine contractions, and is used in combination with mifepristone.

8. The FDA approved mifepristone for use in the United States in 2000. The FDA approval of mifepristone was based on a regimen that included the use of misoprostol. Nothing in the federal approval of mifepristone limits the ability of CNPs or other advanced practice medical clinicians to prescribe, dispense, and administer mifepristone or misoprostol. Indeed, the FDA has made clear that a health care provider acting under the supervision of a qualified physician may provide mifepristone to patients, so long as doing so is legal under the laws of the state in which the health care provider is practicing. The FDA supervision requirement does not require a physician to be physically present when the advanced practice clinician provides mifepristone to the patient.

9. In 2005, Planned Parenthood sought an opinion letter from the New Mexico Board of Nursing as to whether, in the view of the Board, medication abortion is permitted within the scope of practice of CNPs under the New Mexico Nurse Practice Act. In its request, Planned Parenthood specifically asked that the Nursing Board not address the question of whether NMSA 1978, § 30-5-1(C) (1969) precludes this practice. On August 8, 2005, the Board of Nursing issued an affirmative response to Planned Parenthood's request for an official opinion. According to the New Mexico Board of Nursing:

. . . so long as the CNP complies fully with all applicable state and federal laws
. . . there is nothing in the New Mexico Practice Act that would disallow this
practice for [CNPs] so long as adequate education, training, knowledge, ability

and skill can be shown.

Attached as Exhibit A to Complaint (filed May 26, 2006).


10. On May 26, 2006, Planned Parenthood filed a complaint challenging NMSA 1978, §§ 30-5-3 and 30-5-1(c) because Planned Parenthood fears that if CNPs employed by it provide medication abortion, Planned Parenthood and the CNPs will be subject to prosecution for violating the law.

11. NMSA 1978, §§ 30-5-3 and 30-5-1(c) do not prohibit any adequately trained CNP from performing medication abortion—including prescribing, dispensing, and administering mifepristone and misoprostol—in accordance with his or her scope of practice and other applicable state and federal laws and regulations, and under the supervision of a qualified physician. As used in this paragraph, the term “supervision” does not require a physician to be physically present when the CNP performs medication abortion.

12. This order shall constitute a final resolution of all issues presented by Planned Parenthood’s complaint and shall be binding upon the State, its agents and employees, and their successors in office, as well as binding upon Planned Parenthood, its agents and employees, and their successors in office.

Dated this 10th day of October, 2007.

BY THE COURT:



The Honorable Theresa Baca

FILED
SECOND JUDICIAL DISTRICT

06 MAY 26 PM 3:11

Juanita M. Duran

SANDRA L. STEGEMAN

SECOND JUDICIAL DISTRICT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. **CV- 2006 0 4230**

PLANNED PARENTHOOD OF NEW MEXICO, INC. and Dr. DIANA KOSTER, M.D.,

Plaintiffs,

vs.

STATE OF NEW MEXICO,

Defendant.

SUMMONS (FB) ISSUED

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This is an action for declaratory and injunctive relief brought pursuant to NMSA 1978, §§ 44-6-1 to -15 (1975), the New Mexico Declaratory Judgment Act. An actual controversy exists between the parties because the State of New Mexico has promulgated a criminal statute, NMSA 1978, §§ 30-5-1(C) & 30-5-3 (1969), that Plaintiffs reasonably fear prohibits certified nurse practitioners ("CNPs") who are otherwise trained and qualified to provide early medication abortion from providing this service.

2. On their face, NMSA 1978, §§30-5-1(C) & 30-5-3 (1969) (the "physician-only requirement") together seem to prohibit qualified CNPs from providing first trimester medication (or pharmacologically-induced) abortions, even though they are otherwise legally authorized to do so under the New Mexico statutes that regulate their practice. Violation of the physician-only requirement is a fourth degree felony, punishable by up to 18 months' imprisonment or up to

\$5,000 fine, or both. NMSA 1978, §§ 30-1-6 to -7 (1963); NMSA 1978, §30-5-3 (1969); NMSA 1978, §§ 31-18-15(A)(9) & -(E)(8) (2005).

3. Plaintiffs, Planned Parenthood of New Mexico and Dr. Diana Koster (collectively "Planned Parenthood"), on behalf of themselves and their patients, seek a declaration that application of the physician-only requirement to CNPs' provision of medication abortion burdens the exercise of the rights of privacy, reproductive choice, equal protection and equality, in violation of the New Mexico Constitution. New Mexico Const. art. II, §§ 4 (protecting inherent rights), and 18 (guaranteeing due process, equal protection, equal rights). Planned Parenthood seeks to enjoin all prospective enforcement of the physician-only requirement against trained and qualified CNPs that provide medication abortion otherwise in compliance with state and federal law. Planned Parenthood seeks its costs under the Declaratory Judgment Act and attorney fees under New Mexico law.

II. JURISDICTION AND VENUE

4. Jurisdiction is conferred on this Court by N.M. Const. art. VI, § 13; NMSA 1978, §38-3-1.1(1988); and NMSA 1978, §44-6-2 (1975).

5. Venue is proper in this judicial district pursuant to NMSA 1978, § 38-3-1 (G) (1988).

III. PARTIES

A. Plaintiffs

6. Plaintiff Planned Parenthood of New Mexico, Inc. ("PPNM") is a non-profit corporation duly organized in accordance with the laws of the State of New Mexico and has its principal place of business in Albuquerque, New Mexico. PPNM currently operates five health centers in New Mexico, three in Albuquerque, one in Rio Rancho, and one in Santa Fe, where it provides reproductive health services to more than 24,000 patients per year. At one site in Albuquerque, PPNM also offers abortion education and abortion, including surgical abortion for women between five and nineteen weeks pregnant (based on the woman's last menstrual period, or "LMP") and medication abortion for women between four and eight weeks LMP. PPNM also provides other reproductive health care services, including all forms of contraception; pregnancy testing; diagnosis and treatment of sexually transmitted infections ("STI"); PAP tests and abnormal PAP follow-up; menopausal therapy; vasectomy; tubal ligation; colposcopy; and well-woman care. PPNM is a public interest litigant. It sues on its own behalf and that of its patients seeking medication abortions.

7. Plaintiff Dr. Diana Koster is a physician licensed to practice medicine in the State of New Mexico. Dr. Koster started working for PPNM as its medical director in 1987. Dr. Koster together with other physicians who serve part-time at the PPNM Albuquerque facility perform approximately 1,800 surgical and medication abortions per year; of these patients, approximately twenty percent travel at least one hour (more than sixty miles) to reach the clinic. Dr. Koster believes her patients would be better served were they able to obtain abortions without traveling vast distances. Dr. Koster also believes qualified and trained CNPs are fully

capable of providing first trimester medication abortions. If Dr. Koster allowed qualified and trained CNPs under her supervision to do so, however, she could be held criminally liable under NMSA 1978, § 30-5-1(C) (1969). Dr. Koster is a public interest litigant who sues on her own behalf and on behalf of her patients seeking medication abortion.

B. Defendant

8. Defendant the State of New Mexico promulgated NMSA 1978, § 30-5-1(C) (1969) and, through its Attorney General, District Attorneys and other law enforcement officials, is empowered to prosecute Plaintiffs for violation of this criminal statute in any county in the state. *See* NMSA 1978, § 8-5-2(B) (1975) (duties of attorney general); NMSA 1978, § 36-1-18(A) (2001) (duties of district attorneys).

IV. STATUTORY SCHEME

A. The Challenged Statute

9. The physician-only requirement makes it a crime for anyone but “a physician licensed by the state of New Mexico” to perform an abortion, including first-trimester medication abortions. NMSA 1978, §§ 30-5-1(C) (justified medical termination) & 30-5-3 (criminal abortion) (1969). Section 30-5-1 defines a “justified medical termination” as one that was performed by a “physician licensed by the state of New Mexico.” Whereas, Section 30-5-3 defines “criminal abortion” as inducing an abortion that is not a “justified medical termination.”

10. Violation of the physician-only requirement is a fourth degree felony, punishable by up to 18 months' imprisonment or up to \$5,000 fine, or both. NMSA 1978, §§ 30-1-6 & -7 (1963); NMSA 1978, § 30-5-3 (1969); NMSA 1978, §§ 31-18-15(A)(9) and -(E)(8) (2005).

11. Pursuant to New Mexico law establishing accomplice liability, Plaintiff Planned Parenthood of New Mexico and its employees, staff, servants, officers, or agents, including Plaintiff Dr. Koster, who solicit, request, command, encourage, or intentionally aid another person to engage in conduct that violates the physician-only requirement could be prosecuted as accomplices. NMSA 1978, § 30-1-13 (1972).

12. New Mexico's criminal abortion statute, NMSA 1978, §§ 30-5-1 to 30-5-3, was enacted in 1969. Most provisions of the law have been found unconstitutional. *See State v. Strance*, 506 P.2d 1217 (N.M. Ct. App. 1973); 90 Op. N.M. Att'y Gen. 19 (1990). However, the constitutionality of the physician-only provision, especially as applied to CNPs providing medication abortion, has never been considered.

B. Statutes and Regulations Governing Certified Nurse Practitioners

13. Certified nurse practitioners are advanced practice nurses who are vested with broad authority to provide health care independently to their patients. NMSA 1978, § 61-3-23.2(B) (2001); 16.12.2.13(O)(1) & (2) NMAC.

14. New Mexico began licensing CNPs in 1975 as part of a national trend toward licensing advanced practice medical clinicians. 1975 N.M. Laws ch. 328, § 1(H). Since 1975, the Legislature has steadily expanded the scope of practice of CNPs, including granting them prescriptive authority in 1991.

15. Today, more than 600 CNPs play a vital role in the provision of health care in the state. These professionals are able to practice largely independently and provide basic health care services to thousands of New Mexico citizens.

16. CNPs are committed to providing full access to a broad range of medical services, including reproductive health care, throughout the State of New Mexico. Particularly in rural New Mexico and for low-income citizens of the state, CNPs often deliver the bulk of primary healthcare services.

17. In general, CNPs are permitted to practice autonomously, without supervision by or collaboration with a physician, although CNPs collaborate with other healthcare providers as necessary. 16.12.2.13(O)(4) NMAC. No particular function or procedure is excluded from CNP practice by the Nurse Practice Act, so long as the CNP obtains “the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.” 16.12.2.13(O)(3) NMAC. These regulations, therefore, assume that CNPs will perform technically advanced procedures.

18. CNPs who have fulfilled the requisite requirements may prescribe and dispense drugs within their scope of practice without physician supervision. NMSA 1978, § 61-3-23.2(C) (2001).

V. FACTUAL ALLEGATIONS

A. Early Medication Abortion

19. Medication abortion is early pregnancy termination induced by ingesting medication. Medication abortion is a safe and relatively simple procedure with few

complications or contraindications. Early medication abortion is routinely provided on an outpatient basis with no anesthesia.

20. The most common medications used to induce medication abortion are mifepristone (or Mifeprex) and misoprostol. Mifepristone is a synthetic steroid that acts by blocking progesterone, a female hormone necessary to the maintenance of early pregnancy. Misoprostol softens and opens the cervix, induces uterine contractions, and is used in combination with mifepristone. Both mifepristone and misoprostol meet the requirements for medications that CNPs may prescribe. NMSA 1978, § 61-3-23.2(D) (2001); 16.12.2.13(O)(5) NMAC.

21. Mifepristone was approved for use in the United States in 2000. Nothing in the federal approval of mifepristone limits the ability of CNPs, or other advance practice medical clinicians, to prescribe and dispense mifepristone, so long as doing so is legal under the laws of the state in which the CNP is practicing.

22. Since mifepristone was approved, an increasing number of women, in New Mexico and throughout the country, have chosen medication abortion over surgical abortion in early pregnancy. Many women choose medication abortion over surgical abortion because they find it less invasive and more like natural miscarriage. Also, some women choose the method because it allows the patient to feel she has more control over the process.

23. The procedure for medically induced abortion using mifepristone and misoprostol includes the following steps; (1) take medical history to detect contraindications; (2) perform laboratory tests; (3) determine gestational age of the pregnancy; (4) provide patient education, and informed consent, including discussion of known side effects and possible complications; (5)

administer mifepristone orally and provide patient misoprostol for self-administration between twenty-four and forty-eight hours later. Between a few days and up to two weeks after the mifepristone is administered, follow-up evaluation confirms that abortion is complete. If it is determined that the abortion is incomplete or has not occurred, surgical abortion is required.

B. Adequately Trained CNPs are Qualified to Provide Early Medication Abortion

24. Throughout New Mexico, including at all PPNM health centers, CNPs who focus on women's health care already perform procedures that are equally as or more complicated than those required for medication abortion. CNPs at PPNM health centers educate women on pregnancy options, perform physical exams, take medical histories, test blood and urine and perform Pap smears. CNPs also routinely diagnose and assess the progress of pregnancy, perform colposcopy, administer local anesthesia, and perform uterine ultrasound, IUD insertion, and endometrial and cervical biopsy. CNPs regularly provide patient education and informed consent, including discussion of known side effects and possible complications.

25. Nothing in New Mexico law prohibits qualified CNPs from performing equally or more complicated medical procedures on their male patients.

26. New Mexico CNPs who specialize in women's health care also prescribe medications related to their scope of practice including contraception, emergency contraception, hormone replacement therapy, and antibiotics to treat sexually transmitted infections.

27. Studies have shown that certified nurse practitioners can provide early abortions safely and competently.

28. Several national and prominent medical professional organizations support allowing qualified, interested advanced practice medical clinicians, including nurse practitioners, to provide abortions because permitting them to do so is both medically appropriate and would significantly expand access to abortion. The American College of Obstetrics and Gynecology has called for licensing mid-level medical professionals to perform abortions in order to alleviate the abortion provider shortage. Similarly, the National Association of Nurse Practitioners in Women's Health has a policy statement that nurse practitioners can be qualified to perform abortions, as does the American Academy of Physician Assistants regarding members of their profession. Moreover, the American Public Health Association has issued a policy statement recognizing the competence of nurse practitioners and physician assistants to provide early abortions.

29. As part of its effort to expand access to abortion for its patients -- particularly in rural and underserved areas -- by utilizing CNPs to perform medication abortion, PPNM sought an opinion letter from the New Mexico Board of Nursing as to whether, in the view of the Board, medication abortion is permitted within the scope of practice of CNPs under the New Mexico Nurse Practice Act. In its request, PPNM specifically requested that the Nursing Board not address the question of whether the physician-only requirement, NMSA 1978, § 30-5-1(C) (1969), precludes this practice.

30. On August 8, 2005, the Board of Nursing issued an affirmative response to PPNM's request for an official opinion. According to the New Mexico Board of Nursing:
... so long as the CNP complies fully with all applicable state and federal laws, . . .
. there is nothing in the New Mexico Practice Act that would disallow this practice for [CNPs] so long as adequate education, training, knowledge, ability and skill can be shown.

Exhibit A.

31. Although the New Mexico Nurse Practice Act permits qualified and trained CNPs to provide medication abortion and nothing in the federal laws that regulate the provision of mifepristone for medication abortion precludes their doing so, Plaintiffs fear that if CNPs employed by PPNM provide mifepristone medication abortion Plaintiffs and the CNPs will be subject to prosecution for violating the physician-only law.

C. Effect on Women Seeking Abortions

32. Abortion providers in New Mexico are scarce. The geography of the State of New Mexico, in combination with the decrease in the number of physician providers, has resulted in extremely limited access to abortion for many of New Mexico's residents. Although many women will travel great distances in order to obtain safe, legal abortions, the farther a woman has to travel to obtain an abortion, the less likely it is that she will be able to obtain one or the more likely it is she will delay the procedure. The risks associated with abortion increase as gestational age of the pregnancy progresses, and medication abortion is available only early in pregnancy. Many parts of New Mexico are four hours or more driving distance from the nearest abortion provider.

33. In recent years, the number of abortion providers in New Mexico has decreased dramatically. In 1996, there were thirteen physicians providing abortions in New Mexico. In 2000, there were eleven. Today, there are only four clinics that openly provide abortions in the state.

34. The only physicians that openly provide abortions in the state are located in central New Mexico – in the cities of Albuquerque and Santa Fe. There are no physicians whatsoever

that openly provide abortions outside these urban areas. Accordingly, over ninety-three percent of New Mexico's counties, including more than sixty percent of the population of the state, have no known abortion provider. More than half of the population of the state lives over fifty miles from these cities where there are providers. Thus, women from outside of Albuquerque and Santa Fe are forced to drive – often long distances – to reach an abortion provider.

35. There are no physicians that openly provide abortions in the southern region of New Mexico. Approximately one-third of the population of New Mexico lives in this region, which is disproportionately poor by comparison to the central region where the providers are located.

36. Dona Ana County in south-central New Mexico is the second most populous county in the state and one of its poorest. In this county, one person out of four lives in poverty, nearly three quarters of the population is minority, and about one-third of the county's residents over the age of twenty-five have not graduated from high school. Dona Ana is located over 200 miles and over three hours' drive from Albuquerque, yet there is no physician who openly provides abortions in this county.

37. Approximately half of PPNM's patients seeking abortions are poor and Medicaid-eligible. Although abortions are available at health centers in the neighboring states of Colorado and Texas, New Mexico residents would not be eligible for Medicaid coverage for medically-necessary abortions if they went out of state to seek an abortion.

38. Travel imposes burdens such as increased cost and time on women seeking abortions. The greatest burdens of such travel fall on the poorest, youngest and least sophisticated women, who are less likely to own their own car or have money for transportation.

Women who are unable to afford to travel the long distance to a provider face the Hobson's choice between illegal abortion, self-induced abortion, or continuing an unwanted pregnancy to term.

39. For women who are able to afford the cost of travel, the lack of local providers often delays access to the procedure significantly. Any delay in obtaining abortion is significant because gestational age is an important determinant of medical risk. Although abortion is one of the safest surgical procedures, both the morbidity (risk of major complications) and the mortality (risk of death) rates for abortion increase as the pregnancy advances.

40. Delay in access to abortion also restricts the options available to women. Because medication abortion is performed only early in pregnancy (PPNM offers medication abortion until the woman is eight weeks' pregnant), if the woman is unable to obtain an abortion until later in pregnancy she will have no choice but to undergo a surgical procedure.

41. Delay in access to abortion also compromises the woman's confidentiality and privacy in the procedure. The longer a woman is required to be away from home, work and/or school, the more difficult it is for her to explain her absence without revealing its purpose.

42. Qualified CNPs currently provide a broad range of reproductive health services at PPNM. CNPs are responsible for provision of most patient service care, including but not limited to breast and cervical cancer screenings, STI testing and treatment, colposcopy, biopsies, and annual reproductive health care examinations. Although the provision of medication abortion would otherwise fall within the scope of practice of these CNPs, they do not currently provide this service at PPNM solely because they are prohibited from doing so by the physician-only requirement.

43. Currently, PPNM only offers early surgical and medication abortions services at one of its Albuquerque health centers. PPNM does not offer these services at its Santa Fe clinic in part because of a lack of physician providers. In order to expand access for more women and reduce the burden on its patients of traveling vast distances to obtain abortions, PPNM seeks to expand its ability to provide medication abortion by opening new health centers that offer medication abortion in other parts of the state, particularly in the southern half of the state and rural areas where there are currently no providers. PPNM has been unable to expand access to abortion to its patients largely because of the lack of qualified and willing physician providers in the state of New Mexico and the impact of the physician-only law's apparent ban on qualified and willing certified nurse practitioners providing medication abortions. In order to so expand its abortion services to increase access for its patients, PPNM seeks to have qualified CNPs provide early medication abortions at its health centers.

44. The physician-only requirement unnecessarily restricts Plaintiffs' patients' access to medication abortion in New Mexico. As a result, some of these patients who want abortions will be unable to obtain them. Others will get later, riskier abortions and may have more serious medical complications as a result. Still others will seek illegal and dangerous abortions. Many of Plaintiffs' patients will be forced to travel large distances at a great cost and risk to their health and privacy in order to reach a provider. Accordingly, the requirement restricts the right of Plaintiffs' patients to access abortion.

**FIRST CAUSE OF ACTION: VIOLATION
OF THE STATE INHERENT RIGHTS CLAUSE**

45. Plaintiffs reallege and incorporate by reference all preceding allegations as if fully set forth therein.

46. Article II, § 4 of the New Mexico Constitution provides: “All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.”

47. By unnecessarily restricting access to a lawful, and constitutionally protected, medical procedure – early medication abortion – by prohibiting CNPs from providing this procedure while permitting CNPs to provide access to other similar medical procedures, the physician-only requirement violates Plaintiffs’ patients’ inherent and inalienable rights of life, liberty, safety and happiness by impermissibly infringing their exercise of their reproductive choice guaranteed by the inherent rights clause.

**SECOND CAUSE OF ACTION: VIOLATION
OF THE STATE DUE PROCESS CLAUSE**

48. Plaintiffs reallege and incorporate by reference all preceding allegations as if fully set forth therein.

49. Article II, § 18 of the New Mexico Constitution (the “due process clause”) provides in relevant part: “No person shall be deprived of life, liberty or property without due process of law”

50. The physician-only requirement significantly reduces the number of medical professionals able to provide pre-viability abortion in the state of New Mexico and thereby creates a substantial obstacle for many women seeking abortions.

51. By unnecessarily restricting access to a lawful, and constitutionally protected medical procedure – early medication abortion – the physician-only requirement violates Plaintiffs’ patients’ rights to privacy and reproductive choice guaranteed by the state due process clause.

**THIRD CAUSE OF ACTION: VIOLATION OF THE
EQUAL RIGHTS AMENDMENT OF THE STATE CONSTITUTION**

52. Plaintiffs reallege and incorporate by reference all preceding allegations as if fully set forth therein.

53. Article II, § 18 of the New Mexico Constitution (the “state equal rights amendment”) provides in relevant part, “[e]quality of rights under law shall not be denied on account of the sex of any person.”

54. The equal rights amendment prohibits treating men and women differently with respect to their medical needs, unless the differential treatment can be justified by a compelling state interest and advances that interest by the least restrictive means available.

55. By singling out and treating unfavorably early medication abortion – a constitutionally-protected medical procedure that is unique to women – from other medical procedures that are similar or more complicated, the physician-only requirement is a gender-based classification that operates to the disadvantage of women and therefore violates the state’s equal rights amendment.

**FOURTH CAUSE OF ACTION: VIOLATION OF THE
EQUAL PROTECTION CLAUSE OF THE STATE CONSTITUTION**

56. Plaintiffs reallege and incorporate by reference all preceding allegations as if fully set forth therein.

57. Article II, § 18 of the New Mexico Constitution (the “equal protection clause”) provides in relevant part, no person “shall ... be denied equal protection of the laws.”

58. The equal protection clause prohibits treating men and women differently with respect to their medical needs, unless the differential treatment can be justified by a compelling state interest and advances that interest by the least restrictive means available.

59. By singling out and treating unfavorably early medication abortion – a constitutionally-protected medical procedure that is unique to women – from other medical procedures that are similar or more complicated, the physician-only requirement is a gender-based classification that operates to the disadvantage of women and therefore violates the right to equal protection of the laws guaranteed under the New Mexico Constitution.

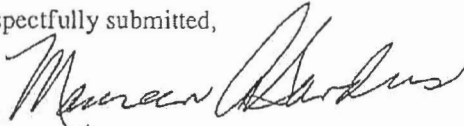
WHEREFORE, Plaintiffs respectfully pray that the Court:

1. declare NMSA 1978, §§ 30-5-1(C) & 30-5-3 (1969) unconstitutional insofar as they prohibit adequately trained and qualified certified nurse practitioners from providing medication abortion to women in New Mexico;

2. permanently enjoin enforcement of NMSA 1978, §§ 30-5-1(C) & 30-5-3 (1969) insofar as they prohibit adequately trained and qualified certified nurse practitioners from providing medication abortion to women in New Mexico; and

3. grant such other and further relief as the Court may deem just and proper,
including costs and attorneys' fees.

Respectfully submitted,

By: 

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Attorneys for Plaintiffs

* Non-admitted lawyer appearing *pro hac vice* in accordance with Rule 24-106 NMRA.

Exhibit A



August 8, 2005

Michelle L. Featheringill, President/CEO
Planned Parenthood of New Mexico, Inc.
719 San Mateo NE
Albuquerque, NM 87108

Dear Ms. Featheringill:

I am writing in reply to your letter dated June 14, 2005 regarding scope of practice issues for Certified Nurse Practitioners.

The official opinion from the Board of Nursing as to whether medication abortion using mifepristone and misoprostol falls within the scope of practice of adequately trained Certified Nurse Practitioners (CNP), so long as the CNP complies fully with all applicable state and federal laws, is that there is nothing in the New Mexico Nurse Practice Act that would disallow this practice for this specified group of practitioners as long as adequate education, training, knowledge, ability and skill can be shown. We would reference specifically the rules section of the Nurse Practice Act; 16.12.2.13 O. (3) "The CNP may assume specific functions and/or perform specific procedures which are beyond the advanced educational preparation and certification of the CNP provided the knowledge and skills required to perform the function and/or procedure emanates from a recognized body of knowledge and/or advanced practice of nursing and the function or procedure is not prohibited by any law or statute...."

As stated by you in your letter of June 14, 2005, "...although in the State of New Mexico CNPs may generally practice "independently and without supervision of a physician", the federal law currently would not permit CNPs to provide mifipristone to a patient except under the supervision of a physician."

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Allison Kozeliski".

Allison Kozeliski, RN
Executive Director

/ak

STATE OF NEW MEXICO

(505) 841-8340
(505) 841-9087 Fax



Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

NR / 5-3-16

RN / APRN
RENEWAL / RE-ACTIVATION APPLICATION

IMPORTANT: RENEWAL FORMS CANNOT BE ACCEPTED AND PROCESSED MORE THAN 60 DAYS PRIOR TO THE EXPIRATION DATE OF THE NURSING LICENSE.

WORKING ON AN EXPIRED LICENSE IS A VIOLATION OF THE NURSING PRACTICE ACT
IF SENDING IN RENEWAL FORM BY FAX, DO NOT MAIL IN THE ORIGINAL!
(Please type or print clearly with black ballpoint)

NURSE LICENSE NUMBER: CNP 01603 EXPIRATION DATE: 04/30/16 (MM/DD/YYYYY)

LEGAL NAME: Clark Vivianne M HARTMAN
Last First Middle Maiden

PHONE NUMBER: _____ E-MAIL: _____

ADDRESS: 5 Bisbee Ct Ste 109-254 Santa Fe NM 87508 USA
Number Street Apt City / State / County Zip + 4 Country

Change of Address Yes No

Change of Name Yes No NEW NAME: _____

Requirements to Process a Name Change:

- Copy of filed & Recorded Marriage Certificate and/or Divorce Decree or Legal Order.
- LEGAL NAME MUST APPEAR ON THE NURSING LICENSE (ATTACH COPY OF LEGAL DOCUMENTS)

DECLARATION OF PRIMARY STATE OF RESIDENCE:

YOU MUST FILL OUT THE INFORMATION BELOW OR YOUR RENEWAL WILL BE DELAYED. DECLARATION OF PRIMARY STATE OF RESIDENCE IS MANDATORY EACH TIME YOU RENEW YOUR NURSING LICENSE.
*In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the **state (or country)** of New Mexico is my primary state (or country if not a US citizen) of residence and that such constitutes my permanent and principal home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.)

ALL INFORMATION BELOW IS MANDATORY FOR LICENSURE

| | | | |
|---|--|--|--|
| A. Date of Birth: <u>1955</u> (MM/DD/YYYY) | | G. Gender: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female | |
| B. Ethnicity: (check one) <input type="checkbox"/> African America <input type="checkbox"/> Native American <input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Caucasian <input type="checkbox"/> Other | | Primary Language: <u>English</u> Secondary Language: <u>French</u> | |
| C. Entry Level Nursing Education: 1. Vocational/Practical 2. Diploma 3. Associate <input checked="" type="checkbox"/> Baccalaureate 5. Masters 6. Doctoral (PhD, PNP) | | H. Indicate your primary nursing position: 1. Administrator/Assistant 5. Head Nurse/Assistant 2. Consultant <input checked="" type="checkbox"/> 6. Staff 3. Supervisor/Assistant 7. Other (Specify: _____) 4. Nursing School Instructor | |
| Highest Level of Education-Nursing & Non-Nursing: 1. Vocational/Practical 2. Diploma 3. Associate (nursing) 4. Associate (other) 5. Baccalaureate (nursing) 6. Baccalaureate (other) 7. Masters (nursing) 8. Masters (other) 9. Doctoral (nursing) 10. Doctoral (other) | | I. Principal location of work in nursing: State <u>NM</u> County <u>SF</u> Zip <u>87508</u> City <u>SF</u> | |
| NAME OF SCHOOL <u>Drexel University</u> FOR HIGHEST EDUCATION | | Please circle the percentage of practice in direct patient care: 0% 10% 25% 50% 75% <input checked="" type="radio"/> 100% | |
| | | Please circle the percentage of practice in the following: Teaching: <input checked="" type="radio"/> 0% 10% 25% 50% 75% 100% Research: <input checked="" type="radio"/> 0% 10% 25% 50% 75% 100% Administration: <input checked="" type="radio"/> 0% 10% 25% 50% 75% 100% | |

Gave Exp lic letter
to Nurse - 5-3-16

Yes to discipline Action
Complaint Pending
No Record in NURSYS
for discipline.

RENEWAL / RELICENSURE APPLICATION (cont'd)

| | |
|--|--|
| <p>D. Present Employment Status? Nursing: (1) <u>Full time</u> (2) Part time (3) Per Diem Other than Nursing: (3) Full time (4) Part time Hours worked per week <u>32</u> (5) Not employed If not employed in nursing, give last date of employment in nursing: _____ (MM/DD/YYYY) Reason for being unemployed _____</p> | <p>J. Major clinical practice area in nursing/employment setting: 0. Special Care Unit: (ICU, CCU, ER, OR, ETC) 1. Community/Public Health 6. Pediatric/Child Maternal 3. Geriatric 7. Psychiatric/Mental Health 4. <u>Obstetrics/Gynecology</u> 8. Anesthesiology 5. Medical /Surgical 9. Other <u>12</u></p> |
| <p>E. Indicate your primary place of employment: 1. Hospital 7. School of Nursing 2. Nursing Home 8. School Nurse 3. Home Health 9. Self-employed 4. Industrial Nurse 10. <u>Clinic</u> 5. Office Nurse 11. Other (Specify: _____) 6. Community/Public Health</p> | <p>K. Average hours worked per week: <10 10-20 21-30 <u>31-40</u> >40 Average weeks worked per year <10 10-20 21-30 31-40 <u>40-52</u></p> |
| <p>F. Please circle practice plans for the next 5 years: Work part-time _____ <u>Work Full-time</u> ADN to BSN _____ BSN to MSN _____ MSN to Ph.D or DPN _____ Retire _____ Change Professions _____ Move out of state _____ Other: _____</p> | <p>L. List all states in which you have been licensed as a nurse: <u>AR ID WA NM</u> M. If your NM license has not been active for the last four years do you have a current U.S. Advanced Practice nursing license in any other state? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> |
| <p>ALL INFORMATION BELOW IS MANDATORY FOR LICENSURE</p> | |
| <p>N. FOR RN / APRN LICENSE (circle appropriate # if renewing RN / APRN License): (1) APRN Clinical Nurse Specialist (2) <u>APRN Certified Nurse Practitioner</u> (3) APRN Certified Registered Nurse Anesthetist APRN / CRNA: Enclose current copy of NBCRNA recertification card APRN / CNP / CNS: Enclose current copy of National Certification (You will only need to submit the state controlled substance, DEA #, and current formulary if you are audited) APRN / CRNA REQUIREMENTS: Current recertification by NBCRNA National Board on Certification & Recertification of Nurse Anesthetists APRN / CNP / CNS: 15 CEs of Pharmacology, 5 in specialty, APRN's with a DEA registration must obtain 5 CE's in the management of non-cancer pain within the 2 year period immediately preceding licensure expiration RN: 30 CEs within the 2 year period immediately preceding licensure expiration</p> | |
| <p>O. FOR NM RN & APRN LICENSE RENEWAL: Have you completed 50 hours of approved CE within the 2 year period immediately preceding licensure expiration? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO FOR APRN LICENSE ONLY (Renewal with RN License from other Compact State): Have you completed 15 hours CE in Pharmacology, 5 hours CEs in specialty, APRN's with a DEA registration must obtain 5 CE's in the management of non-cancer pain within the 2 year period immediately preceding licensure expiration? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> | |
| <p>P) FELONY CONVICTIONS Have you ever been convicted of a felony? Please provide any official court documents related to your felony conviction. Failure to disclose a felony conviction is considered unprofessional conduct and may result in discipline on your license. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If YES, List State(s) _____ Date _____</p> | |
| <p>Q) DISCIPLINARY ACTION Have you had any disciplinary action or currently have any action pending against you by: any licensing jurisdiction including New Mexico, the USDA, Drug Enforcement Agency, any state drug enforcement authority, or a branch of the US Military since your last renewal in N.M.? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If YES, List State(s) <u>Recently received complaint on 8 Apr 2016 A</u> Date <u>5/2/16</u> If yes to P or Q, attach CERTIFIED copies of legal document(s) to prevent any delay in licensure I certify that the above statements are true and correct:</p> | |
| <p>LEGAL SIGNATURE _____</p> | <p>DATE (MM/DD/YYYY) <u>5/2/16</u></p> |
| <p>SSN (last 4 digits) _____</p> | |

** No formal disciplinary action response to complaint not due yet*



VIVIANNE CLARK, WHNP-BC

5 BISBEE CT #109 BOX 254 SANTA FE, NM 87508

has earned the following certification from the National Certification Corporation

Women's Health Care Nurse Practitioner

Earned December 4, 1989 and due December 15, 2019

NCC ID: CLA104305664



A handwritten signature in cursive script that reads "Suzanne Staebler".

Suzanne L. Staebler, DNP, APRN, NNP-BC, FAANP
NCC President

ST 9 11 8 - 1st 110
2014 JUN - 3 AM 6 15
IM BOARD OF NURSING



May 3, 2016

Vivianne M. Clark

RE: Expired License or Certificate, CNP-01603, RN-71112

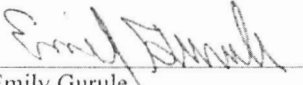
Dear Licensee or Certificate Holder;

This letter is in reference to your expired license/certificate. You will need to provide the following information for each job related to your license or certificate. You must supply a letter to the board within 5 business days with the following information addressed to the Director of Operations of the Board of Nursing:

- A list of all dates and hours that you worked at a job related to your license or certificate from this day going back to when your license/certificate expired.
- For any hours worked since license/certificate expiration, provide supervisor's name, position, phone number, and email address.
- Supervisor's signature on the letter and their initials next to each day/shift worked on your list.
- Name, address and phone number of your employer.
- Your signature and date on the letter.

The above information can be faxed to (505-841-8347 or emailed to me at emily.gurule@state.nm.us. Please contact me at (505) 841-9089, if you have any questions.

Sincerely,


Emily Gurule
Licensing Clerk



110 RN-71112

RN/LPN ENDORSEMENT APPLICATION

APPLICATIONS BECOME NULL AND VOID ONE (1) YEAR AFTER RECEIVED AT THE BOARD OFFICE.
INCOMPLETE APPLICATION AND/OR FINGERPRINT CARDS WILL BE RETURNED UPON RECEIPT

| | |
|---|---|
| <p>Section 1 Please check Endorsement License Type: <input checked="" type="checkbox"/> RN <input type="checkbox"/> LPN</p> <p>Application Type: <input checked="" type="checkbox"/> Endorsement Fee \$ 110.00 <input type="checkbox"/> Endorsement & Temporary License \$160.00</p> | <p>For Office use only FILE# <u>6310-6204</u> FP <input type="checkbox"/> \$ <input type="checkbox"/></p> |
|---|---|

Section 2 (Print Your Legal Name. This is the name that will appear on your license.)

Legal Name: CLARK VIVIANNE MARIE HARTMANN
Last First Middle Maiden

Mailing Address: 3511 Hill Rd
Bose Id 83703 ADA Apt. USA
City State zip+4 County/Country

Date of Birth 1955 U.S. Social Security Number [REDACTED] Gender: Male Female Home Phone Work Phone

E-mail Address:

Have you at any other time applied for or held a RN/LPN license in NM? No Yes
License Number/STATE: Date: *ID state license 125552 exp 3/08/2010*

List ALL Full Name(s) Surname, First or Middle) including any abbreviations as appears on transcripts and/or other nursing licenses: CLARK VIVIANNE MARIE (maiden name HARTMANN)

RECEIVED

Section 3

| EDUCATION | SCHOOL NAME | CITY, STATE Or COUNTRY | DATE COMPLETED | DEGREE Type Granted: |
|-----------------------|-------------------|------------------------|----------------|----------------------|
| High School | DENSON UNION High | Benson AZ | May 73 | HS diploma |
| Basic Nursing Program | Day Arizona | Tucson AZ | May 77 | BSN |

MAR 08 2010
BOARD OF NURSING

SECONDARY EDUCATION COMPLETED: Check One:

- Less than high school graduate
- High School Graduate or GED

HIGHEST DEGREE HELD: Check One:

- Associate Degree
- Baccalaureate in other field
- RN Diploma
- Baccalaureate in Nursing
- Masters in other field
- Masters in Nursing
- Doctorate in other field
- Doctorate in Nursing

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FEB 05 2010
BOARD OF NURSING



BASIC NURSING EDUCATIONAL PREPARATION: Check One:

- LPN: 1. Completion of Practical Nursing Program 2. Waiver/Experience
 RN: 3. Diploma 4. Associate Degree 5. Baccalaureate or higher degree

Section 4 – DECLARATION OF PRIMARY STATE OF RESIDENCE – MANDATORY REQUIREMENT FOR LICENSURE IN NEW MEXICO

In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of New Mexico is my primary state of residence and that such constitutes my permanent and principle home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) Upon licensure in New Mexico, I intend to practice in the state (s) of New Mexico

Section 5 – LICENSURE

First licensed by state or national licensing examination or equivalent in English on: Date: 1977
 In State: Arizona and/or Country: USA
 All states ever licensed in: Arizona, Washington, Idaho
 Have you at any other time applied for or held an RN/LPN license in New Mexico:
 YES ___ (License No: ___) NO X

Section 6 – DISCIPLINARY - Each of the following questions requires a YES or NO answer

If YES to any of these questions, you must explain in full (attach separate pages) and submit copies of all legal documents.

Has disciplinary action ever been taken against your nursing license?
NO X YES ___

If YES, please indicate:
DENIED ___ REVOKED ___ SUSPENDED ___ PROBATION ___ REPRIMAND ___ OTHER ___

Is disciplinary action pending against a (any) nursing license in another state?
NO X YES ___ List State(s) _____ Give Date _____

Have you ever been convicted of a felony or are you now charged with any felony in any state or federal court? Please include any felony charges that resulted in a guilty plea, nolo contendere plea, or a deferred or suspended sentence. A felony is generally a criminal charge with potential punishment of at least one year in prison or jail. If in doubt, disclose the charge or conviction with a copy of all relevant documents. Failure to properly disclose a charge or conviction may result in disciplinary action being taken against you by the Board of Nursing.

NO X YES ___ List State(s) _____ DATE(S) _____

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APR 01 2010
BOARD OF NURSING

Section 7

I hereby make application for a license to practice nursing in accordance with the Nursing Practice Act of the State of New Mexico and have enclosed the fee. I certify, under penalty of perjury, to the truth and accuracy of all statements, answers and representation made on this application.

[Signature]

April 5/2010

LEGAL SIGNATURE

DATE

2009-2011

**State of Idaho
Board of Nursing**

This is to certify that:

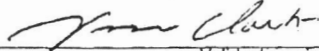
License Number

N-25552

Expires: August 31, 2011

VIVIANNE MURIEL CLARK
3511 HILL ROAD
BOISE, ID 83703

has complied with the requirements of the law and is entitled
to practice as a LICENSED PROFESSIONAL NURSE (RN)



Valid when signed by licensee.

RECEIVED

MAR 08 2010

BOARD OF
NURSING

MAR 11 2010

MAR 11 2010

BOARD OF
NURSING

To: Board of Nursing,

1/2/10

Please find enclosed the documents I received from getting you the nursing & NR license. Please let me know if you need more info. You should be able to access my nursing info for my original A-E, WA & IL nursing license.

The Air Force (Shopped AFB) is sending a verification letter & transcript for my NR certificate program. Washington Board of Nursing is also sending original verification of licensure.

Thank you

Janet Clark
Nurse Clerk
3511 Hill Rd
Besse Id 83703

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FEB 15 2010

Romero, Johnny, BON

From: Romero, Johnny, BON

Sent: Thu 4/8/2010 3:15 PM

To:

Cc:

Subject: Licensed

Attachments:

Your RN license has been issued and you can verify it on our website at www.bon.state.nm.us with in 24 hours.

**JOHNNY ROMERO,
US EXAM, ENDORSEMENT, ADVANCED PRACTICE**

CLERK SPECIALIST

6301 Indian School Road NE Suite 710

Albuquerque, NM 87110

Direct Dial: (505) 841-9088

Fax: (505) 841-8347

Email: Johnny.Romero@state.nm.us

Verification Report

Printed for NEW MEXICO (RN) on 03/15/2010

Personal Information

| | | |
|-----|---------------------------------------|-------------------------------|
| SSN | Name (Reporting Jurisdictions) | DOB (Reporting Jurisdictions) |
| | CLARK, VIVIANNE HARTMAN (WA) | 1955 (WA, ID) |
| | CLARK, VIVIANNE MURIEL (ID) | |
| | CLARK, LT COL VIVIANNE (AZ) | |
| | Maiden Name (Reporting Jurisdictions) | RESTRICTED (AZ) |
| | HARTMANN (ID) | |

Available Licenses

| Juris. | Type | License Number | Date of Licensure | Expiration Date | License Status | Licensure Basis | Initial Licensure | Exam |
|--------|------|----------------|-------------------|-----------------|----------------|-----------------|-------------------|------------|
| ID | RN | 25552 | 05/04/2009 | 08/31/2011 | ACTIVE | ENDORSEMENT | 03/15/1996 | |
| WA | RN | RN00073201 | 03/19/2001 | 03/19/2001 | INACTIVE | EXAM | 04/10/1981 | YES |
| AZ | RN | RN036424 | | 03/31/1999 | INACTIVE | EXAM | 08/26/1977 | 07/11/1977 |

Address Information

| Juris. | Address | City | State | Zip | Country |
|--------|------------------------|-------|-------|-------|---------|
| WA | RESTRICTED | | | | |
| ID | 3511 HILL ROAD | BOISE | ID | 83703 | USA |
| AZ | 3276 S NORTH CHURCH PL | BOISE | ID | 83706 | USA |

Education Information

| Juris. | School Name | Graduation Date | Program | Degree | City | State |
|--------|--|-----------------|---------|-----------|--------|-------|
| ID | UNIVERSITY OF ARIZONA - BSN | 05/11/1977 | RN | BACHELORS | TUCSON | AZ |
| AZ | UNIVERSITY OF ARIZONA COLLEGE OF NURSING | 05/11/1977 | RN | OTHER | TUCSON | AZ |
| AZ | U OF A | 05/11/1977 | RN | OTHER | | |

NLC Investigation Information

There are no investigation records for this individual.

Discipline Summary Information

There are no discipline records for this individual.

* Records with a jurisdiction code of "?" have not yet been associated with a specific license.

The exam scores are not being provided or are not available. Please do not speed memo the individual board requesting exam scores.

RECEIVED

STATE OF NEW MEXICO

(505) 841-8340



Board of Nursing

6301 Indian School NE, Suite 710
Albuquerque, NM 87110

FEB 05 2010

BOARD OF NURSING

RN / LPN EXAMINATION AND ENDORSEMENT
PAYMENT FORM

LEGAL NAME: CLARK VIVIANNE MURIEL
 Last First Middle

Social Security # _____ NM Nursing License # NA (may be N/A)

SELECT ONLY ONE FEE

| | | | |
|--|------------------|---|-----------|
| <u>Initial Examination Fees</u> | | <u>Reexamination Fees</u> | |
| _____ Registered Nurse | \$ 110.00 | _____ Registered Nurse | \$ 60.00 |
| _____ Licensed Practical Nurse | \$ 110.00 | _____ Licensed Practical Nurse | \$ 60.00 |
| <u>Endorsement Fees</u> | | <u>Endorsement Fee with Temporary License</u> | |
| <input checked="" type="checkbox"/> Registered Nurse | <u>\$ 110.00</u> | _____ Registered Nurse | \$ 160.00 |
| _____ Licensed Practical Nurse | \$ 110.00 | _____ Licensed Practical Nurse | \$ 160.00 |

PAYMENT METHODS ACCEPTED:

Cashiers Check Money Order Demand Draft Business Check Credit Card
 (MasterCard or VISA only)

SELECT CREDIT CARD: MasterCard Visa

CREDIT CARD NUMBER: _____

NM BOARD OF NURSING
6301 INDIAN SCHOOL RD NE
ALBUQUERQUE NM 87110
505-841-8344

Clark

Phone Order

Order #: 71512556 Ref #: 0026
Date: 3/09/10 Time: 11:11:54
Batch #: 360

MASTERCARD

PPR Code: 009198 Inv#: 000026
Total: \$ 110.00

I agree to pay above total amount according to card issuer agreement (Merchant agreement if credit voucher)

IT MUST BE ATTACHED TO THIS FORM (unless using credit cards)
ALL FEES ARE NONREFUNDABLE

RECEIVED

MAR 08 2010

BOARD OF NURSING

NF CHECKED

Questions And Answers

CLARK, VIVIANNE MURIEL

Expires 4/30/2014

3/3/2014 10:00 PM To 3/4/2014 10:00PM

5 BISBEE CT. Ste. 109

License # RN-71112

Paid: 3/4/2014 12:59:04 PM

Santa Fe, NM 875081419

| License | Q/S | Question | Renewed 3/5/2014 | Answer |
|----------|-----|---|------------------|-------------------|
| RN-71112 | Q | 1. Date of Birth: * | | 1955 |
| RN-71112 | Q | 2. Have you completed 30 hours of approved continuing education within the 2 year period immediately preceding license expiration? (You may be randomly selected for an audit for your continuing education) * | | Y |
| RN-71112 | Q | 3. Since your last renewal have you been convicted of a felony or are you now charged with any felony in any state or federal court? Please include any felony charges that resulted in a guilty plea, nolo contendere plea or a deferred or suspended sentence. A felony is generally a criminal charge with the potential punishment of at least one year in prison or jail. If in doubt, disclose the charge or conviction with a copy of all relevant documents. Failure to properly disclose a charge or conviction may result in disciplinary action being taken against you by the Board of Nursing. * | | N |
| RN-71112 | Q | 4. If YES, please list Felony State(s): | | |
| RN-71112 | Q | 5. If YES, please list Felony Date(s): | | |
| RN-71112 | Q | 6. Have you had disciplinary action or have any action pending against you by: any licensing jurisdiction including New Mexico, the USDA, Drug Enforcement Agency, any state drug enforcement authority, or a branch of the US Military since your last renewal in N.M.? * | | N |
| RN-71112 | Q | 7. If YES, please list Discipline State(s): | | |
| RN-71112 | Q | 8. If YES, please list Discipline Date(s): | | |
| RN-71112 | Q | 9. In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of New Mexico is my primary state (or country if not a US citizen) of residence and that such constitutes my permanent and principal home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) *Note: If you hold a COMPACT license in a state other than New Mexico, you must renew your license in that state, not in New Mexico. Please return to the License Home Page or Logout. | | Y |
| RN-71112 | Q | 10. If you answered NO to question 9 you MUST enter your primary state or country of residence HERE. | | |
| RN-71112 | Q | 11. Active Military living in another state, declaring NM? (Yes or No) * | | N |
| RN-71112 | S | 1. Indicate your gender: * | | Female |
| RN-71112 | S | 2. Select your ethnicity: * | | Caucasian |
| RN-71112 | S | 3. Indicate Your Primary Nursing Position: * | | Other |
| RN-71112 | S | 4. Entry Level Nursing Education: * | | Baccalaureate |
| RN-71112 | S | (a) Entry Level School Name:* | | uofA |
| RN-71112 | S | 5. Highest Level of Education-Nursing & Non-Nursing(N/A if None):* | | Masters (Nursing) |
| RN-71112 | S | (a) Highest Level School Name (N/A if None):* | | Drexel |
| RN-71112 | S | 6. Present Employment Status:(a) Nursing: * | | Full Time |
| RN-71112 | S | (b) Other than Nursing:* | | N/A |
| RN-71112 | S | (c) Average Hours worked per week:* | | 31-40 |
| RN-71112 | S | (1) Average number of weeks worked per year:* | | 41-52 |
| RN-71112 | S | (d) If not employed in nursing, give last date of employment in nursing: | | |
| RN-71112 | S | (e) Reason for being unemployed: | | |

Questions And Answers

CLARK, VIVIANNE MURIEL

5 BISBEE CT. Ste. 109

Santa Fe, NM 875081419

Expires 4/30/2014

3/3/2014 10:00 PM To 3/4/2014 10:00PM

License # RN-71112

Paid: 3/4/2014 12:59:04 PM

| | | | |
|----------|---|--|-----------------------|
| RN-71112 | S | 7. Major Clinical Practice Area in Nursing/Employment Setting: * | Obstetrics/Gynecology |
| RN-71112 | S | 8. Indicate Your Primary Place of Employment: * | Clinic |
| RN-71112 | S | (a) Specify if other: | |
| RN-71112 | S | 9. List All States(Abbreviations Only, 'All' if all U.S. States) in Which You Have Been Licensed As a Nurse: * | az,wa,id,nm |
| RN-71112 | S | 10. If your NM license has not been active for the last four years, do you have a current U.S. Advanced Practice nursing license in any other state? * | N/A |
| RN-71112 | S | 11. Are you working in New Mexico?:* | Y |
| RN-71112 | S | 12. Select the state of your principal location of work in Nursing(N/A for non-United States):* | NM |
| RN-71112 | S | 13. Select the county of your principal location of work in Nursing(N/A for non-New Mexico):* | Santa Fe |
| RN-71112 | S | 14. Please enter the city of your principal location of work in Nursing:* | santa fe |
| RN-71112 | S | 15. If the principal work location in Nursing is not in the United States, please enter your country: | |
| RN-71112 | S | 16. Please enter the principal location of work in Nursing zipcode or postal code:* | 87505 |
| RN-71112 | S | 17. If you have obtained your Social Security number since your original licensure and have not provided it to the NM Board of Nursing, You MUST provide the complete Social Security number with renewal (N/A for None):* | na |
| RN-71112 | S | 18. Please enter your current e-mail address.(N/A if None):* | |
| RN-71112 | S | 19. Please Select Your Primary Language:* | English |
| RN-71112 | S | (a) If you chose "Other", please enter your primary language here: | |
| RN-71112 | S | 20. Please Select Your Secondary Language:* | French |
| RN-71112 | S | (a) If you chose "Other", please enter your secondary language here: | |
| RN-71112 | S | 21. Please select the percentage of practice in direct patient care:* | 75% |
| RN-71112 | S | 22. Please select the percentage of practice in Teaching:* | 25% |
| RN-71112 | S | 23. Please select the percentage of practice in Research:* | 0% |
| RN-71112 | S | 24. Please select the percentage of practice in Administration:* | 10% |
| RN-71112 | S | 25. Please select your practice plans for the next 5 years :* | Work full-time |

Questions And Answers

CLARK, VIVIANNE MURIEL

5 BISBEE CT. Ste. 109

Santa Fe, NM 875081419

Expires 5/31/2018

License # RN-71112

Paid: 4/9/2018 8:02:32 PM

| License | Q/S | Question | Answer |
|----------|-----|--|-----------------------|
| RN-71112 | Q | 1. Date of Birth: * | 1955 |
| RN-71112 | Q | 2. Have you completed 30 hours of approved continuing education within the 2 year period immediately preceding license expiration? (You may be randomly selected for an audit for your continuing education) * | Y |
| RN-71112 | Q | 3. Have you ever been convicted of a felony? *Please provide any official court documents related to your felony conviction. Failure to disclose a felony conviction is considered unprofessional conduct and may result in discipline on your license. | N |
| RN-71112 | Q | 4. If YES, please list Felony State(s): | |
| RN-71112 | Q | 5. If YES, please list Felony Date(s): | |
| RN-71112 | Q | 6. Have you had disciplinary action or have any action pending against you by: any licensing jurisdiction including New Mexico, the USDA, Drug Enforcement Agency, any state drug enforcement authority, or a branch of the US Military since your last renewal in N.M.? * | N |
| RN-71112 | Q | 7. If YES, please list Discipline State(s): | |
| RN-71112 | Q | 8. If YES, please list Discipline Date(s): | |
| RN-71112 | Q | 9. In accordance with the Nursing Practice Act 61-3-24-1 (Nurse Licensure Compact), I declare that the state of New Mexico is my primary state (or country if not a US citizen) of residence and that such constitutes my permanent and principal home for legal purposes. ("Primary state of residence" is defined as the state of a person's declared fixed permanent and principal home for legal purposes; domicile.) *Note: If you hold a COMPACT license in a state other than New Mexico, you must renew your license in that state, not in New Mexico. Please return to the License Home Page or Logout. | Y |
| RN-71112 | Q | 10. If you answered NO to question 9 you MUST enter your primary state or country of residence HERE. | |
| RN-71112 | Q | 11. Active Military living in another state, declaring NM? (Yes or No) * | N |
| RN-71112 | S | 1. Indicate your gender: * | Female |
| RN-71112 | S | 2. Select your ethnicity: * | Caucasian |
| RN-71112 | S | 3. Indicate Your Primary Nursing Position: * | Staff |
| RN-71112 | S | 4. Entry Level Nursing Education: * | Baccalaureate |
| RN-71112 | S | (a) Entry Level School Name:* | university of arizona |
| RN-71112 | S | 5. Highest Level of Education-Nursing & Non-Nursing(N/A if None):* | Masters (Nursing) |
| RN-71112 | S | (a) Highest Level School Name (N/A if None):* | drexel university |
| RN-71112 | S | 6. Present Employment Status:(a) Nursing: * | Full Time |
| RN-71112 | S | (b) Other than Nursing:* | N/A |
| RN-71112 | S | (c) Average Hours worked per week:* | 31-40 |
| RN-71112 | S | (1) Average number of weeks worked per year:* | 41-52 |
| RN-71112 | S | (d) If not employed in nursing, give last date of employment in nursing: | |
| RN-71112 | S | (e) Reason for being unemployed: | |

Questions And Answers

CLARK, VIVIANNE MURIEL

Expires 5/31/2018

5 BISBEE CT. Ste. 109

License # RN-71112

Paid: 4/9/2018 8:02:32 PM

Santa Fe, NM 875081419

| | | | |
|----------|---|--|-----------------------|
| RN-71112 | S | 7. Major Clinical Practice Area in Nursing/Employment Setting: * | Obstetrics/Gynecology |
| RN-71112 | S | 8. Indicate Your Primary Place of Employment: * | Clinic |
| RN-71112 | S | (a) Specify if other: | |
| RN-71112 | S | 9. List All States(Abbreviations Only, 'All' if all U.S. States) in Which You Have Been Licensed As a Nurse: * | az, wa, id |
| RN-71112 | S | 10. If your NM license has not been active for the last four years, do you have a current U.S. Advanced Practice nursing license in any other state? * | N/A |
| RN-71112 | S | 11. Are you working in New Mexico?:* | Y |
| RN-71112 | S | 12. Select the state of your principal location of work in Nursing(N/A for non-United States):* | NM |
| RN-71112 | S | 13. Select the county of your principal location of work in Nursing(N/A for non-New Mexico):* | Santa Fe |
| RN-71112 | S | 14. Please enter the city of your principal location of work in Nursing:* | santa fe |
| RN-71112 | S | 15. If the principal work location in Nursing is not in the United States, please enter your country: | |
| RN-71112 | S | 16. Please enter the principal location of work in Nursing zipcode or postal code:* | 87505 |
| RN-71112 | S | 17. If you have obtained your Social Security number since your original licensure and have not provided it to the NM Board of Nursing, You MUST provide the complete Social Security number with renewal (N/A for None):* | na |
| RN-71112 | S | 18. Please enter your current e-mail address.(N/A if None):* | |
| RN-71112 | S | (a) Do you choose to be notified of your license renewal via email instead of postmail? (in lieu of a postcard, the Board of Nursing will email renewal notices with information on how to renew your license approximately six (6) weeks prior to the end of your renewal month)* | Y |
| RN-71112 | S | 19. Please Select Your Primary Language:* | English |
| RN-71112 | S | (a) If you chose "Other", please enter your primary language here: | |
| RN-71112 | S | 20. Please Select Your Secondary Language:* | French |
| RN-71112 | S | (a) If you chose "Other", please enter your secondary language here: | |
| RN-71112 | S | 21. Please select the percentage of practice in direct patient care:* | 75% |
| RN-71112 | S | 22. Please select the percentage of practice in Teaching:* | 10% |
| RN-71112 | S | 23. Please select the percentage of practice in Research:* | 0% |
| RN-71112 | S | 24. Please select the percentage of practice in Administration:* | 10% |
| RN-71112 | S | 25. Please select your practice plans for the next 5 years :* | Work full-time |