

**IN THE CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA**

**STATE BOARD OF HEALTH,** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**ALL WOMEN’S, INC., d/b/a NEW** )  
**WOMAN ALL WOMEN HEALTH** )  
**CARE, DIPAT, L.L.C., DIANE W.** )  
**DERZIS, PATRICK H. SMITH, and** )  
**BRUCE E. NORMAN, M.D.** )  
 )  
**Defendants.** )

**CIVIL ACTION NO.**

**COMPLAINT**

1. This is an action seeking declaratory and injunctive relief to enjoin the further operation of an illegally operated abortion or reproductive health center in Jefferson County, Alabama. This action is brought pursuant to §§ 6-6-503 and 22-21-33, Ala. Code 1975.

**PARTIES**

2. The State Board of Health (hereinafter “the Board”) has been granted authority and jurisdiction by the Alabama Legislature to exercise general control over the enforcement of laws relating to public health in Alabama. See § 22-2-2, Ala. Code 1975. The Medical Association of the State of Alabama constitutes the Board, and designates full authority to a State Committee of Public Health to exercise the powers of the Board whenever the Board is not in session. See §§ 22-2-1 and 22-2-4, Ala. Code 1975. The Alabama Department of Public Health or State Health Department (hereinafter “the Department”) is a state agency and is the administrative arm of the State Committee of Public Health and the Board. See § 22-1-1, Ala. Code 1975. The State Health Officer, a physician, serves as the executive officer of the State Committee of Public Health and the Department. See § 22-2-8, Ala. Code 1975.

3. The Board is explicitly authorized and required to license and regulate all hospitals within the state of Alabama. The term “hospital” is broadly defined to include most health care institutions or facilities within the state, including “abortion or reproductive health centers.” See §§ 22-21-20 through -34, Ala. Code 1975. The Board, as statutorily charged by § 22-21-28, Ala. Code 1975, has promulgated rules establishing licensure requirements and minimum standards for the safe and adequate treatment of patients in abortion or reproductive health centers. Such rules are to have the force and effect of law and are to be enforced by the courts as in the case of other health laws. See § 22-2-2(6), Ala. Code 1975. The Board also, as statutorily charged by §§ 22-21-29 and -33, Ala. Code 1975, conducts inspections of both licensed and unlicensed facilities, and takes appropriate action to enforce the requirements of the State’s health care facility licensure laws and its administrative rules.

4. An “abortion or reproductive health center” is defined by the Board’s Rules for Abortion or Reproductive Health Centers as follows:

“[A]ny health care facility operated substantially for the purpose of performing abortions. Such a facility must be a free-standing unit and not part of a hospital or other facility licensed for other purposes by the State Board of Health. A health care facility operates substantially for the purpose of performing abortions if any of the following conditions are met:

“1. The health care facility performs thirty or more abortion procedures per month during any two months of a calendar year;

“2. The health care facility holds itself out to the public as an abortion provider by advertising by some public means, such as a newspaper, telephone directory, magazine, or electronic media, that it performs abortions; or

“3. The health care facility applies to the State Board of Health for licensure as an abortion or reproductive health center.”

Rule 420-5-1-.01(2)(b), Ala. Admin. Code.

5. All Women's, Inc., d/b/a New Woman All Women Health Care, is an Alabama domestic corporation according to records maintained by the Alabama Secretary of State.

6. Diane W. Derzis and Patrick H. Smith are listed as officers - President and Secretary, respectively - of All Women's, Inc., in records maintained by the Alabama Secretary of State.

7. Dipat, L.L.C., is an Alabama domestic limited liability company according to records maintained by the Alabama Secretary of State.

8. Diane W. Derzis and Patrick H. Smith are listed as members of Dipat, L.L.C., in records maintained by the Alabama Secretary of State.

9. Bruce E. Norman, M.D., is a physician who practices medicine in Alabama.

### **FACTS**

10. On March 16, 2012, the Department initiated license revocation proceedings against a license to operate an abortion or reproductive health center issued to All Women's, Inc., doing business as New Woman All Women Health Care, at 1001 17<sup>th</sup> Street South, in Birmingham, Alabama. The matter was set for a contested case hearing pursuant to the Board's Rules for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code, which have been adopted pursuant to the Alabama Administrative Procedure Act, § 41-22-1, et seq., Ala. Code 1975. Notice of hearing and the factual bases supporting license revocation proceedings were delivered to Diane W. Derzis. (See Exhibit 1). The license revocation proceedings were based upon findings by the Department that constituted serious violations of the Board's Rules for Abortion or Reproductive Health Centers, Chapter 420-5-1, Ala. Admin. Code, including, but not limited to, a failure to ensure clinic staff was properly trained to provide safe quality patient care, a failure to ensure the clinic had policies and procedures related to medication errors and

the administration of medications, and a failure to ensure a registered nurse administered and prepared medications accurately per a signed physician's order.

11. The license revocation proceedings were ultimately settled by Diane W. Derzis, as President of All Women's, Inc., entering into a Consent Agreement with the Department on April 2, 2012. (See Exhibit 2). Derzis agreed to close the abortion or reproductive health center by May 18, 2012, and thereafter return the license certificate to the Department. The agreement further provided that another person or entity could submit application for license to operate an abortion or reproductive health center at the 1001 17<sup>th</sup> Street South location so long as: (1) the Department was satisfied, in its sole discretion, that the applicant was both willing and able to comply with the Board's Rules for Abortion or Reproductive Health Centers; (2) the applicant was independent from and not affiliated with All Women's, Inc., and its officers and directors; and (3) the applicant agreed to not employ Diane W. Derzis, Bruce E. Norman, M.D., who had performed abortion procedures at the abortion or reproductive health center, and the abortion or reproductive health center's medical director. The Consent Agreement was incorporated into a final Consent Order of the State Health Officer entered on April 3, 2012. (See Exhibit 3).

12. Since the May 18, 2012, closure, the Department has denied two applications for license to operate an abortion or reproductive health center at the 1001 17<sup>th</sup> Street South location filed with the Department by the same applicant. Pursuant to the documentation provided as part of those applications, the explicit or implicit agreement by All Women's, Inc., Dipat, L.L.C., Diane W. Derzis and Patrick H. Smith is required for any use of the 1001 17<sup>th</sup> Street South facility, particularly the provision of abortion services. The first application for license included a real estate lease agreement between the license applicant and Dipat, L.L.C., and a proposed business lease agreement between the license applicant and All Women's, Inc. (See Exhibits 4

and 5). The second application for license included the same proposed real estate lease agreement and an asset purchase agreement between the applicant and “New Woman Health Care, Inc.”<sup>1</sup> (See Exhibits 4 and 6). Per these agreements, Dipat, L.L.C., owns the 1001 17<sup>th</sup> Street South real estate and All Women’s, Inc., owns New Woman All Women Health Care’s tangible and intangible business assets. The submitted agreements described tangible business assets to include machinery, furniture, fixtures and equipment and described intangible business assets to include business and trade names, business plans, trade secrets, proprietary information, intellectual property, trademarks, email addresses, internet domain names and web sites.

13. There currently is no person or entity licensed by the Department to operate an abortion or reproductive health center at 1001 17<sup>th</sup> Street South, in Birmingham, Alabama.

14. All Women’s, Inc., doing business as New Woman All Women Health Care, is holding itself out as an abortion provider through an operable web site – <http://www.newwomanallwomen.com> . (See Exhibit 7). Said website, in pertinent part, provides: (1) 1001 17<sup>th</sup> Street South, Birmingham, Alabama, as an address of operation; (2) operable phone numbers answered by persons scheduling appointments for services; (3) abortion services are offered at this facility; (4) fees charged for abortions and other services; and (5) abortion aftercare directions. Further, no trespassing and other signage at the 1001 17<sup>th</sup> Street South facility provides it to be property of New Woman All Women Health Care.

15. Abortion procedures are being performed at the 1001 17<sup>th</sup> Street South facility by Bruce E. Norman, M.D., doing business as the “Women’s Center.”

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<sup>1</sup> There is no such corporation listed in the records of the Alabama Secretary of State. The proper entity to have been provided in the asset purchase agreement is likely All Women’s, Inc.

## VIOLATIONS OF LAW

16. All Women’s, Inc., doing business as New Woman All Women Health Care, is holding itself as an abortion provider through advertising and offering abortion services to the public without a license as required by Board Rule 420-5-1-.01(2)(b)2., Ala. Admin. Code.

17. To the extent that Bruce E. Norman, M.D. - or any other physician - perform abortions and be permitted to perform abortions through explicit or implicit agreement with All Women’s, Inc., Dipat, L.L.C., Diane W. Derzis or Patrick H. Smith, so that Bruce E Norman, M.D. – or any other physician - is performing thirty or more abortion procedures per month during any two months of a calendar year at the 1001 17<sup>th</sup> Street South facility, said facility must be licensed as an abortion or reproductive health center pursuant to Board Rule 420-5-1-.01(2)(b)1., Ala. Admin. Code. This rule provision withstood legal challenge concerning its applicability to a private physician office setting in Tucker v. State Department of Public Health, 650 So. 2d 910 (Ala. Civ. App. 1994).

18. None of the Defendants possess a license authorizing them to operate an abortion or reproductive health center as required by §§ 22-21-23 through -25, Ala. Code 1975. Pursuant to § 22-21-33, Ala. Code 1975, the operation of a health care facility without the required license is subject to civil injunctive relief.

19. Pursuant to § 22-21-33, Ala. Code 1975, when the Board determines that a facility is operating as an unlicensed health care facility, the Board may seek declaratory and injunctive relief in the circuit court of the county in which the unlicensed facility is located. This statute explicitly provides that “[t]he proceedings shall be expedited” by the circuit court, and that the sole evidentiary questions before the court shall be whether the facility meets the definition of a health care facility within the meaning of the statute and the rules promulgated by

the Board, and whether the facility has been granted a valid and current license. This statute further explicitly directs the circuit court that, “[i]f the State Board of Health prevails on these questions, then the court shall, upon the request of the [Board], forthwith grant declaratory and injunctive relief requiring the operator to close the facility and requiring the operator or operators to move all residents or patients to appropriate placements.”

### **RELIEF REQUESTED**

WHEREFORE, these premises considered, the Board respectfully requests that the following relief be granted:

1. That this Court enter an Order declaring that All Women’s, Inc., doing business as New Woman All Women Health Care, and its officers Diane W. Derzis and Patrick H. Smith, are operating an abortion or reproductive health center without a valid or current license issued by the Board, and that the Defendants are therefore in violation of the State’s health care facility licensure law, §§ 22-21-20 through -34, Ala. Code 1975;

2. That this Court enters an Order providing the following permanent injunctive relief:

A. That All Women’s, Inc., doing business as New Woman All Women Health Care, Dipat, L.L.C., Diane W. Derzis, and Patrick H. Smith be permanently enjoined from operating, or allowing, by explicit or implicit agreement, for the operation of an unlicensed abortion or reproductive health center, or holding themselves out to the public as an abortion provider without the required license, at 1001 17<sup>th</sup> Street South, in Birmingham, Alabama, or at any other location within the State of Alabama, and directing that its web site, phone

numbers, and all other advertising as an abortion provider by public means be immediately disabled; and

B. That Bruce E. Norman, M.D., and any business entity through which he conducts business as a provider of abortions, be permanently enjoined from holding himself or any associated business entity out to the public as an abortion provider without the required license, and be permanently enjoined from performing thirty or more abortion procedures per month during any two months of a calendar year without the required license at the 1001 17<sup>th</sup> Street South facility, or at any other location within the State of Alabama.

3. That this Court tax costs against the Defendants; and
4. That this Court grant such other relief to the Board as may be appropriate.

Respectfully submitted,

**s/ P. Brian Hale**

P. Brian Hale (HAL072)  
Deputy General Counsel

**s/Patricia E. Ivie**

Patricia E. Ivie (IVI001)  
General Counsel

AS COUNSEL FOR THE STATE BOARD OF HEALTH

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ELECTRONICALLY FILED  
3/26/2013 11:40 AM  
01-CV-2013-901119.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 1



STATE OF ALABAMA DEPARTMENT OF  
**PUBLIC HEALTH**

Donald E. Williamson, MD  
State Health Officer

March 16, 2012

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
91 7108 2133 3936 8145 2675**

Diane Derzis, Administrator  
New Woman All Women Health Care  
1001 17<sup>th</sup> Street South  
Birmingham, AL 35205

Re: Notice of Hearing on Proposed License Revocation

Dear Ms. Derzis:

This is to advise you that pursuant to authority granted by §§ 22-21-25 and 41-22-19, *Code of Alabama 1975*, the Alabama Department of Public Health (hereinafter “the Department”) proposes to revoke New Woman All Women Health Care’s (hereinafter “New Woman All Women”) license to operate an abortion/reproductive health center in Birmingham, Alabama. The reason for the proposed license revocation is as follows:

As a result of a survey and complaint investigation, the Department has determined New Woman All Women to be in serious violation of the State Board of Health Rules for Abortion or Reproductive Health Centers, Chapter 420-5-1, *Alabama Administrative Code*. The attached Statement of Deficiencies further describes the factual bases for the deficiencies and cites the particular rules violated. These deficiencies constitute conduct and practices detrimental to the health and welfare of New Woman All Women’s patients, and demonstrate that New Woman All Women is unable or unwilling to maintain compliance with the applicable State Board of Health rules.

A hearing on the proposed license revocation is scheduled for 9:00 a.m., Thursday, April 19, 2012, in the offices of the Alabama Department of Public Health, RSA Tower, 201 Monroe Street, Suite 1540, Montgomery, Alabama. This hearing will be conducted by Dorothy Norwood, an independent hearing officer. The hearing will be conducted in accordance with the State Board of Health Rules for Hearing of Contested Cases, Chapter 420-1-3, *Alabama Administrative Code*.

Diane Derzis  
Page 2  
March 16, 2012

If you have any questions about the scheduling of the hearing or the hearing procedures, your attorney may contact the Department's legal counsel, Brian Hale, at 334-206-5209.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter T. Geary, Jr.", written in a cursive style.

Walter T. Geary, Jr., M.D.  
Director & Medical Director  
Bureau of Health Provider Standards

Enclosures

cc: Brian Hale  
Carolyn Duck  
Dorothy Norwood, Esq.

Copy sent same day by U.S. mail.

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
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L 000	<p><b>INITIAL COMMENTS</b></p> <p>Survey Introduction</p> <p>Department surveyors visited the licensed abortion or reproductive health clinic operated by New Woman All Women Health Care (" the Clinic "), located at 1001 17th Street South, Birmingham, Alabama to conduct an on-site annual survey and to conduct a complaint investigation.</p> <p>The complaint alleged that the Clinic had a breach in protocol on January 21, 2012, resulting in two patients being transferred out via ambulance to a local hospital. The complaint further alleged that the Clinic has no wheelchair/gurney access and that the current State Board of Health rules require corridors and doors to be wide enough for stretchers and that all facilities must comply with ANSI 117.1, which requires buildings and facilities to be accessible and to be usable by the physically handicapped.</p> <p>During the course of the Department's investigation into these allegations surveyors interviewed the Emergency Medical Service Personnel, all clinic staff working on the date of the incident, the physician and clinic nursing supervisor. The Department surveyors observed clinic staff provide patient care, took measurements of the clinic's corridors and the wheelchair and gurney used on the day of the incident and reviewed the medical records for all of the patients that received treatment on January 21, 2012. The clinic's video surveillance camera footage from the incident was reviewed as well.</p> <p>During the course of the interviews with the Emergency Medical Service Personnel it was</p>	L 000		
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Health Care Facilities

TITLE

(X6) DATE

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

STATE FORM

8899

3G1711

If continuation sheet 1 of 76

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 000	Continued From page 1  verified by the Department surveyors that at no point during their visit did they attempt to enter the Clinic with a gurney and were unable to do so. The width of the gurney measures at 25 inches and it has the ability to make sharp turns, if needed.  The surveyors measured the width of the corridors inside the clinic and they were 48 inches wide. There was more than enough clearance for the gurney to enter the building and make any turns necessary to get to the patient recovery room. There are four entrances and exits from the Clinic.  Review of the medical records for the two patients that were transported via ambulance on January 21, 2012 revealed they both received an unknown excessive amount of the drug Vasopressin. This was a medication error on the part of the Registered Nurse that the Clinic physician and Clinic Administrator identified. The medication error was identified and the Clinic called 911. Both of the patients were transported to a local hospital for evaluation and monitoring. The Registered Nurse that made the medication error has had disciplinary action taken against her by the Clinic. Medical records and interviews with clinical staff at the Clinic did not indicate the patients were in immediate danger. Medical record reviews from the local treating hospital did not indicate the patients were in immediate danger.  The onsite visit did result in citations.	L 000		
L 100	ALABAMA LICENSURE DEFICIENCIES	L 100		

Alabama Department of Public Health

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L 100	Continued From page 2  420-5-1-.02 Administration (1)(a) Governing Authority. Responsibility. The governing authority is the person or persons responsible for the management, control, and operation of the facility, including the appointment of persons to fill the minimum staffing requirements. The governing authority shall ensure that the facility is organized, equipped, staffed and administered in a manner to provide adequate care for each patient admitted.  The requirements of this rule were not met as evidenced by:  Based on interview, review of medical records and review of policy and procedures it was determined the governing body failed to ensure:  1. The clinic staff was properly trained to provide safe quality patient care. Refer to 420-5-1-.02(5)(a)(b) 2. The clinic had policies and procedures related to medication errors and the administration of medications, including administration of intravenous medications. Refer to 420-5-1-.03(7)(b) 3. Employee Identifiers # 5 and # 12, physicians, had documentation they were qualified to perform abortions in their personnel files. Refer to 420-5-1-.02(d)(2) 4. The physician documented in the medical record legibly. Refer to 420-5-1-.02(8)(b) 5. The recovery room medical assistant was documenting the condition of the patient prior to discharge. Refer to 420-5-1-.02(8)(a)(b)	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 3</p> <p>6. Complete and accurate documentation of the administration of medications given to patients was included in the medical record. Refer to 420-5-1-.02(8)(a)(b)</p> <p>7. The Registered Nurse (RN) administered and prepared medications accurately per a signed physician's order. Refer to 420-5-1-.03(7) (b)</p> <p>8. All patient used equipment had a record of routine inspection and maintenance. Refer to 420-5-1-.04 (5)(b)(c)</p> <p>9. The on-call nurse returned patient calls, documented the correct dates on the on-call reports, completed the on-call record and notified the physician of patient problems. Refer to 420-5-1-.03 (d)(e)</p> <p>Findings include:</p> <p>On 2/01/12 at 4:50 PM the surveyors reviewed the policy and procedure manual and could not find policies for medication errors or the administration of medications.</p> <p>On 2/03/12 at 10:50 AM, in an interview with Employee Identifier (EI) # 1, the Administrator, was asked if the clinic had policies and procedures for addressing medication errors. Employee Identifier # 1 stated, " No. " EI # 1 was asked if the clinic had a policy and procedure for the administration of medications and responded she did not think so. Employee Identifier # 1 did say the clinic had standing orders for the administration of certain medications and looked through the policy and procedure manual. No policy for the administration of medications was found by EI # 1.</p> <p>Employee Identifier # 1 was asked who was responsible for the overall management of the clinic and stated, "Me. The Governing Authority."</p>	L 100		
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Alabama Department of Public Health

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L 100	<p>Continued From page 4</p> <p>420-5-1-.02 Administration. (5) Personnel. (a) Each abortion clinic shall utilize personnel to provide services who have appropriate training and qualifications for the services that they provide. (b) Personnel Files. There shall be a personnel file for each employee which shall include:</p> <p>1. Job Description. A written job description that describes the duties and responsibilities, position title, authority, and qualifications for each employee.</p> <p>3. Orientation. There shall be a written orientation program to familiarize each new staff member with the facility and its policies and procedures, to include at a minimum, fire and disaster safety, medical emergencies, infection control, and patient confidentiality. There shall be documentation of completion of this orientation maintained in the personnel file.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on review of personnel files and interviews, it was determined that the Clinic failed to have the following information in the personnel files:</p> <p>1. A written job description for 3 of 7 employee files reviewed.</p> <p>2. Documentation of orientation for 5 of 7 employee files reviewed</p> <p>3. Documented patient care responsibilities</p>	L 100		
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Alabama Department of Public Health

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L 100	<p>Continued From page 5</p> <p>included in the employee's job description.</p> <p>This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>1. Employee Identifier (EI) # 3, the Registered Nurse who worked on 1/21/12 when two patients were transferred out of the Center by ambulance, with a date of hire of 10/28/11 failed to have a written job description and failed to have a comprehensive orientation completed for a Registered Nurse in her personnel folder.</p> <p>Employee Identifier # 3 worked independently providing direct patient care on 1/21/12 when an unknown excessive amount of the drug Vasopressin was administered to two patients, Medical Record (MR) # 2 and MR # 3. These two patients were transported out of the clinic via ambulance and sent to Hospital # 1 for evaluation and additional monitoring.</p> <p>On 2/01/12 at 10:45 AM, Employee Identifier # 2, the Registered Nurse Supervisor of the clinic was interviewed. During this interview EI # 2 was asked what her responsibilities were related to training the other nursing staff. Employee Identifier # 2 stated that EI # 3 worked with EI # 2 a " few days to see how we did things. She (EI # 3) followed me around, watched me counsel, I watched her counsel and watched her draw up meds." Employee Identifier # 2 stated that EI # 3 worked with her on clinic and non-clinic days. Employee Identifier # 2 was asked if she oriented EI # 3, the Registered Nurse that worked on 1/21/12, and she stated, " She worked with me." Employee Identifier # 2 was asked if anyone else in the clinic oriented EI # 3 and EI # 2 stated, "I don't know beyond myself."</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	Continued From page 6  On 2/02/12 at 4:35 PM, Employee Identifier # 2, the Registered Nurse Supervisor of the clinic was interviewed again. During this interview EI # 2 was asked if she ever observed EI # 3 draw up any medications. Employee Identifier # 2 stated she had observed EI # 3 draw up the drug Toradol. Employee Identifier # 2 was asked if she ever observed EI # 3 draw up the drug Vasopressin and EI # 2 responded, "No."  Employee Identifier # 2 had no documentation that EI # 3 had been checked off to function independently as the clinic Registered Nurse.  On 2/03/12 at 10:50 AM, Employee Identifier # 1, the Administrator, was interviewed and asked who at the clinic was responsible for all nursing services. Employee Identifier # 1 responded EI # 2, the Registered Nurse (RN) Supervisor. Employee Identifier # 1 was asked who at the clinic was responsible for the orientation of all nurses and EI # 1 responded EI # 2, the RN Supervisor. Employee Identifier # 1 was asked who at the clinic was responsible for assuring that EI # 3, the RN that worked on 1/21/12, was competent to work independently as a Registered Nurse and EI # 1 responded, "I would say (Employee Identifier # 2)." Employee Identifier # 1 was asked if the clinic had any documentation to show that EI # 3 was given an orientation and job skills check-off for her role as a registered nurse and EI # 1 responded, "I thought so." Employee Identifier # 1 reviewed the personnel file for EI # 3 and stated that EI # 3 had read the protocol manual. EI # 1 based this statement on a copy of a document that EI # 3 signed on 6/14/07, prior to EI # 3 obtaining her nursing license and functioning in the role of the clinic nurse. There was no job description and no	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	Continued From page 7  nursing skills check-off in Employee Identifier # 3's personnel file when reviewed by EI # 1 and the surveyors.  On 2/07/12 at 9:00 AM, Employee Identifier # 3, the Registered Nurse who worked independently on 1/21/12 when two patients were transferred out by ambulance after receiving an unknown excessive amount of the drug Vasopressin was interviewed. Employee Identifier # 3 was asked what type of orientation she received at New Woman All Women. Employee Identifier # 3 stated she trained with EI # 2, the RN Supervisor two times on clinic days. Employee Identifier # 3 stated no one else at the clinic oriented her. Employee Identifier # 3 stated she trained with EI # 1, the Administrator, in another clinic out of state for conducting patient counseling. Employee Identifier # 3 was asked if she had worked at the New Woman All Women clinic independently before on clinic days and stated, "Yes." Employee Identifier # 3 was asked what she was told about preparing medications for clinic and EI # 3 stated she misread the label and was drawing up the medications the wrong way. Employee Identifier # 3 stated, "I misread the mark on where to draw up to (the drug Vasopressin)." Employee Identifier # 3 stated the information is usually on the board, but she did not see it. Employee Identifier # 3 confirmed that EI # 2 had pre-drawn up syringes with the drug Vasopressin before the 1/21/12 clinic. Employee Identifier # 3 stated all of the pre-drawn up syringes of Vasopressin had been used and that was why she had to draw up more Vasopressin. Employee Identifier # 3 was asked how she would know what medication to give and the amount to give and EI # 3 responded she knew from when she trained with EI # 2, the RN Supervisor. Employee Identifier # 3 was asked when she became aware	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	<p>Continued From page 8</p> <p>she had made a medication error and she stated when Employee Identifier # 4, a clinic physician, came out and asked her if she was drawing up too much medication because this was the second patient that got sick (vomited) after he administered the paracervical block. At this point Employee Identifier # 1, the Administrator, was summoned by EI # 4 and it was discovered that EI # 3 was drawing up 2.0 cubic centimeters of Vasopressin instead of the 0.2 cubic centimeters.</p> <p>The clinic failed to ensure that Employee Identifier # 3, a newly graduated Registered Nurse, was fully oriented to complete her duties as a RN in the clinic. The clinic failed to have documentation of the job description and an employee skills check-off to show that EI # 3 knew the correct procedure for medication preparation.</p> <p>2. Employee Identifier # 2, Registered Nurse Supervisor, date of hire 7/9/10 failed to have a comprehensive orientation completed for a registered nurse in her personnel folder.</p> <p>Employee Identifier # 2 is the primary Registered Nurse responsible for patient care on most clinic days and takes the after hour calls for the Clinic.</p> <p>EI # 2 had a job description in the personnel file for Nursing Supervisor and Qualified Counselor. The Nursing Supervisor job description included Responsibilities as follows:</p> <ol style="list-style-type: none"> <li>1. Act as charge nurse supervising medical staff and patient areas.</li> <li>4. Provide adequate orientation for new medical personnel.</li> </ol> <p>EI # 2 failed to adequately orient EI # 3, the Registered Nurse who worked independently on</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	Continued From page 9  1/21/12 when an unknown excessive amount of the drug Vasopressin was administered to two patients that resulted in their transport to Hospital # 1 for evaluation and further monitoring, as directed in the job description of the Registered Nurse Supervisor.  Refer to the above interviews with Employee Identifiers # 1, # 2 and # 3 under example 1.  3. Employee Identifier # 7, Medical Assistant in the procedure room had the following job descriptions in her personnel file: Sterile Technician Laboratory Assistant Receptionist Medical Staff Procedure Room.  The above job descriptions are not dated or signed to indicate which position EI # 7 worked.  The job description for the medical staff procedure room includes the following responsibilities: 1. Act as physician's assistant and patient support person 2. Be proficient with sterile technique 3. Maintain an orderly environment in the procedure room 4. Has all equipment available for the physician, including any emergency drugs and equipment 5. Per physician instruction, assist in any emergency that may arise and get help immediately 6. Chart pertinent patient information 7. Complete daily inventory of procedure room supplies and keep room stocked 8. Clean exam/procedure room at end of each clinic day 9. Cross train for recovery and other patient care	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 10</p> <p>areas</p> <p>10. Other duties as assigned by the Nursing Supervisor or Clinic Administrator.</p> <p>EI # 7 has been administering injections of Rhogam and Methergine in the procedure room per an interview with EI # 1, Administrator on 2/3/12 at 8:55 AM. This skill is not included in her responsibilities and there is no documentation EI # 7 has been observed or checked-off by the Registered Nurse Supervisor to administer patient injections.</p> <p>4. Employee Identifier # 6, the Recovery Room Medical Assistant had a date of hire of 3/12/09.</p> <p>The job description in the personnel folder is for the recovery room nurse. The word nurse has been marked through with a black marker as well as the qualifications of a current Alabama Nursing license either RN (Registered Nurse) or LPN (Licensed Practical Nurse) and one year of nursing experience preferred.</p> <p>The responsibilities on the form have not been altered and include items only a licensed individual may complete, for example: Under physician standing orders provides and/or administers medications. Cross trains in procedure room, ultrasound, follow-up exams, counseling and wherever appropriate.</p> <p>The clinic failed to have a job description for duties EI # 6 would perform as the recovery room medical assistant.</p> <p>5. Employee Identifier # 8, Medical Assistant, date of hire 2/7/11 failed to have a completed orientation form in the personnel file. The form in</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 11</p> <p>the file was signed and dated 2/7/11, the date of hire, but not co-signed by the administrator. An addendum form in the file regarding the Woman's Right to Know Act was blank and the job descriptions for Medical Staff procedure room, Laboratory Assistant and Sterile Technician and Ancillary Medical Support was in the file with no name and no date.</p> <p>6. Employee Identifier # 11, a Registered Nurse, date of hire 9/24/10, failed to have a comprehensive orientation completed for a registered nurse in her personnel folder.</p> <p>The new employee training record in the personnel folder with her name has no other information, no dates or signatures for when said training occurred.</p> <p>7. Employee Identifier # 10, Receptionist/ Front Desk, date of rehire per the employee was 8/2011. The date of hire in the file was 6/2011.</p> <p>A review of the personnel file provided to the surveyor 1/31/12 revealed an application dated 6/9/06. The only item in the file dated 2011 to 2012 was an evaluation form that was dated 1/4/12, the date of EI # 10's evaluation.</p> <p>There was not a job description in the personnel file for EI # 10.</p> <p>The above rule violation is a repeat deficiency from the July 27, 2011, recertification survey.</p> <p>420-5-1-.02 Administration.</p> <p>(d) Physician Qualifications.</p> <p>1. All physicians performing abortions at the</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	Continued From page 12  facility shall be qualified through training and experience in performing abortions and recognizing and managing complications.  2. Before a physician performs any procedure at the facility, the Medical Director shall credential each physician on the basis of his or her qualifications, and a file shall be kept at the facility detailing the qualifications and experience of each physician. This file must, at a minimum, include: i) proof of licensure in Alabama and all other states in which the physician is or has ever been licensed, ii) a record of any adverse actions ever taken against the physician's license in Alabama or any other state, iii) a current resume, iv) a record of staff privileges at any accredited hospital in the United States, v) a report from the National Practitioner Databank and vi) proof of the nature of the physician's training and experience. This file shall be kept current. The medical director shall review the physician's qualifications at the time the physician is hired and at least yearly thereafter. This review shall include direct observation of the physician's clinical skills, and the results of this review shall be placed in the physician's file. All physicians performing abortions at a facility as of February 1, 2007 shall be credentialed within thirty days of this rule becoming effective.  This rule is not met as evidenced by:  Based on a review of the physician's credentialing file and an interview it was determined that two of two physicians performing procedures at this clinic had not been observed performing abortion procedures by the clinic Medical Director. This had the potential to affect all patients served.  Findings include:	L 100		



Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  03/01/2012
NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR			STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	<p>Continued From page 13</p> <p>On 1/31/12 at 12:30 PM, the file of Employee Identifier # 5, a clinic physician, was reviewed by the surveyor. The only current items in the file were a medical license and a controlled substance form both with an expiration date of 12/31/12.</p> <p>The file failed to include:</p> <ul style="list-style-type: none"> <li>i) proof of licensure in all other states in which the physician is or has ever been licensed,</li> <li>ii) a record of any adverse actions ever taken against the physician's license in Alabama or any other state,</li> <li>iii) a current resume,</li> <li>iv) a record of staff privileges at any accredited hospital in the United States,</li> <li>v) a report from the National Practitioner Databank and</li> <li>vi) proof of the nature of the physician's training and experience.</li> </ul> <p>On 2/02/12 EI # 5 was observed by the surveyor to perform surgical abortion procedures.</p> <p>In an interview with Employee Identifier # 1, the Administrator, on 1/31/12 at 1:00 PM, she confirmed there was no documentation of an observation by the Medical Director of EI # 5 performing medical or surgical abortions and the physician's file was not complete.</p> <p>The recovery room log book was reviewed by the surveyors on 2/28/12. Employee Identifier #12 had performed abortion procedures on 2/06/12, 2/13/12 and 2/27/12.</p> <p>On 2/29/12 at 1:45 PM, the file of Employee Identifier # 12, a clinic physician, was reviewed by the surveyor. The only current items in the file</p>	L 100			

Alabama Department of Public Health

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L 100	<p>Continued From page 14</p> <p>were a medical license and a controlled substance form both with an expiration date of 12/31/12.</p> <p>The file failed to include:</p> <ul style="list-style-type: none"> <li>i) proof of licensure in all other states in which the physician is or has ever been licensed,</li> <li>ii) a record of any adverse actions ever taken against the physician's license in Alabama or any other state,</li> <li>iii) a current resume,</li> <li>iv) a record of staff privileges at any accredited hospital in the United States, and</li> <li>v) a report from the National Practitioner Databank.</li> </ul> <p>420-5-1-.03 Patient Care. (2) Policies and Procedures. The facility shall develop and follow detailed written policies and procedures that are consistent with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice.</p> <p>This rule is not met as evidenced by:</p> <p>Based on review of the clinic policy and procedure manual, an interview and the Alabama Board of Nursing Administration and Safety standards it was determined the clinic failed to have a policy for addressing medication errors and a policy for medication administration. This had the potential to affect all patients served by this clinic.</p> <p>Findings include:</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	<p>Continued From page 15</p> <p>A review of the policy and procedure manual was conducted by the surveyors on 2/01/12. The surveyors were unable to locate policies and procedures that addressed medication errors and medication administration.</p> <p>On 2/03/12 at 10:50 AM, Employee Identifier (EI) # 1, the Administrator, was interviewed and asked if the clinic had policies and procedures for addressing medication errors and medication administration. Employee Identifier # 1 verified there was no policy for addressing medication errors. Employee Identifier # 1 reviewed the policy and procedure manual for a policy on medication administration and found standing orders for certain medications, but not a policy on the administration of medications by clinic staff.</p> <p>The Alabama Board of Nursing Medication Administration and Safety Rule, 610-X-6-.07, provides:</p> <p>(1) The registered nurse or licensed practical nurse shall have applied knowledge of medication administration and safety, including but not limited to:</p> <p>(l) Calculation of drug dosages.</p> <p>(3) The registered nurse or licensed practical nurse shall exhibit skills when administering medications including but not limited to:</p> <p>(d) Measuring medication dosages. (e) Math calculations. (f) Routes of administration.</p> <p>(4) Documentation of medication administration shall comply with the principles of documentation and include safety precautions of medication administration, controlled drug records per federal and state law, and facility policy.</p>	L 100			

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	Continued From page 16  According to Potter and Perry, Fundamentals of Nursing, 6th Edition Copyright 2005, Mosby, Inc.  "Medication administration is an essential part of nursing practice, which requires a sound knowledge base in order for medications to be administered safely. Nurses must be prepared to administer medications using a variety of routes."  The clinic failed to develop and implement policies and procedures for all current standards of nursing care related to medications.  420-5-1-.03(7)(b) Pharmaceutical Services. Administering, Dispensing, and Prescribing Drugs and Medicines. Only physicians and properly credentialed nurse practitioners and physician assistants may prescribe or order medications. Nurse practitioners and physician assistants may prescribe only those medications described in their individual collaborative agreements. Except for standing orders as permitted below, medications shall be prescribed for patients of the facility after an appropriate medical evaluation. Oral and telephone orders shall be received only by a physician, nurse practitioner, physician assistant, registered nurse, licensed practical nurse, or a pharmacist. Oral and telephone orders shall be immediately documented in writing by the individual receiving the order. Prescribing, dispensing, and administration of medications shall meet all standards required by law and by regulations of the State Board of Medical Examiners and the State Board of Pharmacy.  The requirements of this rule were not met as evidenced by:	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	<p>Continued From page 17</p> <p>Based on review of the patient records, interview and review of medication administration documentation it was determined:</p> <ol style="list-style-type: none"> <li>1. Medication preparation by the Registered Nurse (RN) was an inaccurate dose</li> <li>2. Pitocin was administered intravenously to a patient and the RN failed to document and monitor the patient per manufacturer recommendations</li> <li>3. Medication prepared by the RN failed to have a signed physician's order for the nurse to follow prior to the preparation of the medication.</li> <li>4. The RN failed to administer a medication as ordered.</li> </ol> <p>This had the potential to affect all patients served at the clinic.</p> <p>Findings include:</p> <p>According to Potter and Perry, Fundamentals of Nursing, 6th Edition Copyright 2005, Mosby, Inc.</p> <p>"A medication order is required for any medication to be administered by a nurse...If the medication order is incomplete, the nurse should inform the prescriber and ensure completeness before carrying out any medication order."</p> <p>"A medication order is incomplete unless it has the following parts: client's full name, date that the order is written, medication name, dose, route of administration, time and frequency of administration, and signature of physician, nurse practitioner, or physician assistant."</p>	L 100		
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Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	Continued From page 18  Pitocin Official FDA information: Revised 12/2009 JHP Pharmaceutical LLC  "Indications and Usage for Pitocin- Antepartum: 3. As adjunctive therapy in the management of incomplete or inevitable abortion...  "Precautions/ General: All patients receiving intravenous Oxytocin (Pitocin) must be under continuous observation by trained personnel who have a thorough knowledge of the drug and are qualified to identify complications... Except in unusual circumstance, Oxytocin (Pitocin) should not be administered in the following conditions...any condition in which there is a predisposition for uterine rupture, such as previous major surgery on the cervix or uterus including cesarean section...  "Pitocin Dosage and Administration A. Induction or Stimulation of Labor Intravenous infusion (drip method) is the only acceptable method of parenteral administration of Pitocin for the induction or stimulation of labor. Accurate control of the rate of infusion is essential and is best accomplished by an infusion pump. C. Treatment of Incomplete, Inevitable or Elective Abortion Intravenous infusion of 10 units of Pitocin added to 500 ml (milliliter) of a physiologic saline solution or 5% dextrose-in-water solution may help the uterus contract after a suction or sharp curettage for an incomplete, inevitable or elective abortion. ...the injection-to-abortion time may be shortened by infusion of Pitocin at the rate of 10 to 20 milliunits (20 to 40 drops) per minute."	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 19</p> <p>1. Medical Record (MR) # 1 presented to the clinic on 11/7/11 for her first visit. The patient's blood pressure on this visit was 148/93 and her weight of 230 pounds was recorded.</p> <p>The patient's pregnancy history included two cesarean sections, one in 1995 and the second in 1997. The medical history included surgery 11/2010 for removal of the right ovary. The history also noted that she was a diabetic. The ultrasound performed on the first day established a gestational age of 16 weeks 2 days.</p> <p>Medical Record # 1 returned 11/11/11 for a surgical procedure. The physician, Employee Identifier (EI) # 4, documented the use of 20 ml of 1% Xylocaine plus 5 units of Vasopressin as a paracervical block. The procedure was attempted with difficulty and EI # 4 documented on the surgical procedure note to see written documentation below. The physician documented at 1:30 PM unreadable information, it was written over pre-printed lines on the paper for recovery room documentation. EI # 4 documented the following information that was legible: "(P) plan, will give Pit (Pitocin) 10 units/ 500 ml of NS (normal saline) then reassess in 60 minutes to see if contractions will bring down."</p> <p>EI # 2, the RN Supervisor documented, "1340 (1:40 PM) IV (intravenous) 20 g (gauge) started LAC (left antecubital) 500 cc (cubic centimeters) NS (Normal Saline) hung with 10 units Pitocin running at 75 cc per hr (hour). Patient tolerated without distress."</p> <p>EI # 4, the physician documented, "1430 (2:30 PM) able to complete D&amp;E (dilation &amp; evacuation)</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 20 with forceps/suction."</p> <p>Medical Record # 1 documented on her comment sheet following her surgical procedure on 11/11/11, "I wish it could have been more private... I needed to be more relaxed."</p> <p>In an interview on 2/3/12 at 9:35 AM with EI # 1, the Administrator, it was confirmed the patient did not have any documented monitoring while the Pitocin was administered. EI # 1 was asked if the clinic had a policy for administration of IV Pitocin and she stated, "No."</p> <p>On 2/10/12 at 9:52 AM, Employee Identifier # 4, the Physician, was interviewed by phone and asked about the monitoring of this patient that received IV Pitocin and what, as the physician would he expect from staff. Employee Identifier # 4 responded MR # 1 was taken to the recovery room and should have had her blood pressure checked. EI # 4 went on to say the patient was not actively bleeding so the type of monitoring would be different than one of a patient that was bleeding.</p> <p>Mosbys Nursing Drug Reference 2008, 21st Edition list the following items as nursing considerations for the nurse who is administering Pitocin to assess for:</p> <ol style="list-style-type: none"> <li>1. Blood Pressure</li> <li>2. Pulse</li> <li>3. Watch for changes that may indicate hemmorrhage</li> <li>4. Respiratory rate, rhythm, depth; notify prescriber of abnormalities</li> <li>5. Length, intensity, duration of contractions; notify prescriber of contractions lasting over one minute...</li> <li>6. Signs and symptoms of water intoxication;</li> </ol>	L 100		
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Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 21</p> <p>confusion, anuria, drowsiness, headache.</p> <p>There was no documentation of where the patient was located while she received the IV Pitocin. There was no documentation how the rate of the infusion of Pitocin was controlled. There was no documentation of how much of the IV Pitocin was infused, no monitoring of the patient's vital signs, contractions, bleeding, signs and symptoms of water intoxication or pain level during and after the infusion.</p> <p>2. Medical Record # 2 presented to the clinic 1/20/12 for her first visit, the medical history included an allergy to Latex.</p> <p>Medical Record # 2 returned on 1/21/12 for a surgical procedure. The physician, EI # 4 documented the use of 20 ml of 1% Xylocaine plus 5 units of Vasopressin as a paracervical block. EI # 4 documented, "the patient tolerated the procedure not well, after paracervical block vomited ? secondary to (unable to read documentation written across lines on the form). Vital stable O2 (oxygen) sat (saturation) 95%. Has latex allergy found out after (unable to read documentation written across lines on the form)."</p> <p>The recovery room documentation at 9:15 AM revealed the blood pressure was 136/118, a second blood pressure documented with no time by the entry was recorded as 136/118.</p> <p>EI # 4 documented on the bottom of the procedure form, "2nd( second) similar case nurse was drawing up more than 0.2 ml (Vasopressin) unsure how much." The patient was transferred to Hospital # 1 by emergency services for observation.</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 22</p> <p>Employee Identifier # 3, the Registered Nurse working on 1/21/12, was mixing Vasopressin with 1% Xylocaine for the physician's use in the paracervical block. EI # 3 had drawn up the Xylocaine in the 20 ml syringe and then drew up the Vasopressin according to a phone interview with EI # 4 on 2/10/12 at 9:52 AM.</p> <p>The most current typed "drawing up medication" piece of paper hanging on the wall at the nurse's station instructs the nurse to draw up Lidocaine 10cc to 20cc using sterile technique and Vasopressin 0.2 cc is drawn up in a tuberculin syringe using sterile technique. The most current process is not signed by the physician as an order.</p> <p>A review of the Governing Body meeting minutes dated 5/21/11 documented the protocol manual was, " reviewed and deemed acceptable. The use of Vasopressin on every patient was discussed and further dialogue will continue amongst the physicians. " The minutes were signed by the Medical Director.</p> <p>A review of the current clinic pre-operative medication protocol lists Lidocaine 1% 10-20 cc injected paracervically by MD (Medical Doctor). There is no listing of the drug Vasopressin on the protocol. The protocol is signed by the Medical Director.</p> <p>On 2/10/12 at 9:52 AM, Employee Identifier # 4, the physician who performed procedures on 1/21/12, was interviewed by phone and asked if the Registered Nurses at the clinic usually drew up the Lidocaine and Vasopressin for the physicians. Employee Identifier # 4 responded that he and the Medical Director late last year began using Vasopressin with all patients and the</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	<p>Continued From page 23</p> <p>protocol was changed. EI # 4 did not remember when the protocol was changed, but that the nurses would draw up the medications correctly or the physician would draw up the medication in the procedure room. EI # 4 also stated that the nurses had been mixing the two medications in a large syringe for the past 3 to 4 months.</p> <p>3. Medical Record # 3 presented to the clinic on 1/20/12 for her first visit.</p> <p>Medical Record # 3 returned 1/21/12 for a surgical procedure. The physician, EI # 4 documented the use of 20 ml of 1% Xylocaine plus 5 units of Vasopressin as a paracervical block. EI # 4 documented, "the patient tolerated the procedure not well, vomited, vitals okay, suspect secondary &gt; (greater than) dose Vasopressin. Nurse inadvertently drew up more than 0.2 ml, unsure how much will discuss with Medical Director of clinic. *Patient to be transferred to ED (Emergency Department) for observation."</p> <p>On 2/07/12 at 9:00 AM, Employee Identifier # 3, the Registered Nurse who worked on 1/21/12 and administered the wrong dose of the medication Vasopressin, was interviewed. Employee Identifier # 3 was asked to explain what happened on 1/21/12 and during her statement she stated she drew up too much of the Vasopressin into the syringe with the Lidocaine.</p> <p>Documented on the bottom of the procedure record dated 1/21/12 was: Methergine 0.2 mg (milligrams) IM (intramuscular) right at 9:52 AM. During an interview on 2/07/12 at 9:00 AM, EI # 3 the RN confirmed she did not administer the injection and was written up by EI # 1, the Administrator. EI # 1 placed the RN, EI # 3 on 90</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	<p>Continued From page 24</p> <p>days probation on 1/26/12 for: " a. Mistakenly drawing up more than 0.2 cc of Vasopressin which resulted in two patients being overdosed and then hospitalized. b. Failing to give an injection of Methergine which was ordered by the MD (medical doctor)."</p> <p>The clinic failed to have an approved standing order or current protocol signed by the Medical Director for the use of the drug Vasopressin. The clinic failed to assure that EI # 3 was competent to work independently on clinic days for medication administration. The clinic failed to have policies and procedures for the administration of medications and the use of IV Pitocin.</p> <p>The above rule violation is a repeat deficiency from the July 27, 2011, recertification survey.</p> <p>420-5-1-.02 Administration. (8) Records and Reports. (a) Medical Records to be kept. An abortion facility shall keep adequate records, including procedure schedules, histories, results of examinations, nurses' notes, records of tests performed and all forms required by law. (b) Authentication of Records. All records shall be legibly written, dated, and signed in an indelible manner with the identity of the writer indicated. (c) Filing of Records. All patient medical records shall be filed in a manner which will facilitate easy retrieval of any individual's record.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on observation, review of medical records, interviews, Alabama Board of Medical Examiners and Medical Licensure Commission Rule and the</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 25</p> <p>Alabama Board of Nursing Standards of Practice it was determined the clinic failed to ensure:</p> <ol style="list-style-type: none"> <li>1. Medical record documentation was legible.</li> <li>2. Medical record documentation was accurate for dates of ultrasound images, complete expiration dates provided for lot numbers of drugs and accurate dates for phone calls received by the on-call nurse.</li> <li>3. Medication additions and changes to pre-printed medication dosage amounts were initialed and dated by the licensed practitioner who made said changes.</li> <li>4. Advance documentation of patient care had not been documented prior to the care being rendered by clinic staff.</li> <li>5. Late entries made in the medical record were documented as late entries with the initials of the individual who made the late entry and the date the late entry was made, at a minimum.</li> <li>6. Medical records contained documentation of pelvic examinations that were to be done for the medical procedures.</li> <li>7. Medical records were filed in an organized manner, easily retrievable and complete.</li> </ol> <p>This had the potential to affect all patients served by this abortion clinic.</p> <p>Findings include:</p> <p>Alabama Board of Medical Examiners, Medical Licensure Commission Rule 545-X-4-.09, Minimum Standards for Medical Records, provides:</p> <p>"Adequate records are necessary to ensure continuity of care, not only by the physician who maintains a particular record, but by other medical professionals. Therefore, every physician licensed to practice medicine in Alabama shall</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 26</p> <p>maintain for each of his or her patients, a record which, in order to meet the minimum standard for medical records, shall:</p> <p>(1) be legible, and written in the English language;</p> <p>(4) indicate the date any professional service was provided;</p> <p>(5) contain pertinent information concerning the patient's condition;</p> <p>(6) reflect examinations, vital signs, and tests obtained, performed, or ordered and the findings or results of each;</p> <p>(8) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;</p> <p>(9) reflect the treatment performed or recommended;</p> <p>(10) document the patient's progress during the course of treatment;"</p> <p>Alabama Board of Medical Examiners, Medical Licensure Commission Rule 545-X-4-.06, Unprofessional Conduct, provides:</p> <p>"Unprofessional conduct shall mean the commission or omission of any act that is detrimental or harmful to the patient of the physician or detrimental or harmful to the health, safety, and welfare of the public, and which violates the high standards of honesty, diligence, prudence and ethical integrity demanded from Alabama. Furthermore, without limiting the definition of unprofessional conduct in any manner, the Commission sets out the below as examples of unprofessional conduct:</p> <p>(11) Failing or refusing to maintain adequate records on a patient or patients."</p> <p>Alabama Board of Nursing, Standards of Practice Rule 610-X-6-.06, Documentation Standards,</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	<p>Continued From page 27</p> <p>provides:</p> <p>(2) Documentation of nursing care shall be:</p> <p>(d) Timely.</p> <p>(i) Charted at the time or after the care, including medications, is provided. Charting prior to care being provided, including medications, violates principles of documentation.</p> <p>(ii) Documentation of patient care that is not in the sequence of the time the care was provided shall be recorded as a "late entry" including a date and time the late entry was made as well as the date and time the care was provided.</p> <p>(e) A mistaken entry in the record by a licensed nurse shall be corrected by a method that does not obliterate, white-out, or destroy the entry.</p> <p>(f) Corrections to a record by a licensed nurse shall have the name or initials of the individual making the correction.</p> <p>Medical Record findings:</p> <p>The Mifeprex Authorization Consent form stated under item number seven, "I agree to a vaginal and/or abdominal ultrasound, which is required to date my pregnancy accurately. I also understand that the ultrasound is one of many diagnostic tools used during the course of my medical abortion, and that the ultimate determination of my length of pregnancy will rely on the physician's final diagnosis. I also understand that I will have a pelvic exam today by the physician that will assist in this diagnosis." A review of medical records for 3 of 9 patients that had a Mifeprex Authorization Consent form revealed there was no documentation the physician performed a pelvic examination.</p> <p>1. Medical Record (MR) # 1, presented to the clinic on 11/7/11 for her first visit. The patient's</p>	L 100		
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Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 28</p> <p>blood pressure on this visit was 148/93 and her weight of 230 pounds recorded.</p> <p>The ultrasound performed on the first day established a gestation of 16 weeks 2 days.</p> <p>MR # 1 returned 11/11/11 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>The procedure was attempted with difficulty and EI # 4 documented on the surgical procedure note to see written documentation below. The physician documented at 1:30 PM unreadable information, it was written over pre-printed lines on the paper for recovery room documentation.</p> <p>The recovery room vital signs were documented on a separate sheet of paper but the medical assistant failed to document the condition of the patient on discharge, the discharge instructions and medications provided to the patient.</p> <p>Methergine 0.02 mg (milligrams) given IM (intramuscular) at 3:40 PM was documented but, the signature of who administered the injection was not legible.</p> <p>In an interview with Employee Identifier (EI) # 1, the Administrator at 9:35 AM on 2/3/12, confirmed the writing was not legible and no signature with the identity of the writer was available on the injection area of the note.</p> <p>2. Medical Record (MR) # 2 had a surgical</p>	L 100		



Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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L 100	<p>Continued From page 29</p> <p>procedure on 1/21/12. This patient's surgical procedure portion of her medical record was forwarded to the Department prior to the arrival of Department surveyors for the on-site investigation. The surgical procedure form sent to the Department failed to document a completed date for the day 1 visit, no year was listed. The form documented on day 2 Employee Identifier (EI) # 2's name as the Registered Nurse (RN). There was no fetal age in weeks documented in the surgical procedure section of the note that was to be completed by the physician.</p> <p>During the on-site investigation on 1/31/12, EI # 1 the Administrator, gave the surveyors MR # 2 for review. During the review of the medical record on-site the surveyors identified the addition of Employee Identifier # 3's name on the form as the RN on day 2 and the number "10" had been added to the fetal age in weeks section of the surgical procedure note.</p> <p>The medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication. EI # 4, the physician, wrote all over the bottom part of the procedure form, which was not legible as it was written on top of pre-printed information. The surgical procedure had a time of 10:10 AM documented. The time the patient entered the recovery room was documented as 9:15 AM. A blood pressure was recorded at 9:15 AM as 136/118 and a second blood pressure of 136/118 was written with no time. The patient discharge note was documented by the medical assistant in the recovery room, EI # 6, at 9:45 AM,</p>	L 100		
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Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
L 100	<p>Continued From page 30</p> <p>"Ambulatory d/ced (discharged) in no distress." The patient was actually transferred by ambulance to a local hospital at 10:33 AM, per the ambulance run report, for an unknown excessive dose of Vasopressin.</p> <p>In an interview on 2/03/12 at 10:30 AM, EI # 1, the Administrator, confirmed there had been additional documentation added to the patient's surgical procedure report note that was sent to the Department. EI # 1 stated she instructed EI # 3, the RN, to sign the form since she was the RN on duty and EI # 1 also stated she added the number "10" to the blank section for fetal weeks. EI # 1 confirmed the recovery room assistant, EI # 6, documented the time in and out on the form and discharge condition prior to the patient leaving the clinic.</p> <p>On 2/01/12 at 10:45 AM, Employee Identifier # 2, the RN Supervisor, was interviewed and confirmed she did not work on day 2, 1/21/12. EI # 3, a RN, worked this day.</p> <p>3. MR # 3 presented to the clinic 1/20/12 for her first visit.</p> <p>MR # 3 returned on 1/21/12 for a surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>The physician, EI # 4 continued to write all over the side and bottom part of the procedure form, which was not legible as it was written on top of pre-printed information.</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR	STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205
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L 100	<p>Continued From page 31</p> <p>The patient entered the recovery room at 9:50 AM. A blood pressure was recorded at 9:50 AM and 10:05 AM, a third time entry of 10:35 AM was written, but no blood pressure results were documented. The patient discharge was documented by the medical assistant with no time, "Ambulatory d/ced (discharged) in no distress." The patient was transferred by ambulance to a local hospital at 10:40 AM for an unknown excessive dose of the drug Vasopressin.</p> <p>The only nurse signature on the form for 1/21/12 was by EI # 2, Registered Nurse Supervisor who did not work on 1/21/12. There were no initials to document who had administered the pre-op medications at 9:20 AM.</p> <p>Documented at the bottom of the procedure form was: Methergine 0.02 mg (milligrams) IM (intramuscular) right at 9:52 AM. On 2/07/12 at 9:00 AM, during an interview EI # 3, the RN confirmed she did not administer the injection. EI # 3 was written up by EI # 1, Administrator.</p> <p>EI # 1 placed the RN, EI # 3, on 90 days probation on 1/26/12 for: "a. Mistakenly drawing up more than 0.2 cc of Vasopressin which resulted in two patients being overdosed and then hospitalized. b. Failing to give an injection of Methergine which was ordered by the MD (medical doctor)."</p> <p>A review of the medical record onsite on 2/1/12 revealed a second nurse, Employee Identifier # 3, had signed the form that she had administered the medications. EI # 1 stated on 2/2/12 at 4:15 PM that she had asked the nurse, EI # 3, to go</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 32</p> <p>back and sign the form after it was sent to the surveyors on 1/26/12. EI # 1 confirmed the recovery room assistant documented the time in and out on the form and discharge condition prior to the patient leaving the clinic.</p> <p>The physician, EI # 4 documented in the surgical procedure section of the form an ultrasound was completed and viewed by the patient. On review of the ultrasound pictures in the medical record there were three ultrasound pictures dated 1/20/12 between 10:51 AM and 10:54 AM. Another ultrasound picture in the medical record was dated 1/22/12 at 00:44:39.</p> <p>In an interview with Employee Identifier (EI) # 1, Administrator on 2/2/12 at 4:15 PM, EI #1 confirmed it was true none of the ultrasounds were dated 1/21/12, the date of the surgical procedure by the physician.</p> <p>4. MR # 4 presented to the clinic on 1/17/12 for her first visit. The patient's blood pressure, documented on a separate form dated 1/18/12, was 130/98 and her pulse was 111. The hematocrit was 32 with a note written by EI # 2, Registered Nurse Supervisor, "Over the counter iron." and initialed by EI # 2 out to the side of form.</p> <p>The patient returned 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even</p>	L 100			

Alabama Department of Public Health

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L 100	Continued From page 33  though she was not working 1/21/12. EI # 3, Registered Nurse signed under EI# 2's name as the nurse for 1/21/12. The physician documented a time which was not legible on the surgical procedure section of the form.  The recovery room section documents the patient was present from 8:15 AM until 9:45 AM. The condition of the patient and her discharge was not documented as the vital signs for 9:15 AM through 9:45 AM were written over the notes section of the form where the medical assistant in the recovery room writes condition and mode of discharge.  In an interview 2/2/12 at 4:15 PM with EI # 1, the Administrator she confirmed it was difficult to read the form. When asked why EI # 2 signed the form when she was off she stated, "To make it easier on herself."  5. MR # 5 presented to the clinic on 1/10/12 for her first visit.  MR # 5 returned 1/21/12 for a surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.  EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. A second Registered Nurse initialed by the pre-op medications as having administered them but no signature was present on the form to identify the licensed nurse.  The physician documented a time which was not	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 34</p> <p>legible on the surgical procedure section of the form.</p> <p>In an interview 2/3/12 at 8:55 AM with EI # 1, Administrator she confirmed she could not tell what time the procedure was completed. EI # 1 stated that she thought it was 8:05 AM as that was the time the patient went to the recovery room.</p> <p>6. MR # 6 presented to the clinic on 1/17/12 for her first visit.</p> <p>MR # 6 returned on 1/21/12 for a surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. A second Registered Nurse initialed by the pre-op medications as having administered them but no signature was present on the form to identify the licensed nurse.</p> <p>The form indicated MR # 6 received Rhogam and Methergine 0.02 mg IM. The form does not document who administered the injections, the Methergine has a time of 7:20 AM with no signature and the Rhogam appears to have a time of 9:21 AM written over to be 7:21 AM.</p> <p>In an interview 2/3/12 at 8:55 AM with EI # 1, the Administrator, she confirmed EI # 7 administered the injections. EI # 7 was the medical assistant working in the room with the physician during the</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 35</p> <p>procedure for MR # 6. EI # 1 stated, "She has been giving injections for years."</p> <p>7. MR # 7 presented to the clinic on 1/17/12 for her first visit.</p> <p>The patient returned on 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under the first nurse for 1/21/12. The physician documented a time which was not legible on the surgical procedure section of the form.</p> <p>The recovery room section documents the patient was present from 8:55 AM until 9:05 AM. The condition of the patient and her discharge was not legible.</p> <p>In an interview 2/3/12 at 8:55 AM with EI # 1, the Administrator, confirmed she could not tell what time the procedure was completed. EI # 1 stated that she thought it was 8:55 AM as that was the time the patient went to the recovery room. EI # 1 stated that she thought EI # 6 had documented the patient left the recovery room at 9:25 AM and confirmed it looked like 9:05 AM.</p> <p>8. MR # 8 presented to the clinic 1/12/12 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 36</p> <p>procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under the first nurse for 1/21/12.</p> <p>The form indicated MR # 8 received Rhogam IM. The form does not document who administered the injections, the Rhogam has a time of 7:32 AM with no signature.</p> <p>In an interview 2/3/12 at 8:55 AM with EI # 1, the Administrator, she confirmed EI # 7 administered the injections. EI # 7 was the medical assistant working in the room with the physician during the procedure for MR # 8. EI # 1 stated, "She has been giving injections for years."</p> <p>9. MR # 9 presented to the clinic 1/10/12 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under EI# 2's name as</p>	L 100		
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Alabama Department of Public Health

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L 100	<p>Continued From page 37</p> <p>the nurse for 1/21/12. The physician documented a time which was not legible on the surgical procedure section of the form.</p> <p>In an interview 2/3/12 at 9:15 AM with EI # 1, Administrator she confirmed she could not tell what time the procedure was completed. EI # 1 stated that she thought it was 8:45 AM as that was the time the patient went to the recovery room.</p> <p>10. MR # 10 presented to the clinic on 1/5/12 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under EI# 2's name as the nurse for 1/21/12. The physician documented a time which was not legible on the surgical procedure section of the form.</p> <p>The patient was pre-medicated with Ibuprofen 800 mg and Diazepam 10 mg by mouth at 7:00 AM. The patient had a documented gestational age of the fetus of 11 weeks. According to the recovery room record and EI # 1 the patient was through with her procedure at 7:35 AM.</p> <p>In an interview 2/3/12 at 9:15 AM with EI # 1, Administrator she confirmed she could not tell what time the procedure was completed. EI # 1</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 38</p> <p>stated that she thought it was 7:35 AM as that was the time the patient went to the recovery room.</p> <p>The time documented the patient entered the recovery room was 8:35 AM. Written over the 8:35 AM time was 7:35 AM. The discharge time was documented as 8:05 AM.</p> <p>11. MR # 12 presented to the clinic on 1/17/12 for her first visit.</p> <p>The patient returned 1/21/12 for the medical abortion procedure. EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12.</p> <p>The RU 486 Alternative Protocol section of the note documented Misoprostol 800 mcg (micrograms). The dosage amount of 800 mcg had been lined through and 1600 mcg was written in. There were no initials by this change in dosage amount to indicate who made the dosage change.</p> <p>The physician documented a time which was not legible on the medical procedure section of the form.</p> <p>The discharge note section from the recovery room is not legible.</p> <p>In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to read the form. When asked why EI # 2 signed the form when she was off she stated, "To make it easier on herself."</p> <p>12. MR # 13 presented to the clinic 1/11/12 for her first visit.</p>	L 100		

Alabama Department of Public Health

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L 100	Continued From page 39  The patient returned 1/21/12 for the medical abortion procedure. EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12.  The RU 486 Alternative Protocol section of the note documented Misoprostol 800 mcg. The dosage amount of 800 mcg had been lined through and 1600 mcg was written in. There were no initials by this change in dosage amount to indicate who made the dosage change.  The physician documented a time which was not legible on the medical procedure section of the form.  The discharge note section from the recovery room is not legible.  In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to read the form. When asked why EI # 2 signed the form when she was off she stated, "To make it easier on herself."  13. MR # 14 presented to the clinic on 1/20/12 for her first visit.  The patient returned 1/21/12 for the medical abortion procedure. EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12.  The discharge note section from the recovery room is not legible.  In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 40</p> <p>read the form. When asked why EI # 2 signed the form when she was off she stated, "To make it easier on herself."</p> <p>14. MR # 15 presented to the clinic on 1/19/12 for her first visit.</p> <p>A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>The physician documented a time which was not legible on the surgical procedure section of the form for 1/21/12.</p> <p>In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to read the form.</p> <p>15. MR # 17 presented to the clinic on 1/16/12 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under the first nurse for 1/21/12.</p> <p>The discharge note section from the recovery</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 41</p> <p>room is not legible.</p> <p>In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to read the form.</p> <p>16. MR # 18 presented to the clinic on 1/13/12 for her first visit.</p> <p>The second date on the form has been changed from 1/21/12 to 1/22/12.</p> <p>A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>The physician, EI # 4 documented estimated blood loss that was not legible and the time of the procedure was not legible.</p> <p>The patient entered the recovery room at 7:50 AM and remained until 9:20 AM. The systolic blood pressure reading was checked at 8:05 AM, 8:50 AM and 9:05 AM. There was no blood pressure documented at 9:20 AM. The 9:20 AM was written over and changed to 8:20 AM.</p> <p>The discharge note section from the recovery room record has no comment written in the note section.</p> <p>In an interview 2/3/12 at 8:55 AM with EI # 1, Administrator she confirmed the time of the procedure was 7.50 AM and that it was difficult to read the form.</p> <p>17. MR # 16 presented to the clinic on 1/20/12</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR	STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
L 100	<p>Continued From page 42 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical procedure. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>EI # 2 signed the form on day 2, 1/21/12 even though she was not working 1/21/12. EI # 3, Registered Nurse signed under EI# 2's name as the nurse for 1/21/12.</p> <p>In an interview 2/2/12 at 4:15 PM with EI # 1, Administrator she confirmed it was difficult to read the form.</p> <p>The physician, EI # 4 documented in the surgical procedure section of the form an ultrasound was completed and was not viewed by the patient. On review of the ultrasound pictures in the medical record there were two ultrasound pictures one dated 1/20/12 at 11:11 AM and the second ultrasound dated 1/22/12 at 00:22:10.</p> <p>In an interview with Employee Identifier (EI) # 1, Administrator on 2/2/12 at 4:15 PM, EI # 1 confirmed it was true none of the ultrasounds were dated 1/21/12, the date of the surgical procedure by the physician.</p> <p>18. Medical Record # 20 had a surgical procedure on 12/21/11. A review of the medical record documentation under the surgical procedure section revealed the words, "+ (plus) Vaso 4 U (units)" hand written. There were no initials or date made by the entry to document</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	Continued From page 43  who gave the order for this additional medication.  The top of the patient procedure form documented MR # 20 was allergic to Doxycycline. The recovery room section of the form, under the standing orders, marked MR # 20 was given Doxycycline 100 milligrams to take home. There was a progress note in the medical record that had no date, no time and no signature of who documented the entry that read as follows: "Patient was asked if she had medication allergies & she answered no. Pt (patient) given standard antibiotic Doxycycline 100 mg to take home. Pt called back saying she's allergic to Doxycycline. (EI # 3's name), RN called her pharmacy (Walgreens) on 12/21/2011 @ (at) 11:30 AM & called in Erythromycin 250 mg x (times) 20 with instructions to take 2 caps q (every) 6 hrs (hours) for 1st 24 hrs, then one q 6 hrs until done."  The clinic failed to verify drug allergies with MR # 20 prior to her discharge and have dated, timed and a signature of the clinic staff member who made an entry into the MR # 20's clinic record.  19. Medical Record # 22 had a medical abortion procedure on 1/21/12. A review of the medical record documentation listed Employee Identifier # 2 as the RN for this patient's visit.  The RU 486 Alternative Protocol section of the note documented the Mifeprex 200 milligram (mg) expiration date as 6/14. However, this date was lined through and the date 11/14 was listed. Misoprostol 800 mcg (micrograms) was listed in this section of the note as well. The dosage amount of the drug, 800 mcg, was lined through and written in was 1600 mcg. There were no initials by this change to indicate who made the	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 44</p> <p>dosage change or who made the change to the expiration date. The time entered on this form for when the medical procedure was completed was not legible.</p> <p>On 2/01/12 at 10:45 AM, Employee Identifier # 2, the RN Supervisor, was interviewed and confirmed she did not work on day 2, 1/21/12. EI # 3, the RN, worked this day.</p> <p>20. Medical Record # 23 had a medical abortion procedure on 1/21/12. A review of the medical record documentation listed Employee Identifier # 2 as the RN for this patient's visit. The RU 486 Alternative Protocol section of the note documented Misoprostol 800 mcg. The dosage amount of 800 mcg had been lined through and 1600 mcg was written in. There were no initials by this change in dosage amount to indicate who made the dosage change.</p> <p>On 2/01/12 at 10:45 AM, Employee Identifier # 2, the RN Supervisor, was interviewed and confirmed she did not work on day 2, 1/21/12. EI # 3, the RN, worked this day.</p> <p>21. Medical Record # 24 had a medical abortion procedure on 1/21/12. A review of the medical record documentation listed under the day one visit a blood pressure reading that was not legible. The diastolic numbers had been written over and could not be read. The RU 486 Alternative Protocol section of the note documented Mifeprex and the Misoprostol was administered.</p> <p>22. Medical Record # 25 had a surgical procedure on 1/21/12. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5</p>	L 100		



Alabama Department of Public Health

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L 100	Continued From page 45  units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication. Under day 2 Employee Identifier # 2 signed her name as the RN. This RN stated in an interview on 2/01/12 that she did not work on 1/21/12.  23. Medical Record # 26 had a surgical procedure on 1/21/12. A review of the medical record documentation under the surgical procedure section had no legible time documented. The time the patient entered the recovery room was documented as 8:10 AM. Under day 2 Employee Identifier # 2 signed her name as the RN. This RN stated in an interview on 2/01/12 that she did not work on 1/21/12.  24. Medical Record #27 had a surgical procedure on 1/21/12. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication. Under day 2 Employee Identifier # 2 signed her name as the RN. This RN stated in an interview on 2/01/12 that she did not work on 1/21/12.  The form Certification of Opportunity to View Ultrasound, Appendix A - Page 1 had both options marked (reviewed the ultrasound before the abortion and rejected the opportunity to view the ultrasound before the abortion). The date of 1/17/12 had been lined through and written beside it was the date 1/21/12. There were no initials by the date to indicate who made the change. The time documented in the surgical procedure note was not legible, the time the	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 46</p> <p>patient entered the recovery room was documented as 8:35 AM.</p> <p>On 2/02/12 at 3:30 PM, in an interview with Employee Identifier # 1, the Administrator, was asked about the Appendix A form having both options, reviewed ultrasound and rejected opportunity to review ultrasound marked. EI # 1 stated the form was completed on the patient's first visit and then prior to the procedure the doctor asked again if the patient wanted to view the ultrasound. EI # 1 responded the patient must have said yes when asked by one staff member and no when asked by the other staff member.</p> <p>25. Medical Record # 28 had a surgical procedure on 1/21/12. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication. Under day 2 Employee Identifier # 2 signed her name as the RN. This RN stated in an interview on 2/01/12 that she did not work on 1/21/12. The time documented in the surgical procedure note was not legible, the time the patient entered the recovery room was documented as 8:40 AM.</p> <p>26. Medical Record # 30 had a medical abortion procedure on 1/21/12. A review of the RU 486 Alternative Protocol documented the Mifeprex expiration date as 01/14, no year was documented. The Misoprostol 800 mcg dosage amount was lined through and written in was 1600 mcg. There were no initials to indicate who made the change in the dosage amount given to the patient.</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 47</p> <p>27. MR # 11 presented to the clinic on 11/22/11 for her first visit.</p> <p>The patient returned 11/30/11 for the surgical procedure.</p> <p>The November to December call log completed by Employee Identifier (EI) # 2, the RN Supervisor, documented MR # 11 called on 12/1/11. Medical Record # 11's procedure date was documented by EI # 2 as 11/30/11. MR # 11 called EI # 2 complaining of pain on 11/31/11(the form was dated wrong).</p> <p>The clinic Patient Call form completed by EI # 2 failed to document a time the call was received or an abortion date, it did document the call came in 11/31/11 (the form was dated wrong). Complaints reported from MR # 11 were from the mother, " Pt in extreme pain on the right side and not bleeding. Spoke with Medical Director and patient sent to Hospital # 1 ED (Emergency Department)."</p> <p>Employee Identifier # 2 failed to notify the hospital she was sending a patient over who had a procedure 11/30/11 and was in extreme pain. On the clinic Patient Call form EI # 2 documented, "Patient called stated she had a clot removed. Doing fine." There was no date or time of this call.</p> <p>The clinic Patient Call form completed by EI # 2 on 12/3/11 at 12:00, had no an abortion date documented. Complaints reported from MR # 11's boyfriend, "Stated he had taken patient to hospital # 2 where they removed a sac, wants to speak to owner. Patient continues to be (nothing further was documented on the form)."</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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L 100	<p>Continued From page 48</p> <p>EI # 2 documented, "Referred to (EI # 1), clinic owner."</p> <p>A progress note was in the medical record dated 12/5/11, no time and no signature was present on the form.</p> <p>On 2/2/12 at 11:25 AM the surveyor observed a procedure at the clinic. The patient ambulated to the recovery room and her care was assumed by EI # 6, the recovery room medical assistant. EI # 6 documented the time of the patient's arrival and her vital signs, then put times on the form for 15 minute interval vital signs and documented in the notes section of the procedure room form, "Ambulatory D/Ced ( discharged) in no distress."</p> <p>In an interview with EI # 1, the Administrator, on 2/2/12 at 4:15 PM, EI # 1 confirmed that EI # 6 documented the discharge and times prior to the patient's actual discharge.</p> <p>A revisit was made to the clinic on 2/28/12 to 3/01/12. Additional medical record reviews revealed continued non-compliance with documentation.</p> <p>28. Medical Record # 31 first presented to the clinic on 11/17/11.</p> <p>A review of the patient call form located in the on-call log book revealed MR # 31 had been discharged home from Hospital # 1. The surveyors requested MR # 31's chart on 2/28/12 and clinic staff was unable to locate the patient record.</p> <p>The surveyors obtained documentation from Hospital # 1 on 3/01/12, that MR # 31 had been referred from the clinic to Hospital # 1 on 11/30/11 for an ectopic pregnancy.</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 49</p> <p>On 3/01/12 the surveyors requested MR # 31's record from the clinic staff. The clinic staff was unable to locate the medical record. Survey staff reviewed the laboratory log book for 11/17/11 and recovery room log book. Survey staff requested the medical record for a patient that had a similar first name to MR # 31 and when the record was reviewed it was in fact the patient record for MR # 31. There was a different last name listed on the patient chart than was listed on the patient call sheet, previously reviewed by the surveyor.</p> <p>The clinic failed to assure there was an accurate method for identifying and retrieving patient medical records.</p> <p>29. MR # 32 was first seen at the clinic on 11/09/11.</p> <p>MR # 32 had a surgical procedure on 11/16/11. The answering service on-call log documented on 11/21/11 at 7:05 PM, MR # 32 called the on-call clinic staff reporting she was "bleeding clots and cramping." There was no documentation the clinic staff returned the phone call to MR # 32 to address her reported problems.</p> <p>A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the entry to document who gave the order for this additional medication. The recovery room section of the note documented a 10:45 AM blood pressure reading that had been written over to have a diastolic reading of 88.</p> <p>30. MR # 33 was first seen at the clinic on 11/18/11.</p>	L 100			

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 50</p> <p>MR # 33 had a surgical procedure on 11/23/11. The answering service call log documented on 11/28/11 at 5:08 PM, MR # 33 called the on-call clinic staff reporting she had "bad cramps and passing clots." There was no documentation the clinic staff returned the phone call to MR # 33 to address her reported problems.</p> <p>31. MR #34 was first seen at the clinic on 11/17/11.</p> <p>MR # 34 had a surgical procedure on 11/23/11. The answering service call log documented on 11/24/11 at 12:40 AM, MR # 34 called the on-call clinic staff reporting a temperature of 102.5. The documentation on the patient call sheet, completed by the on-call clinic staff, documented MR # 34 called the clinic on 11/26/11 and her temperature was 101, not 102.5 as reported on the answering service call log.</p> <p>A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the entry to document who gave the order for this additional medication. The blood pressure reading documented on 11/17/11 was not legible.</p> <p>32. MR # 35 was first seen at the clinic on 10/15/11.</p> <p>MR # 35 had a medical procedure on 10/29/11. The Misoprostol 800 mcg dosage amount was lined through and written in was 1600 mcg. There were no initials to indicate who made the change in the dosage amount given to the patient.</p> <p>The answering service call log documented on</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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L 100	<p>Continued From page 51</p> <p>10/30/11 at 4:29 PM, MR # 35 called complaining of bleeding very heavy when standing up. There was no documentation the on-call clinic staff returned the phone call to MR # 35.</p> <p>Documented on the bottom of the telephone check form Employee Identifier # 2, RN Supervisor, wrote, "CVS (telephone number) called in 11-29-11 @ (at) 9:30." There was no documentation what EI # 2 called in for MR # 35 to the CVS or what problems MR # 35 was experiencing.</p> <p>On 12/14/11 the patient call sheet documented MR # 35 called and spoke with EI # 2, no time was documented of when the call was received. This phone call was not documented on the answering service call log that survey staff reviewed. MR # 35 called stating she took the RU 486 on 10/29/11 and her follow up had a faintly positive pregnancy test. EI # 2 documented she told MR # 35 to return to the clinic to see the physician on, "Friday AM 7:00." There was no documentation in the medical record that MR # 35 returned as instructed on Friday.</p> <p>33. MR # 36 first visited the clinic on 2/02/12.</p> <p>MR # 36 had a surgical procedure on 2/04/12. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.</p> <p>The physician, EI # 4 documented in the surgical procedure section of the form an ultrasound was completed and viewed by the patient. On review of the ultrasound pictures in the medical record</p>	L 100		
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Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	Continued From page 52  there were two ultrasound pictures dated 2/02/12 at 4:31. Another ultrasound picture in the medical record was dated 2/05/12 at 6:06. The surgical procedure was done on 2/04/12.  34. MR # 37 first visited the clinic 1/26/12.  MR # 37 had a surgical procedure on 2/11/12. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" hand written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.  35. MR # 38 first visited the clinic 9/21/11.  MR # 38 had a surgical procedure on 10/01/11. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the entry to document who gave the order for this additional medication.  36. MR # 39 first visited the clinic on 1/26/12.  MR # 39 had a surgical procedure on 1/28/12. There is no date on "Day 2" of the procedure form. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" hand written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication.  37. MR # 40 first visited the clinic on 12/12/11.  MR # 40 had a medical procedure on 12/16/11.	L 100		



Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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L 100	<p>Continued From page 53</p> <p>The Misoprostol 800 mcg dosage amount was lined through and written in was 1600 mcg. There were no initials to indicate who made the change in the dosage amount given to the patient.</p> <p>38. Medical Record # 41 first visited the clinic on 10/26/11.</p> <p>MR # 41 returned to the clinic on 10/29/11 to have a surgical procedure completed. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 5 units Vasopressin" hand written over pre-printed procedure text. There were no initials or date made by the entry to document who gave the order for this additional medication. There is no time documented under the surgical procedure section. The physician, EI # 4, documented he was unable to complete the surgical procedure and EI # 4 converted MR # 41 to a medical procedure.</p> <p>A review of the RU 486 Alternative Protocol documentation revealed the Misoprostol 800 mcg dosage amount was lined through and written in was 1600 mcg. There were no initials to indicate who made the change in the dosage amount given to the patient.</p> <p>A review of the medical record revealed there was no consent form completed for the Misoprostol, RU 486 protocol, in the medical record for MR # 41.</p> <p>Medical Record # 41 returned to the clinic on 11/02/11 to be seen by EI # 13, the Physician. An ultrasound was performed and EI # 13 sent MR # 41 to Hospital # 1 after EI # 13 identified she had an ectopic pregnancy with cardiac activity noted. MR # 41 was seen and treated at Hospital # 1 on</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	<p>Continued From page 54</p> <p>11/02/11 and discharged home the same day.</p> <p>The day one section of the procedure record documented MR # 41 was RH positive. A review of the medical record from Hospital # 1 showed MR # 41 was actually RH negative.</p> <p>The patient call sheet documented on 10/30/11 and 10/31/11 that MR # 41 phoned the on-call clinic staff. On 10/30/11 at 8:56 AM, MR # 41 called with questions about how to take the pills she was given at the clinic. MR # 41 called back on 10/30/11 at 2:27 PM, reporting she was cramping badly and had not passed any blood. The answering service on-call log did not show where MR # 41 called the on-call clinic staff on 10/31/11. There was an 11/01/11 6:45 AM, phone call documented in the answering service on-call log that was reviewed by the surveyors. The patient call sheet, at the bottom of the page, documented on 11/01/11 that MR # 41 had Zofran called in for nausea. There was no time when this call was received by clinic staff or follow up with the patient documented in the medical record.</p> <p>39. MR #42 was first seen at the clinic on 2/22/12.</p> <p>The day one work up documentation had the RH factor listed as 40, not if the patient was RH negative or positive. The hematocrit was documented as, "POS" (positive) and then written over to read, "Neg." (negative). There was no quantitative value listed for the patient's hematocrit level. There was no initial, date or notation that the documentation, on the day one visit, was an error. At the bottom of the form where staff document medications given after the procedure both options for administration of the</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 55</p> <p>Microgram were marked, one as given and one as not given. There was no initial, date or notation that the documentation was an error.</p> <p>40. MR # 43 is a 17 year old who required parental consent prior to her procedure. The parental consent form in the medical record had the patient's signature on the parent or legal guardian signature line, not the patient's actual parent or legal guardian. The signature line where the patient's name is to be written in was left blank, however the form was signed by the parent of MR # 43. The medical record contained a birth certificate to validate the parental signature was that of MR # 43.</p> <p>A review of the counseling information form in the medical record documented that MR # 43 did not feel that it was her decision to have an abortion, but her mother's decision. The form documented that MR # 43 marked the following questions no:</p> <p>"3. Do you think having this abortion is in your best interest? 4. Are you sure you want to have an abortion? 5. Do you think you will most likely be able to go on with your normal activities without emotional or psychological problems because of the abortion?"</p> <p>The counseling information form ask the question, "Why do you want to have the abortion?" and MR # 43's written response was, "Because my mother want me to." There is no documentation of where any of the clinic staff followed up with MR # 43 to discuss her concerns about having the abortion procedure. On 2/29/12 at 2:00 PM, in an interview with EI # 1, the Administrator, was asked about the responses from MR # 43. EI # 1 stated there should be documented follow up of where the staff talked with the patient and that prior to any procedure</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	Continued From page 56  the physician ask the patient if they want to have the procedure. No procedure is done if the patient does not want it.  MR # 43 was first seen at the clinic on 9/26/11 and documented to be RH negative.  MR # 43 had a surgical procedure on 9/28/11. At the bottom of the patient form where medications are documented after the procedure the drug Microgam was marked as given, but there was no documentation on the route, location, date, time or initial of the person who administered the drug.  The answering service log documented that MR # 43 called the on-call clinic staff on 10/02/11 at 4:20 AM, complaining of vomiting and severe cramps. The patient call sheet date and time were written over and there is not legible documentation on when the on-call clinic staff spoke with MR # 43 to discuss her reported problems. The instructions section of the patient call sheet documented on 10/03/11 that MR # 43 was taken to the emergency room, the name of the hospital was not listed, and she was given a shot for nausea and sent home.  41. MR # 44 was first seen at the clinic on 2/02/12.  MR # 44 was seen on 2/06/12 for a surgical procedure. The physician, EI # 12 documented in the surgical procedure section of the form an ultrasound was completed and viewed by the patient. On review of the ultrasound pictures in the medical record there were two ultrasound pictures dated 2/02/12 at 2:37. Another ultrasound picture in the medical record was dated 2/07/12 at 1:33. The surgical procedure	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 57</p> <p>was done on 2/06/12.</p> <p>42. MR # 45 was first seen at the clinic on 1/25/12. The day one laboratory documentation noted MR # 45 was RH positive. On 1/26/12 MR # 45 returned to the clinic to have a surgical procedure. The time documented when she entered the recovery room had been written over. There was no initial, date or notation that the time entry was an error.</p> <p>The surgical pathology report documented in the comment section that there was an absence of definite chorionic villi or fetal tissue. MR # 45 was called and on 2/02/12 was seen again in the clinic for a second surgical procedure to be completed. The documentation on the second surgical procedure form listed MR # 45 as RH negative. There was no documentation MR # 45 was given Microgam or Rhogam. Under the physician pre-op medication section of the second surgical procedure note the drug Vicodin 5/500 mg times two was lined through and hand written in was "X (times) 1." There was no initial, date or time to document who made the change in the dosage amount of the drug.</p> <p>The physician, EI # 5, documented in the surgical procedure section of the form an ultrasound was completed and not viewed by the patient. On review of the ultrasound pictures in the medical record there was one ultrasound picture dated 1/25/12, one ultrasound picture dated 1/27/12 and there were three ultrasound pictures dated 2/02/12. The first surgical procedure was done on 1/26/12 and the second surgical procedure was done on 2/02/12.</p> <p>43. MR # 46 was first seen in the clinic on 10/17/11.</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR	STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
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L 100	<p>Continued From page 58</p> <p>MR # 46 returned to the clinic on 10/19/11 to have a surgical procedure completed. Under the physician pre-op medications was hand written in the drug Misoprostol 800 mcg. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the above entries to document who gave the order for the additional medications.</p> <p>The answering service call log documented on 11/20/11 at 4:56 PM, MR # 46 called the on-call clinic staff reporting heavy bleeding with blood clots. The patient call sheet was dated 11/20/11, but there were two different times documented for when the call was received. At the bottom of the patient call sheet it was documented on 11/21/11 that MR # 46 was doing "great," there was no time documented of when this call was received. The answering service call log documented 11/21/11 at 11:48 PM, MR # 46 called the on-call clinic staff experiencing problems. There was no documentation in the medical record of the 11/21/11 patient call reporting problems and no follow up call made to MR # 46.</p> <p>44. MR # 48 was first seen at the clinic on 10/11/11.</p> <p>MR # 48 returned to the clinic on 10/22/11 to have a surgical procedure completed. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the entry to document who gave the order for this additional medication.</p>	L 100		
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Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	Continued From page 59  The answering service on-call log documented MR # 48 called the on-call clinic staff on 10/25/11 at 7:07 AM, to report MR # 48 had a severe headache and a fever of 100.9. There was no patient call sheet completed for this phone call and no documentation the patient problems were followed up on.  45. MR # 49 was first seen at the clinic on 11/7/11.  MR # 49 returned to the clinic on 11/23/11 to have a surgical procedure completed. A review of the medical record documentation under the surgical procedure section revealed the words, "plus 4 units Vasopressin" hand written. There were no initials or date made by the entry to document who gave the order for this additional medication.  The physician, EI # 13, documented in the surgical procedure section of the form an ultrasound was completed and viewed by the patient. On review of the ultrasound pictures in the medical record there was one ultrasound picture dated 11/07/11 and two ultrasound pictures dated 11/24/11. The surgical procedure was done on 11/23/11.  The answering service call log documented MR # 49 called the on-call clinic staff on 11/27/11 at 3:24 AM, reporting severe bleeding and cramps. The patient call sheet dated 11/27/11 at 3:24 AM, instructed the patient to reduce her activity and if the bleeding did not decrease to call the clinic back. The patient report of cramps was not addressed by the on-call clinic staff.  A review of the medical records for 20 of 47 patients revealed the clinic had completed a chart	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 60</p> <p>review checklist. The clinic staff drew a line down the list of items that were to be reviewed on the chart review checklist. The chart review checklist documented the patient chart had been reviewed for completeness by clinic staff.</p> <p>The clinic failed to assure that timely, accurate, legible and complete documentation was completed by all staff members who are responsible for patient care.</p> <p>420-5-1-.03 Patient Care. (1) Patient Care. All patient care must be rendered in accordance with all applicable federal, state, and local laws, these rules, and current standards of care, including all professional standards of practice. As with any surgical procedure, the physician performing the procedure is responsible for the procedure and for ensuring that adequate follow-up care is provided. In order to facilitate continuity of patient care, the facility physician shall contact and communicate with any physician rendering care for complications arising from the abortion as soon as he [or she] is informed of the existence of such complications. The facility shall develop and follow a policy and procedure for communication with outside physicians, such as emergency room physicians, so that all facility nurses and staff cooperate with any physician rendering care for complications arising from an abortion.</p> <p>The requirements of this rule were not met as evidenced by:</p> <p>Based on review of medical records and interview it was determined the clinic failed to document communication with outside physicians related to</p>	L 100		



Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 61</p> <p>transfer of patients with complications from abortion procedures completed at this clinic. This had the potential to affect all patients served by this clinic.</p> <p>Findings include:</p> <p>1. Medical Record (MR) # 1 presented to the clinic on 11/7/11 for her first visit. MR # 1 returned 11/11/11 for the surgical procedure.</p> <p>The patient's pregnancy history included two cesarean sections one in 1995 and the second in 1997. The medical history included surgery 11/2010 for removal of the right ovary. The history also noted that she was a diabetic. The ultrasound performed on the first day established a gestation of 16 weeks 2 days.</p> <p>The November to December call log listed MR # 1 as calling on 11/18/11 and the on-call nurse recorded the procedure as having been done 11/14/11. MR # 1 complained of pain.</p> <p>The Patient Call form failed to document a time the call was received or an abortion date. Complaints recorded, "Having pains all day and now they are unbearable. Feels like contractions. Has taken Motrin not helping."</p> <p>Instructions from the on-call nurse EI # 2, the Registered Nurse Supervisor, "Consider going to ED (Emergency Department) and be seen (at Hospital #1). Patient states she would feel better to be seen. Gave patient number to call if MD (Medical Doctor) had any questions."</p> <p>The on-call nurse failed to notify the physician who did the procedure and failed to notify the hospital she was sending a patient over who had</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>
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L 100	<p>Continued From page 62</p> <p>a difficult procedure and received Intravenous Pitocin at the clinic on 11/11/11.</p> <p>2. MR # 2 presented to the clinic 1/20/12 for her first visit. MR # 2 returned 1/21/12 for a surgical procedure.</p> <p>The incident report information received 1/23/12 by fax from Employee Identifier(EI) # 1, Administrator documented EI # 4, physician, "Spoke with the physicians at (Hospital # 1) on several occasions to follow up on our patients."</p> <p>There was no documentation of any conversation with (Hospital # 1) physicians regarding the patient's transfer.</p> <p>3. MR # 3 presented to the clinic on 1/20/12 for her first visit to the clinic.</p> <p>MR # 3 returned 1/21/12 for a surgical procedure. The physician, EI # 4 documented the use of 20 ml of 1% Xylocaine plus 5 units of Vasopressin as a paracervical block. EI # 4 documented, "the patient tolerated the procedure not well, vomited, vitals okay, suspect secondary &gt; (greater than) dose Vasopressin. Nurse inadvertently drew up more than .2 ml, unsure how much will discuss with Medical Director of clinic. * Patient to be transferred to ED (emergency department) for observation."</p> <p>The incident report information received 1/23/12 by fax from Employee Identifier(EI) # 1, Administrator documented EI # 4, physician, "Spoke with the physicians at Hospital #1 on several occasions to follow up on our patients."</p> <p>There was no documentation of any conversation with Hospital # 1 physicians regarding the</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205		
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L 100	Continued From page 63 patient's transfer.  420-5-1-.03 Patient Care. (d) Post-Operative Policies and Procedures: A facility must develop and follow written policies and procedures detailing the sequence of post-operative care. The facility must have a 24 hour answering service that immediately refers all calls related to post abortion problems to a qualified registered nurse, nurse practitioner, physician assistant, or physician. If a registered nurse, nurse practitioner, or physician assistant will be the initial medical contact, clear protocols must be developed and approved by the medical director, all facility physicians, and any outside covering physicians to establish when a physician will be contacted, which physician will be initially contacted, how the outside covering physician will be contacted if immediate care is needed, and how the patient will be contacted and receive the physician's instructions. (e) Call Records: In addition to the infection control record required by these rules, a facility must keep a record of all calls taken by the registered nurse, nurse practitioner, physician assistant, or physician. The call record should include the patient's name, time and date of call, a brief description of the reason for the call, and any action taken in response. A full description of any adverse conditions and the instructions or treatment given in response must be noted in the patient's medical record.  The requirements of this rule were not met as evidenced by:  Based on review of clinic policy, medical records and interview it was determined the on-call nurse failed to return calls to patients with reported	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 64</p> <p>problems and failed to document the correct dates of calls and complete the on-call records. The on-call nurse failed to report calls the physician related to increased pain and bleeding or to notify the hospital a patient had been directed to go to the emergency room. This had the potential to affect all patients served.</p> <p>Findings include:</p> <p>During the third on-site visit on 2/29/12 at 2:00 PM, Employee Identifier # 1, the Administrator, informed the survey staff that in January 2012 the clinic staff was unable to locate the on-call book that contained documentation from the on-call answering service and a copy of the patient call sheet follow ups that were completed from September 2011 through January 2012. EI # 1 went on to say that she and EI # 14, the Assistant Administrator, re-created the on-call log book with the documentation from the answering service and the patient call forms from the medical records.</p> <p>Clinic Policy: Problem Calls From Patients</p> <p>1. All calls are recorded and then charted/documented in the patient's chart. See problem sheet. Calls are then documented in the comp (complications) log.</p> <p>8. Calls received after the nursing department is closed for the day are referred to the nurse on call. Calls received after the clinic is closed are referred to the nurse on call.</p> <p>Clinic Policy: Contact &amp; Communication With Physicians For Emergencies</p> <p>"When the RN (Registered Nurse) on call has a</p>	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>C3704</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>03/01/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	Continued From page 65  situation requiring the necessity of contacting the covering Physician, optimally the physician who performed the abortion is contacted. Otherwise The Medical Director is called."  Standing Orders for Post Abortion Problems  A. Excessive Bleeding: soaking more than 1 maxi pad in 1 hour 1. Fill the Methergine RX (prescription) (Methergine 0.2 mg #12) for bleeding and take 1 every 4 hours for 6 doses. Instruct patient the medication will make her cramp. 2. If cramping is severe take 2 Aleve than 1 every 12 hours. Patient may alternate Aleve with Extra Strength Tylenol or follow standing orders for cramps. 3. If conditions have not improved in four hours or if increasing in severity, send the patient to the nearest emergency room.  B. Excessive Bleeding: Soaking more than 4 pads in an hour.  C. Blood Clots: the size of a 50 cent piece or larger or lots of little clots 1. Follow the same instructions for excessive bleeding.  D. Cramps: 1. Patient make take Aleve sig 1 q (every) 8-12 hrs (hours) if no contraindications. Patient may take Extra Strength Tylenol sig 1-2 q 4-6 hrs. Aleve may be alternated with Tylenol. 2. Patient is to call the clinic 1 hr after taking medication. If condition has not improved the MD is contacted for further instruction. 3. Patient is instructed to use a hot water bottle or heating pad.	L 100		

Alabama Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  C3704	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  03/01/2012
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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR	STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205
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L 100	<p>Continued From page 66</p> <p>E. Elevated Temperature: Call physician anytime temp goes above 100</p> <p>Medical Record Findings:</p> <p>1. Medical Record (MR) # 1 presented to the clinic on 11/7/11 for her first visit.</p> <p>The patient returned 11/11/11 for the surgical procedure.</p> <p>The November to December call log completed by Employee Identifier (EI) # 2, the RN Supervisor, listed MR # 1 called on 11/18/11. Medical Record # 1's procedure date was documented by EI # 2 as 11/14/11. MR # 1 called EI # 2 complaining of pain.</p> <p>The clinic Patient Call form completed by EI # 2 failed to document a time the call was received or an abortion date. Complaints reported from MR # 1 were: "Having pains all day and now they are unbearable. Feels like contractions. Has taken Motrin not helping."</p> <p>Instructions from the on-call nurse EI # 2, Registered Nurse Supervisor, documented on 11/14/11, "Consider going to ED (Emergency Department) and be seen (at Hospital #1). Patient states she would feel better to be seen. Gave patient number to call if MD (Medical Doctor) had any questions."</p> <p>Employee Identifier # 2 failed to notify the physician who did the procedure and failed to notify the hospital she was sending a patient over who had a difficult procedure and received Intravenous Pitocin at the clinic 11/11/11.</p> <p>On the clinic Patient Call form EI # 2 documented</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  <b>NEW WOMAN ALL WOMEN HEALTH CAR</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1001 17TH STREET SOUTH BIRMINGHAM, AL 35205</b>		
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L 100	<p>Continued From page 67</p> <p>on 11/17/11, "Called doing better went to (Hospital #1). Had D&amp;C (Dilatation and Curettage) on Sunday night (11/13/11)."</p> <p>Medical Record # 1's surgical procedure was completed on Friday, 11/11/11. Sunday was 11/13/11. The clinic Patient Call form documented MR # 1 called EI # 2 on 11/14/11, which would have been after MR # 1 was seen at Hospital # 1 and had a D&amp;C.</p> <p>Employee Identifier # 2 failed to accurately document in the medical record the correct date she received the patient call and the correct date the patient received follow up treatment.</p> <p>2. MR # 4 presented to the clinic on 1/17/12 for her first visit.</p> <p>The patient returned 1/21/12 for the surgical procedure.</p> <p>The January call log listed MR # 4 called on 1/21/12 with complaints of excessive bleeding.</p> <p>A review of the medical record revealed no documentation of a patient phone call complaining of excessive bleeding on 1/21/12.</p> <p>In an interview with EI # 2, Registered Nurse Supervisor on 2/2/12 at 7:50 AM, the surveyor requested any additional on call forms that were not filed for January. EI # 2 stated, "I guess it's all filed on charts.(referring to the clinic Patient Call forms)"</p> <p>EI # 2 was asked 2/2/12 at 8:00 AM, if any documentation was completed regarding the call from MR # 4 on 1/21/12. EI # 2 stated that she</p>	L 100		

Alabama Department of Public Health

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NAME OF PROVIDER OR SUPPLIER  NEW WOMAN ALL WOMEN HEALTH CAR	STREET ADDRESS, CITY, STATE, ZIP CODE 1001 17TH STREET SOUTH BIRMINGHAM, AL 35205
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L 100	<p>Continued From page 68</p> <p>called EI # 1, Administrator but did not know who the call was from and did not have a telephone number to return the patient phone call.</p> <p>The surveyor reviewed the on-call information from the answering service 2/3/12 at 10:10 AM. The answering service documented MR # 4's call on 1/21/12 with the patient's name and telephone number.</p> <p>EI # 2 failed to return a call to Medical Record # 4 who was having excessive bleeding and failed to notify the physician of the call. Employee Identifier # 2 failed to document the phone call from Medical Record # 4. Employee Identifier # 4, the physician who performed the surgical procedure on 1/21/12, was later contacted by Hospital # 1's physician and was told Medical Record # 4 was placed in the Intensive Care Unit.</p> <p>3. MR # 11 presented to the clinic on 11/22/11 for her first visit.</p> <p>The patient returned 11/30/11 for the surgical procedure.</p> <p>The November to December call log completed by Employee Identifier (EI) # 2, the RN Supervisor, listed MR # 11 called on 12/1/11. Medical Record # 11's procedure date was documented by EI # 2 as 11/30/11. MR # 11 called EI # 2 complaining of pain on 11/31/11 (the form was dated wrong).</p> <p>The clinic Patient Call form completed by EI # 2 failed to document a time the call was received or an abortion date, it did document the call came in 11/31/11 (the form was dated wrong). Complaints reported from MR # 11 were from the mother, " Pt in extreme pain on the right side and not</p>	L 100		



Alabama Department of Public Health

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L 100	Continued From page 69  bleeding. Spoke with Medical Director and patient sent to Hospital # 1 ED (Emergency Department)."  Employee Identifier # 2 failed to notify the hospital she was sending a patient over who had a procedure 11/30/11 and was in extreme pain. On the clinic Patient Call form EI # 2 documented, "Patient called stated she had a clot removed. Doing fine." There was no date or time of this call.  The clinic Patient Call form completed by EI # 2 on 12/3/11 at 12:00, had no an abortion date. Complaints reported from MR # 11's boyfriend, "Stated he had taken patient to hospital # 2 where they removed a sac, wants to speak to owner. Patient continues to be (nothing further was documented on the form)."  EI # 2 documented, "Referred to (EI # 1), clinic owner."  A progress note was in the medical record dated 12/5/11, no time and no signature was present on the form.  4. MR # 32 was first seen at the clinic on 11/09/11.  MR # 32 had a surgical procedure on 11/16/11. The answering service on-call log documented on 11/21/11 at 7:05 PM, MR # 32 called the on-call clinic staff reporting she was "bleeding clots and cramping." There was no documentation the clinic staff returned the phone call to MR # 32 to address her reported problems.  5. MR # 33 was first seen at the clinic on 11/18/11.	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 70</p> <p>MR # 33 had a surgical procedure on 11/23/11. The answering service on-call log documented on 11/28/11 at 5:08 PM, MR # 33 called the on-call clinic staff reporting she had "bad cramps and passing clots." There was no documentation the clinic staff returned the phone call to MR # 33 to address her reported problems.</p> <p>6. MR #34 was first seen at the clinic on 11/17/11.</p> <p>MR # 34 had a surgical procedure on 11/23/11. The answering service on-call log documented on 11/24/11 at 12:40 AM, MR # 34 called the on-call clinic staff reporting a temperature of 102.5. The documentation on the patient call sheet, completed by the on-call clinic staff, documented MR # 34 called the clinic on 11/26/11 and her temperature was 101, not 102.5 as reported on the answering service call log. There was no documentation the physician was notified per clinic standing orders.</p> <p>7. MR # 35 was first seen at the clinic on 10/15/11.</p> <p>MR # 35 had a medical procedure on 10/29/11.</p> <p>The answering service call log documented on 10/30/11 at 4:29 PM, MR # 35 called complaining of bleeding very heavy when standing up. There was no documentation the on-call clinic staff returned the phone call to MR # 35.</p> <p>Documented on the bottom of the telephone check form Employee Identifier # 2, RN Supervisor, wrote, "CVS (telephone number) called in 11-29-11 @ (at) 9:30." There was no documentation what EI # 2 called in for MR # 35</p>	L 100		
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L 100	Continued From page 71  to CVS or what problems MR # 35 was experiencing.  On 12/14/11 the patient call sheet documented MR # 35 called and spoke with EI # 2, no time was documented of when the call was received. This phone call was not documented on the answering service call log that survey staff reviewed. MR # 35 called stating she took the RU 486 on 10/29/11 and her follow up had a faintly positive pregnancy test. EI # 2 documented she told MR # 35 to return to the clinic to see the physician on, "Friday AM 7:00." There was no documentation in the medical record that MR # 35 returned as instructed on Friday.  8. MR # 41 first visited the clinic on 10/26/11.  MR # 41 returned to the clinic on 10/29/11 to have a surgical procedure completed. The patient call sheet documented on 10/30/11 and 10/31/11 that MR # 41 phoned the on-call clinic staff. On 10/30/11 at 8:56 AM, MR # 41 called with questions about how to take the pills she was given at the clinic. MR # 41 called back on 10/30/11 at 2:27 PM, reporting she was cramping badly and had not passed any blood. The answering service on-call log did not show where MR # 41 called the on-call clinic staff on 10/31/11. There was an 11/01/11 6:45 AM, phone call documented in the answering service on-call log that was reviewed by the surveyors. The patient call sheet, at the bottom of the page, documented on 11/01/11 that MR # 41 had Zofran called in for nausea. There was no time when this call was received by clinic staff or follow up with the patient documented in the medical record.  9. MR # 43 was first seen at the clinic on 9/26/11 and documented to be RH negative.	L 100		

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L 100	<p>Continued From page 72</p> <p>MR # 43 had a surgical procedure on 9/28/11. The answering service log documented that MR # 43 called the on-call clinic staff on 10/02/11 at 4:20 AM, complaining of vomiting and severe cramps. The patient call sheet date and time were written over and there is not legible documentation on when the on-call clinic staff spoke with MR # 43 to discuss her reported problems. The instructions section of the patient call sheet documented on 10/03/11 that MR # 43 was taken to the emergency room, the name of the hospital was not listed. MR # 43 was given a shot for nausea at the hospital and sent home.</p> <p>10. MR # 46 was first seen in the clinic on 10/17/11.</p> <p>MR # 46 returned to the clinic on 10/19/11 to have a surgical procedure completed.</p> <p>The answering service call log documented on 11/20/11 at 4:56 PM, MR # 46 called the on-call clinic staff reporting heavy bleeding with blood clots. The patient call sheet was dated 11/20/11, but there were two different times documented for when the call was received. At the bottom of the patient call sheet it was documented on 11/21/11 that MR # 46 was doing "great," there was no time documented of when this call was received. The answering service call log documented 11/21/11 at 11:48 PM, MR # 46 called the on-call clinic staff experiencing problems. There was no documentation in the medical record of the 11/21/11 patient call reporting problems and no follow up call made to MR # 46.</p> <p>11. MR # 48 was first seen at the clinic on 10/11/11.</p>	L 100		

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L 100	<p>Continued From page 73</p> <p>MR # 48 returned to the clinic on 10/22/11 to have a surgical procedure completed. The answering service on-call log documented MR # 48 called the on-call clinic staff on 10/25/11 at 7:07 AM, to report MR # 48 had severe headache and a fever of 100.9. There was no patient call sheet completed for this phone call and no documentation the patient problems were followed up on. There was no documentation the physician was notified per clinic standing orders for the elevated temperature.</p> <p>12. MR # 49 was first seen at the clinic on 11/7/11.</p> <p>MR # 49 returned to the clinic on 11/23/11 to have a surgical procedure completed.</p> <p>The answering service call log documented MR # 49 called the on-call clinic staff on 11/27/11 at 3:24 AM, reporting severe bleeding and cramps. The patient call sheet dated 11/27/11 at 3:24 AM, instructed the patient to reduce her activity and if the bleeding did not decrease to call the clinic back. The patient report of cramps was not addressed by the on-call clinic staff. The clinic failed to assure documentation was accurate for times, completion of medical record forms and that Hospital # 1 was informed of a patient referral after a surgical procedure.</p> <p>The above rule violation is a repeat deficiency from the July 27, 2011, recertification survey.</p> <p>420-5-1-.04 Physical Environment (5) Equipment and Supplies. (b) Preventive Maintenance. There shall be a schedule of preventive maintenance developed for all equipment in the</p>	L 100		

Alabama Department of Public Health

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L 100	<p>Continued From page 74</p> <p>facility integral to patient care to assure satisfactory operation thereof.</p> <p>(c) The facility must maintain a record for all equipment containing the following information: manufacturer, make, and model of the equipment; date of purchase of the equipment; any dates on which the equipment was removed from service for repair or maintenance and, if applicable, date equipment was returned to service; date and description of all tests, maintenance, or repairs performed on the equipment, including all routine inspection and maintenance performed by clinic personnel; the names and qualifications of the company and technician performing the tests, maintenance, or repairs; and the results of any tests, maintenance, or repairs. In addition, all manufacturer literature and information must be maintained in this record. If any of this information is not available for equipment purchased prior to October 2006, the fact of the missing information shall be noted in the equipment record, and, if there is no record of proper maintenance in the last year, the equipment must be immediately tested and, if necessary, calibrated or repaired.</p> <p>This rule is not met as evidenced by:</p> <p>Based on observation and an interview the clinic failed to assure that all patient used equipment had a record of routine inspection and maintenance for the portable centrifuge in the laboratory and three Omron Blood Pressure cuffs in the recovery room. This had the potential to affect all patients served by the clinic.</p> <p>Findings include:</p>	L 100		
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L 100	<p>Continued From page 75</p> <p>On 1/31/12 at 11:00 AM, during a tour of the clinic in the patient recovery room there were two Omron Blood Pressure (BP) cuffs located on the top shelf with no maintenance label. There was a third Omron BP cuff on the same shelf that had a maintenance label with the date 10/2007 as the due date for a preventive maintenance. The preventive maintenance had not been completed.</p> <p>On 1/31/12 at 11:10 AM, Employee Identifier (EI) # 6, the Recovery Room Medical Assistant, was interviewed and verified the BP cuffs were used to obtain BP readings on patients in the recovery room.</p> <p>Employee Identifier # 1, the Administrator, was informed about the lack of maintenance labels on the blood pressure cuffs and stated she recently purchased them. Employee Identifier # 1 was asked for documentation to show the blood pressure cuffs were recently purchased and none was provided to the surveyors.</p> <p>The above rule violation is a repeat deficiency from the July 27, 2011, recertification survey.</p>	L 100		
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ELECTRONICALLY FILED  
3/26/2013 11:40 AM  
01-CV-2013-901119.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 2



**STATE BOARD OF HEALTH  
FOR THE STATE OF ALABAMA**

<b>ALABAMA DEPARTMENT OF PUBLIC HEALTH,</b>	)	
	)	
	)	
<b>v.</b>	)	<b>ADPH/OGC No. 12-0108</b>
	)	
<b>ALL WOMEN’S, INC., dba NEW WOMAN ALL WOMAN HEALTHCARE.</b>	)	
	)	

**CONSENT AGREEMENT**

Now come the parties, the Alabama Department of Public Health (hereinafter “the Department”) and All Women’s, Inc., d/b/a New Woman All Woman Health Care, (hereinafter “New Woman”), and in accordance with § 22-21-25, Ala. Code 1975, settle the proceeding regarding the proposed revocation of the license to operate New Woman (hereinafter “the Facility”), as an abortion or reproductive health center, by hereby entering into this Consent Agreement, the terms of which are as follows:

1. New Woman agrees to take and complete the following action on or before the dates set forth below:

a. On or before May 18, 2012, New Woman shall relinquish its operating license to the Department. New Woman acknowledges that in order for another entity or individual to be approved and licensed by the Department, it will first be necessary for a completed “Initial Licensure Application” form to be submitted to the Department, with accompanying documentation showing that the entity or individual will be the Governing Authority for the Facility as set forth by the Rules of the State Board of Health; OR

b. If by May 4, 2012, no other entity or individual has been licensed to operate the Facility as an abortion or reproductive health center, or if for other reasons New

Woman does not or cannot relinquish the operation and management of the Facility to an entity or individual licensed by the Department to operate the Facility, New Woman shall cease performing abortion procedures on or before May 11, 2012, but shall remain open and available for patient follow-up through the close of business on May 18, 2012. Thereafter, New Woman agrees that it shall close the Facility and that it shall return its license certificate to the Department.

2. The Department agrees to license an entity or individual other than New Woman to operate the Facility so long as the Department is satisfied, in its sole discretion, that the entity or individual is both willing and able to meet the Rules of the State Board of Health for the operation of an abortion or reproductive health center. The Department agrees that it shall not unreasonably withhold approval, subject to the following. Said entity or individual must be independent from and not affiliated with New Woman or its officers and directors and must agree that it or he/she will not employ Diane Derzis, Employee Identifier ("EI") #4, and EI #13. New Woman agrees that the Department's decision as to whether to license an entity or individual to operate the Facility is within the Department's discretion, and hereby waives any and all rights it may have to challenge, appeal, or intervene in such decision.

3. New Woman agrees that EI #4 shall cease performing abortion procedures at the Facility on or before May 11, 2012, but shall remain available for patient follow-up for an additional seven days after performing abortion procedures.

4. New Woman further waives any and all rights to contest, challenge or appeal any action heretofore taken by the Department against New Woman or the Facility, including the citation of any deficiencies or rule violations.

5. Nothing in this Consent Agreement shall be construed to limit or prohibit the Department from taking other enforcement action against New Woman, including an emergency administrative order of closure, should New Woman violate the terms of this Consent Agreement or further violate the Rules of the State Board of Health.

6. Nothing in this Consent Agreement shall be construed to affect, impact, or in any way limit the Amended Permanent Injunction entered by the United States District Court for the Northern District of Alabama, Southern Division, in Civil Action Number CV-95-BU-0188-S, dated July 23, 1999.

7. This Consent Agreement shall be final and binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter this Consent Agreement on behalf of the parties hereto.

8. This Consent Agreement shall be incorporated into a final Consent Order to be entered by the State Health Officer and to be subject to enforcement by the Department.

DONE and ENTERED on this the 21<sup>st</sup> day of ~~March~~ April, 2012.

New Women's, Inc., d/b/a  
New Woman All Woman Health Care

By: [Signature]

As Its: President

Date: 4/2/12

Alabama Department of Public Health

By: [Signature]

As Its: Bureau Director

Date: 4.3.2012

ELECTRONICALLY FILED  
3/26/2013 11:40 AM  
01-CV-2013-901119.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 3

STATE BOARD OF HEALTH  
FOR THE STATE OF ALABAMA

ALABAMA DEPARTMENT OF  
PUBLIC HEALTH,

v.

ALL WOMEN'S, INC., dba  
NEW WOMAN ALL WOMAN  
HEALTHCARE.


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ADPH/OGC 12-0108

CONSENT ORDER

Now comes the State Health Officer, who having reviewed the terms and conditions of the attached Consent Agreement, hereby orders that the terms and conditions of said agreement be fully implemented by the parties.

This final administrative order is hereby entered on this the 3<sup>rd</sup> day of April, 2012.



Donald E. Williamson, M.D.  
State Health Officer

ELECTRONICALLY FILED

3/26/2013 11:40 AM

01-CV-2013-901119.00

CIRCUIT COURT OF

JEFFERSON COUNTY, ALABAMA

ANNE-MARIE ADAMS, CLERK



Exhibit 4

STATE OF ALABAMA            )  
  )  
COUNTY OF JEFFERSON        )

**REAL ESTATE LEASE AGREEMENT**

This Agreement, made the 31 day of March, 2012, between **DIPAT, L.L.C.**, a Limited Liability Company organized and existing under the laws of the State of Alabama, hereinafter called the "Landlord," and **OCHATA MANAGEMENT, L.L.C.**, a Limited Liability Company organized and existing under the laws of the State of Alabama, hereinafter referred to as "Tenant". The Effective Date of this Lease Agreement shall be the date on which the Tenant has received all appropriate governmental and business licenses to operate the facility/clinic as described in Paragraph 1.

1. **Description of Leased Premises:** The Landlord has this day rented and leased to the Tenant, and the Tenant has rented and leased from the Landlord the premises, with improvements located at 1001 17<sup>th</sup> Street South, Birmingham, Alabama 35205, as more fully described by the attached Exhibit A to be used by the Tenant for purposes of operating the facility/clinic to provide medical and surgical services to the general public.

2. **Use of Premises:** The Tenant agrees to use the premises herein described, for a medical office building and surgical center. Tenant shall obtain, at its own expense, all necessary governmental and business licenses and permits for such use of the premises.

3. **Lease Term; Extension:** The initial Lease Term shall commence on the Effective Date as defined above and expire on the 31<sup>st</sup> day of December, 2015 at midnight, unless sooner terminated or extended as hereinafter provided. The Lease Term shall automatically be extended for a period of two (2) years, unless the Tenant gives the Landlord written notice of the Tenant's desire to terminate the Lease Agreement at least ninety (90) days before the expiration of the initial Lease Term.

4. **Rent:** The Tenant agrees to pay the Landlord a monthly rent as follows:

(A) An amount equal to FIVE THOUSAND DOLLARS and NO/100th (\$5,000.00) which shall be due and payable on the 1<sup>st</sup> day of each month during the Lease Term as adjusted per Paragraph 4(D) below

(B) As additional rent, Tenant shall pay all State, County, School or similar taxes asserted against the Lease Premises which become due and payable during the term of this Lease Agreement and provide the Landlord written proof of such payment(s).

(C) As additional rent, Tenant shall pay all premiums for insurance coverage(s) for the Leased Premises as required by Section 10 of this Lease Agreement when the same shall become due and payable.

(D) The amount of monthly rent due under Paragraph 4(A) shall be increased by five (5%) percent on January 1<sup>st</sup> of each calendar year during the Lease Term, including any extensions. The initial increase shall beginning on January 1, 2013. For illustration purposes, application of this Paragraph would result in the monthly rent being increased beginning January 1, 2013 to FIVE THOUSAND TWO HUNDRED FIFTY DOLLARS AND 00/100TH (\$5,250.00) per month for the 2013 calendar year.

5. **Utilities:** In addition to the other rental payments set forth herein, Tenant shall pay utility

Bills for water, gas, electricity and telephone, provided for the Leased Premises during the term of the Lease Agreement. If Tenant does not pay the same, Landlord may pay the same and such payment shall be added to the rental of the Leased Premises. Nothing contained herein, however, shall impose any obligation upon Landlord to make any such payments for such utilities.

6. **Repairs and Maintenance:** The Landlord shall be permitted to enter said Leased Premises at all reasonable hours to examine the same and to make such repairs, additions, or alterations as may be determined necessary for the safety and preservation of said building, and for the purpose of repairing or improving any adjoining property belonging to the Landlord. And the Landlord shall be privileged, during the last seventy-five (75) days of this Lease Agreement to post said Leased Premises for rent or sale and to attach a sign or signs for that purpose upon any portion of the building and during said time to exhibit said Leased Premises during week days.

The Tenant shall, at its own expense, make all necessary repairs and replacements to the pipes, heating and cooling systems, plumbing system, window glass, fixtures, and all other appliances and appurtenances belonging thereto, all equipment used in connection with the Leased Premises, and the sidewalks, curbs, common areas and vaults adjoining or appurtenant to the Leased Premises. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as non-structural, shall be made promptly, as and when necessary. All repairs and replacements shall be in quality and class at least equal to the original work.

7. **Alterations and Signs:** The Tenant shall make no change of any nature in the premises herein leased without first obtaining consent from the Landlord, and shall not be authorized to paint or otherwise erect any signs on the building or the roof thereof. Tenant further agrees to surrender said premises at the expiration of this Lease in as good order and repair as the same are on the first day of the term of said Lease, natural wear and tear excepted. Any improvements made by the Tenant shall be chargeable to the Tenant, but shall become the property of the Landlord at the expiration or termination of this Lease.

8. **Insurance Coverage:** Tenant, at its sole expense, shall maintain for the benefit of Landlord and Tenant during the term of this Lease, the following required insurance coverage:

(A) Comprehensive general liability insurance on an "occurrence" basis, against claims for "personal injury" liability, including without limitation, bodily injury, death or property damage liability with at limit of not less than Five Hundred Thousand and No/100 dollars (\$500,000.00) in the event of "personal injury" to any number or persons or of damage to property arising out of any on occurrence; such insurance, which may be furnished under a "primary" policy and an "umbrella" policy or policies, shall also include coverage against liability for bodily injuries or property damage arising out of the use by or on behalf of Tenant of any owned, non-owned or hired automotive equipment for a limit of not less than that specified above;

Tenant may carry for its own account any insurance not required by this Lease and any proceeds thereof shall belong to Tenant, except that if the Leased Premises are damaged or destroyed by a casualty not covered by required insurance, proceeds payable to Tenant under such policies shall be assigned by Tenant to Landlord and held by Landlord subject to this Section.

Upon the execution of this Lease, and not less than thirty (30) days prior to date on which any policy expires, originals of the policies (or, in the case of general comprehensive liability insurance, certificates of the insurers satisfactory to Landlord) bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Landlord of payment shall be delivered to Landlord.

Tenant and Landlord agree that the Landlord shall be named as an additional insured on the



aforementioned policies of insurance.

Tenant and Landlord agree that, in the event of loss due to any of the perils for which they have agreed to provide by insurance, each party shall look solely to its insurance for recovery.

9. **Indemnity:** Tenant shall indemnify, defend and hold harmless the Landlord, its agents and employees from and against any and all liability (statutory or otherwise), claims, suits, demands, judgments, costs, interest and expense (including, but not limited to, attorneys' fees and disbursements) arising from any injury to, or death of, any person or persons or damage to property (including loss of use thereof) related to (i) the Tenant's use of the premises or conduct of business therein, (ii) any work or thing whatsoever done, or any condition created (other than by the Landlord, its employees, agents or contractors) by or on behalf of the Tenant in or about the premises, (iii) any condition of the premises due to or resulting from any default by the Tenant in the performance of the Tenant's obligations under this Lease, or (iv) any act, omission or negligence of the Tenant or its agents, contractors, employees, subtenants, licensees or invitees. In case any action or proceeding is brought against the Landlord by reason of any one or more thereof, the Tenant shall pay all costs, attorneys' fees, expenses and liabilities resulting therefrom and shall resist such action or proceeding if Landlord shall so request, at the Tenant's expense, by counsel reasonably satisfactory to Landlord.

10. **Damage or Destruction:** In the event that the Leased Premises is damaged or destroyed, the Landlord shall have the following options:

(A) If the Leased Premises are damaged or destroyed to the extent of fifty (50%) percent or more of its reasonable market value prior to the time of said damage or destruction, Landlord, without penalty, terminate this Lease.

(B) If the Leased Premises are damaged or destroyed to the extent of less than fifty (50%) percent of its reasonable market value prior to the time of said damage or destruction and this damages of the Leased Premises to such extent that the Leased Premises cannot, in the sole judgement of the Landlord be operated economically as an integral unit, then Landlord, without penalty, may terminate this Lease.

(C) If the Leased Premises are damaged or destroyed within the last twelve (12) months of the current term of this Lease to the extent that Tenant cannot carry on Tenant's business, then Landlord, and its sole discretion and without penalty, may terminate this Lease.

(D) Notwithstanding anything in this Lease to the contrary, if the cost of performing Landlord's obligation to repair exceeds any insurance proceeds available for said repairs, Landlord may terminate this Lease, unless Tenant shall, after notice of the amount of deficiency, pay to Landlord, the said deficiency.

(E) Landlord shall have not duty to repair or restore under this Section, any portion of the Leased Premises except those which are its duty to repair under this Section of this Lease.

No destruction of or damage to all or any part of the Leased Premises by fire or any other casualty shall permit Tenant to surrender this Lease or shall relieve Tenant from its liability to pay all rent and other charges payable under this Lease or from any of its other obligations under this Lease, and Tenant waives any rights now or in the future conferred upon it by statute or otherwise to quit or surrender this Lease or any part of the Leased Premises or to any suspension, diminution, abatement or reduction or rent on account of any such destruction or damage. Notwithstanding anything to the contrary contained herein, Tenant shall be entitled to an abatement of rent in the event that the destruction or damage renders all or any part of the Leased Premises unsuitable for use by the Tenant. Such rent abatement shall be pro rata based on square footage rendered unsuitable by said destruction or damages.

11 **Taking of Entire Premises:** If, during the term of this Lease, the entire Leased Premises are taken for any public or quasi-public use under any statute by right of eminent domain, or by purchase by public authority in lieu thereof, this Lease shall terminate as of the day the condemning authority takes possession, and Tenant shall pay rent up to that date with an appropriate refund from Landlord of any rent paid in advance. The entire Premises shall be deemed taken if such portion of the building or the land are taken as would substantially impair the operation of Tenant's business on the Premises.

12. **Assignment and Subleases:** Tenant agrees that Tenant will not assign or sublet all or any part of the Premises, or sell, assign or in any way transfer all or any part of the interest of Tenant in this Lease without the prior written consent of Landlord, which consent may be withheld for any reason or no reason.

Tenant shall remain liable for the payment of all rent and the performance of all agreements under this Lease notwithstanding (i) any consent by Landlord to an assignment or subleasing, or (ii) the collection of rent or other charges from or the performance of Tenant's obligations by any third party. As a precondition to Landlord's consent to any assignment or subleasing, Tenant and all guarantors or Tenant's obligations shall reaffirm the provisions of this Section in a writing acceptable to Landlord. Any assignee shall assume and agree to perform all obligations of Tenant under this Lease.

Consent by Landlord to one assignment or subleasing shall not waive the requirements to Landlord's consent to future assignments or subleasing.

13. **Default by Tenant:** Any of the following events shall be deemed a default by Tenant under this Lease:

- (A) Tenant shall fail to pay any installment of Rent on the date the same is due;
- (B) Tenant shall fail to comply with any term, condition or covenant of this Lease, other than the payment of Rent, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant;
- (C) Tenant shall become insolvent or shall make an assignment for the benefit of creditors;
- (D) Tenant shall file petition under the Federal Bankruptcy Act or if Tenant shall adjudged bankrupt or insolvent in proceedings file against tenant thereunder;
- (E) A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant;
- (F) Tenant abandons the Leased Premises for a period of three (3) days or more; or
- (G) If within any Lease Year of the term hereof, Tenant shall have been in default in the payment of Rent hereunder more than three (3) times and Landlord because of such defaults shall have served upon Tenant within said Lease year three (3) or more written notices. A default under this subparagraph (G) shall be deemed a non-curable default.

14. **Remedies:** Upon the occurrence of any event of default, Landlord shall have the option to, without notice or demand, declare this lease terminated and re-enter and take possession of the premises without any legal proceedings, and thereby cancel the lease. The Landlord may sub-let the premises at the best price obtainable by reasonable offer on his part, under private negotiations and the Tenant shall be liable to the Landlord for the difference, if any, between the rental price hereunder and the price obtained from another tenant. Such conduct upon the part of the Landlord shall not, however, be construed as a breach of his contract, but it is understood that the Landlord will be acting as agent for the Tenant and for the purpose of minimizing the damage and loss.

The rights of the Landlord under this paragraph shall be cumulative and shall not be restrictive of any other rights under the law. A failure on the part of the Landlord to avail himself of this right at any particular time shall not constitute a waiver of his rights hereunder.

15. **Attornment:** Tenant shall attorn to any successor to Landlord's interest in the Leased Premises, whether the succession is by sale, foreclosure, deed-in-lieu of foreclosure, assignment or otherwise, and shall recognize such successor as Landlord under this Lease.

16. **Subordination and Estoppel Letter:** This Lease is subordinate to any mortgage or deed to secure debt (hereinafter referred to as "Mortgages") that may now or hereafter be placed upon the Leased Premises and to any and all advances to be made thereunder, or modifications, replacements or extensions thereof. Tenant also agrees that any Mortgagee may elect to have this Lease made prior to its Mortgage, and in the vent of such election and upon notification by such Mortgagee to Tenant to that effect, this lease shall be deemed prior to lien to all Mortgages, whether the Lease is dated or filed prior to or subsequent to the date of the Mortgages. It is the intent of the Parties that the foregoing provisions be self-operative. Tenant, shall, upon request by, execute and deliver to the Landlord a written declaration in recordable form:

- (A) ratifying this Lease and declaring it subordinate to all Landlord's financing;
- (B) expressing the commencement and termination dated thereof;
- (C) certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated);
- (D) stating that all covenants and conditions under this Lease to be performed by Landlord have been satisfied (or stating those not satisfied);
- (E) stating that there are no defenses or offsets against the enforcement of this Lease by the Landlord or stating those claimed by Tenant;
- (F) stating the amount of advance rental, or Security Deposit, if any (or none, if such is the case), deposited with the Landlord. Such declaration shall be executed and delivered by Tenant from time to time as may be requested by Landlord. Landlord's Mortgage lenders and purchase of the Leased Premises shall be entitled to rely upon any such declaration provided pursuant to this Section.

17. **No Personal Liability of Landlord:** Tenant specifically agrees to look solely to Landlord's interest in the Leased Premises for the recovery of any judgment against the Landlord and that in no event shall Landlord, or any partner or agent of Landlord, ever be personally liable for any such judgement. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest.

18. **Hold Harmless:** Landlord shall not be liable to Tenant or Tenant's employees, agents or invitees or to any other person for injury to person or damage to property on or about the Leased Premises caused by the negligence or misconduct of Tenant, it's employees or agents, or caused by the building and improvements located on the Leased Premises not being maintained, and Tenant agrees to indemnify Landlord and hold it harmless from any loss, expense or claims arising out of any such damage or injury.

The Tenant agrees to indemnify and hold the Landlord harmless from and against any and all liability, damage or claim of whatever nature arising from any injury or loss incurred as a result of the Landlord entering the Leased Premises under an emergency circumstance, such as fire or similar event.

19. **Liens:** Tenant shall suffer no liens of any kind to be placed upon the Leased Premises. If any lien is placed upon the Leased Premises as a result of any work done on behalf of Tenant, or as a result of any goods or services sold or rendered to Tenant, then Tenant shall, within ten (10) days of the imposition of the lien, cause said lien to be removed, at Tenant's sole expense.

20. **Quite Enjoyment:** Landlord warrants that it has full right and power to execute and perform this Lease and that Tenant, on payment of Rent and performing its covenants hereunder, shall peacefully and quietly have, hold and enjoy the Leased Premises during the full term of this Lease and any extension or renewal hereof; provided, however, that Tenant accepts this Lease subject to and subordinate to any recorded mortgage, deed to secure debt or other lien presently existing upon the Leased Premises.

21. **Binding Effect:** The covenants, conditions, and agreements contained in this lease shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and, except as otherwise provided herein, their assigns.

22. **Representations:** Landlord or Landlord's agents have made no representations or promises with respect to the leased premises or the land, except as herein expressly set forth, and no rights, easements, or licenses are acquired by Tenant by implication or otherwise, except as expressly set forth in the provisions of this lease. The taking possession of the premises by Tenant shall be conclusive evidence as against Tenant, that Tenant accepts said premises and that said premises is in good and satisfactory condition at the time such possession is so taken.

23. **Severability:** If any provision of this Lease or application to any person or circumstances shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. **Waiver:** The failure of the Landlord to insist upon strict performance by Tenant of any of the covenants, conditions, provisions, rules and regulations, and agreements in this Lease, shall not be deemed a waiver of any of the Landlord's rights or remedies and shall not be deemed a waiver of any subsequent breach or default by Tenant. No surrender of the Leased Premises shall be effected by Landlord's acceptance of Rent or by any other means whatsoever unless the same be evidenced by Landlord's written acceptance of such as a surrender. No payment by Tenant or receipt by Landlord of a lesser amount than the amount of Rent due shall be deemed to be other than on account of the earliest rent then unpaid nor shall any endorsement or statement or any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease.

25. **Notice:** Any notice required or permitted by this Agreement or any agreement or document executed and delivered in connection with this Agreement shall be deemed to have been served properly if hand delivered or sent by overnight express, charges prepaid and properly addressed or sent by telefax or electronic mail, to the respective party to whom such notice relates at the following addresses:

If to the Tenant:

Ochata Management, L.L.C.  
1316 16<sup>th</sup> Street South, Apt. A  
Birmingham, Alabama 35205  
Attention: Marianne K. Rain-Water

If to the Landlord:

Dipat, L.L.C.

Birmingham, Alabama 35205  
Attention: Diane Derzis

or such other address as shall be furnished in writing by any Party to the other Party. All such notices shall be considered received when hand delivered or sent by telefax or e-mail, or one business day after delivery to the overnight courier.

26. **Entire Agreement:** This Lease, with all attachments, riders, exhibits and special stipulations constitute the entire agreement between the Parties hereto, and cannot be modified, unless said modification is reduced to writing and signed by both Landlord and Tenant.

IN WITNESS WHEREOF, the said Landlord and Tenant have hereunto set their hands, the day and year first above written.

"LANDLORD"

DIPAT, L.L.C.

  
DIANE DERZIS, Managing Member

WITNESS:

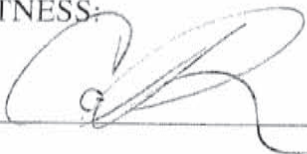
  
\_\_\_\_\_

"TENANT"

OCHATA MANAGEMENT, L.L.C.

  
MARIANNE K. RAIN-WATER

WITNESS:

  
\_\_\_\_\_

**EXHIBIT A - LEASED PREMISES**

The building and all improvements located 1001 17<sup>th</sup> Street South, Birmingham, Alabama  
35205.

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ELECTRONICALLY FILED  
3/26/2013 11:40 AM  
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CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 5

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

**BUSINESS LEASE AGREEMENT**

This Agreement, made the 31 day of March, 2012, between **ALL WOMEN'S, INC.**, a Corporation organized and existing under the laws of the State of Alabama, hereinafter called the "Landlord," and **OCHATA MANAGEMENT, L.L.C.**, a Limited Liability Company organized and existing under the laws of the State of Alabama, hereinafter referred to as "Tenant". The Effective Date of this Lease Agreement shall be the date on which the Tenant has received all appropriate governmental and business licenses to operate the facility/clinic as described in Paragraph 1.

1. **Description of Leased Property:** The Landlord has this day rented and leased to the Tenant, and the Tenant has rented and leased from the Landlord the furniture, equipment, fixtures, supplies and intangible properties (the "Leased Property") previously used by the Landlord in the operation of a facility/clinic to provide medical and surgical services to the general public, as more fully described by the attached Exhibit A to be used by the Tenant for the purpose of operating a facility/clinic to provide medical and surgical services to the general public.

2. **Use of Property; Compliance with Consent Agreement:** The Tenant agrees to use the Leased Property herein described to operate a facility/clinic to provide medical and surgical services to the general public. Tenant shall obtain, at its own expense, all necessary governmental and business licenses and permits to operate a facility/clinic to provide medical and surgical services to the general public. The Tenant further agrees to operate the facility/clinic in compliance with any Consent Agreement between the Alabama Department of Public Health and the Landlord and shall qualify as the governing authority for the facility/clinic as set forth by the Rules of the State Board of Health.

3. **Lease Term; Extension:** The initial Lease Term shall commence on the Effective Date as defined above and expire on the 31th day of December, 2015 at midnight, unless sooner terminated or extended as hereinafter provided. The Lease Term shall automatically be extended for a period of two (2) years, unless the Tenant gives the Landlord written notice of the Tenant's desire to terminate the Lease Agreement at least ninety (90) days before the expiration of the initial Lease Term.

4. **Monthly Rent:** The Tenant agrees to pay the Landlord a monthly rent to be determined by the Parties as follows:

(A) The Tenant shall submit to the Landlord within five (5) days after the close of each calendar month or portion thereof a written accounting of the total revenues received/collected during the month or portion thereof (the "Monthly Income") and a written accounting of the total expenses paid or accrued during the month or portion thereof (the "Monthly Overhead"). The Tenant and Landlord shall mutually determine all items of expense that constitute the Monthly Overhead. The excess of Monthly Income over Monthly Overhead shall constitute the monthly rent due and payable under this Lease Agreement and shall be payable within ten (10) days after the close of the month or portion thereof.

5. **Repairs and Maintenance:** The Tenant shall, at its own expense, make all necessary



repairs and replacements to the Leased Property used in connection with the Tenant's business. Such repairs and replacements, ordinary as well as extraordinary, shall be made promptly, as and when necessary. All repairs and replacements shall be in quality and class at least equal to the original Leased Property.

6. **Insurance Coverage:** Tenant, at its sole expense, shall maintain for the benefit of Landlord and Tenant during the term of this Lease appropriate insurance coverage for the Leased Property.

Tenant may carry for its own account any insurance not required by this Lease and any proceeds thereof shall belong to Tenant, except that if the Leased Property are damaged or destroyed by a casualty not covered by required insurance, proceeds payable to Tenant under such policies shall be assigned by Tenant to Landlord and held by Landlord subject to this Section.

Upon the execution of this Lease, and not less than thirty (30) days prior to date on which any policy expires, originals of the policies bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Landlord of payment shall be delivered to Landlord. Tenant and Landlord agree that the Landlord shall be named as an additional insured on the aforementioned policies of insurance.

7. **Indemnity:** Tenant shall indemnify, defend and hold harmless the Landlord, its agents and employees from and against any and all liability (statutory or otherwise), claims, suits, demands, judgments, costs, interest and expense (including, but not limited to, attorneys' fees and disbursements) arising from any injury to, or death of, any person or persons or damage to property (including loss of use thereof) related to (i) the Tenant's use of the Leased Property or conduct of business therein, (ii) any work or thing whatsoever done, or any condition created (other than by the Landlord, its employees, agents or contractors) by or on behalf of the Tenant in or about the Leased Property, (iii) any condition of the Leased Property due to or resulting from any default by the Tenant in the performance of the Tenant's obligations under this Lease, or (iv) any act, omission or negligence of the Tenant or its agents, contractors, employees, subtenants, licensees or invitees. In case any action or proceeding is brought against the Landlord by reason of any one or more thereof, the Tenant shall pay all costs, attorneys' fees, expenses and liabilities resulting therefrom and shall resist such action or proceeding if Landlord shall so request, at the Tenant's expense, by counsel reasonably satisfactory to Landlord.

8. **Assignment and Subleases:** Tenant agrees that Tenant will not assign or sublet all or any part of the Leased Property, or sell, assign or in any way transfer all or any part of the interest of Tenant in this Lease without the prior written consent of Landlord, which consent may be withheld for any reason or no reason.

Tenant shall remain liable for the payment of all rent and the performance of all agreements under this Lease notwithstanding (i) any consent by Landlord to an assignment or subleasing, or (ii) the collection of rent or other charges from or the performance of Tenant's obligations by any third party. As a precondition to Landlord's consent to any assignment or subleasing, Tenant and all guarantors or Tenant's obligations shall reaffirm the provisions of this Section in a writing acceptable to Landlord. Any assignee shall assume and agree to perform all obligations of Tenant under this Lease.

Consent by Landlord to one assignment or subleasing shall not waive the requirements to Landlord's consent to future assignments or subleasing.

9. **Default by Tenant:** Any of the following events shall be deemed a default by Tenant

under this Lease:

- (A) Tenant shall fail to pay any installment of Rent on the date the same is due;
- (B) Tenant shall fail to comply with any term, condition or covenant of this Lease, other than the payment of Rent, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant;
- (C) Tenant shall become insolvent or shall make an assignment for the benefit of creditors; or shall file petition under the Federal Bankruptcy Act or if Tenant shall be adjudged bankrupt or insolvent in proceedings file against Tenant thereunder; or a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant;
- (D) Tenant abandons the Leased Premises for a period of five (5) days or more; or
- (E) If the Tenant at anytime loses or has any required license to operate the facility/clinic revoked or terminated by any governmental authority or is no longer determined to be the governing authority of the facility/clinic.

10. **Remedies/Dispute Resolution:** Upon the occurrence of any event of default, Landlord shall have the option to, without notice or demand, declare this lease terminated and re-enter and take possession of the Leased Property without any legal proceedings, and thereby cancel the lease. The Landlord may sub-let the Leased Property at the best price obtainable by reasonable offer, under private negotiations and the Tenant shall be liable to the Landlord for the difference, if any, between the rental price hereunder and the price obtained from another tenant. Such conduct upon the part of the Landlord shall not, however, be construed as a breach of contract, but it is understood that the Landlord will be acting as agent for the Tenant and for the purpose of minimizing the damage and loss.

The rights of the Landlord under this paragraph shall be cumulative and shall not be restrictive of any other rights under the law. A failure on the part of the Landlord to avail itself of this right at any particular time shall not constitute a waiver of it's rights hereunder.

The Parties further agree to first submit any other disputes arising from or concerning this Lease Agreement or it's terms and provisions to an alternative dispute resolution process, including, but not limited to, mediation or arbitration.

11. **Injunction:** The Parties agree and acknowledge that as a material inducement for the Tenant to sign this Lease Agreement, the Tenant shall be covered by and entitled to the benefits of all injunctions, federal, state or otherwise that currently cover or apply to the operation of the facility/clinic. In the event that the Tenant is not covered or entitled to such benefits, the Parties agree to cooperate and use their best efforts to secure any such injunction(s) or injunctive relief comparable to the injunction(s) currently in place.

12. **Confidentiality:** The Parties agree that any information disclosed by the Landlord to the Tenant in connection with their discussions regarding the facility/clinic and its operations is to be treated by the Tenant as trade secrets and confidential information. The Tenant shall not disclose any such information to any third party, directly or indirectly, without the prior written consent of the Landlord and, if such disclosure to a third party is consented to by the Landlord, such third party shall be required to agree to be bound by the terms of this paragraph.

13. **HIPAA Compliance; Custodian of Records:** The Tenant agrees to comply with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder. In addition, Tenant agrees to act as the custodian of all records of the facility/clinic.

14. **No Personal Liability of Landlord:** Tenant specifically agrees to look solely to Landlord's interest in the Leased Property for the recovery of any judgment against the Landlord and that in no event shall Landlord, or any partner or agent of Landlord, ever be personally liable for any such judgement. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest.

15. **Hold Harmless:** Landlord shall not be liable to Tenant or Tenant's employees, agents or invitees or to any other person for injury to person or damage to property resulting from the use of the Leased Property caused by the negligence or misconduct of Tenant, it's employees or agents, or caused by the Leased Property not being properly maintained, and Tenant agrees to indemnify Landlord and hold it harmless from any loss, expense or claims arising out of any such damage or injury.

16. **Liens:** Tenant shall suffer no liens of any kind to be placed upon the Leased Property. If any lien is placed upon the Leased Property as a result of any work done on behalf of Tenant, or as a result of any goods or services sold or rendered to Tenant, then Tenant shall, within ten (10) days of the imposition of the lien, cause said lien to be removed, at Tenant's sole expense.

17. **Binding Effect:** The covenants, conditions, and agreements contained in this lease shall bind and inure to the benefit or the parties hereto and their respective heirs, legal representatives, successors and, except as otherwise provided herein, their assigns.

18. **Severability:** If any provision of this Lease or application to any person or circumstances shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

19. **Waiver:** The failure of the Landlord to insist upon strict performance by Tenant of any of the covenants, conditions, provisions, rule and regulations, and agreements in this Lease, shall not be deemed a waiver of any of the Landlord's rights or remedies and shall not be deemed a waiver of any subsequent breach or default by Tenant. No surrender of the Leased Property shall be effected by Landlord's acceptance of Rent or by any other means whatsoever unless the same be evidenced by Landlord's written acceptance of such as a surrender. No payment by Tenant or receipt by Landlord of a lesser amount than the amount of Rent due shall be deemed to be other than on account of the earliest Rent then unpaid nor shall any endorsement or statement or any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease.

20. **Notice:** Any notice required or permitted by this Agreement or any agreement or document executed and delivered in connection with this Agreement shall be deemed to have been served properly if hand delivered or sent by overnight express, charges prepaid and properly addressed or sent by telefax or electronic mail, to the respective party to whom such notice relates at the following addresses:

If to the Tenant:

1316 16<sup>th</sup> Street South, Apt. A  
Birmingham, Alabama 35205  
Attention: Marianne K. Rain-Water

If to the Landlord:

All Women's, Inc.

Birmingham, Alabama 35205  
Attention: Diane Derzis

or such other address as shall be furnished in writing by any Party to the other Party. All such notices shall be considered received when hand delivered or sent by telefax or e-mail, or one business day after delivery to the overnight courier.

21. **Entire Agreement:** This Lease, with all attachments, riders, exhibits and special stipulations constitute the entire agreement between the Parties hereto, and cannot be modified, unless said modification is reduced to writing and signed by both Landlord and Tenant.

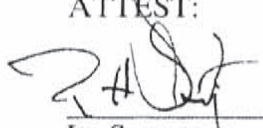
IN WITNESS WHEREOF, the said Landlord and Tenant have hereunto set their hands, the day and year first above written.

"LANDLORD"

ALL WOMEN'S, INC.

  
Its President: DIANE DERZIS

ATTEST:

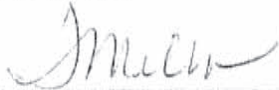
  
Its Secretary

"TENANT"

OCHATA MANAGEMENT, L.L.C.

  
MARIANNE K. RAIN-WATER

WITNESS:



"TENANT"

## EXHIBIT A - LEASED ASSETS & PROPERTIES

**Intangible Assets:** All of the intangible assets of the Landlord, including, but not limited to, any and all trade names used by the Landlord, all business plans, trade secrets, proprietary information, intellectual property, and all other trade names, trademarks, logo and service marks used by the Landlord, including New Woman All-Women Health Care, and all telephone numbers, customer lists, e-mail addresses, internet domain names and web sites used in, by or relating to the Business.

**Tangible Assets:** See attachment schedule.

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3/26/2013 11:40 AM  
01-CV-2013-901119.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 6

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement") is made on the first day of October, 2012 (the "date hereof"), by and among (i) New Woman Health Care, Inc., an Alabama Corporation (Seller), and (ii) Ochata Management Inc. (Purchaser), and recites and provides as follows:

**WHEREAS**, the Seller is engaged in the business of operating a Women's Health Clinic located at 1001 17<sup>th</sup> Street South, Birmingham, Alabama (the Business);

**WHEREAS**, the shareholders own all of the issued and outstanding share of capital stock of Seller;

**WHEREAS**, Purchaser desires to acquire from Seller, and Seller desires to convey to Purchaser substantially all of the assets of the Seller used in the Business, excluding such assets and subject to such liabilities and to the terms and conditions as set forth in this Agreement;

**WHEREAS**, this Agreement and the obligations of the Seller and Purchaser set out herein are expressly contingent upon the Purchaser receiving any and all appropriate approval and licensure from the Alabama Department of Public Health.

As a result of the above recitals, which are a part of this Agreement, and for and in consideration of the matters contained herein and the benefits to be derived from each of the parties hereto by entering into this Agreement, the sufficiency of which consideration each hereby acknowledges, the parties agree to as follows:

### **ARTICLE I ASSETS TO BE ACQUIRED**

1.1 **Purchase and Sale of Assets.** Upon the terms and subject to the conditions of this Agreement, the Seller shall sell, convey, transfer, and deliver to Purchaser and Purchaser shall purchase and accept on the Closing Date, as hereinafter defined all of the Seller's right, title and interest in and to the following:

(a) Machinery, Furniture, Fixtures and Equipment and Inventory. The machinery, furniture, including leasehold fixtures and equipment, of Seller listed on Inventory including any maintenance of service contracts thereon.

(b) Intangibles. All of the intangible assets of the Business, including but not limited to, the trade name New Woman Health Care, all business plans, trade secrets, proprietary information, intellectual property, and all other trade names, trademarks, email addresses, internet domain names and web sites relating to the Business.

1.2 **Excluded Assets.** The Seller's cash existing at the closing date are specifically excluded from the Assets.

**ARTICLE II  
ASSUMPTION OF CERTAIN LIABILITIES**

2.1 **Bill of Sale.** In confirmation of the foregoing sale, assignment, transfer, and conveyance of the Assets, the Seller shall execute and deliver to Purchaser at closing one or more Bills of Sale to Purchaser and such other instruments as may be necessary to convey to Purchaser good title in the Assets. In connection with the foregoing, Seller and, the Shareholders, shall each transfer to the Purchaser at Closing any and all rights that it or exists in the name New Woman Health Care.

2.2 **Liabilities Assumed by Purchaser.** Purchaser shall only be responsible for all liabilities incurred by the Purchaser on the closing date and thereafter.

2.3 **Liabilities Not Assumed by Purchaser.** The Seller shall be responsible for all of its liabilities and obligations not hereby expressly assumed by the Purchaser. Purchaser shall not assume or in any way be liable or responsible for any liabilities or obligations of the Seller relating to the Business or the Assets for any period prior to the Closing Date. Without limiting the generality of the foregoing, the parties hereby agree that Purchaser shall not assume any liability of the Seller arising out of any injury to individuals or property as a result of the operation of the Business by the Seller prior to the Closing Date.

**ARTICLE III  
PURCHASE PRICE**

3.1 **Consideration.** In consideration and in exchange for the sale, assignment, conveyance, and transfer by the Seller of the Assets, the agreements of the Seller and the Shareholder contained herein and in reliance upon the covenants, warranties and representations in this Agreement by the Seller, the Purchaser agrees to pay to the Seller the purchase price (the Purchase Price), which shall be Five Hundred Thousand and 00/100 Dollars (500,000.00), payable for such amount amortized in equal monthly payment of principal and interest of \$6,607.57 over 60 months at ten percent (10%) interest (the Note). The Note shall provide that all amounts due thereunder shall be secured by a first priority lien on all of the assets listed under inventory. The purchase price shall be allocated as follows: \$40,000 to leasehold improvements and equipment, and \$460,000 to goodwill.

**ARTICLE IV  
CLOSING**

4.1 **Closing Date.** The closing of the transaction provided for in this Agreement (the Closing) shall take place at a location designated by the Parties.

4.2 **Lease of Premises.** Purchaser and Seller have negotiated the lease which is attached. The Lease is expressly contingent upon the purchaser receiving any and all appropriate approval and licensure from the Alabama Department of Public Health.



  
\_\_\_\_\_  
**Seller (Agent of Seller)**

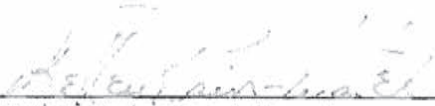
  
\_\_\_\_\_  
**Date**

  
\_\_\_\_\_  
**Purchaser (Agent of Purchaser)**

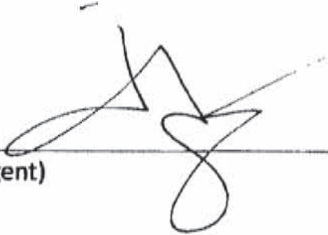
  
\_\_\_\_\_  
**Date**

Amendment A:

On this date, October 1, 2012 the effective date listed on this lease has been amended to be the date all required licenses are obtained to open the business.



Ochata Management (Agent)



DiPat, Inc (Agent)

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JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK



# Exhibit 7

New Woman All Women Health Care

Phone:

205-933-1118

1-800-810-2101

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*"We have been providing abortion and gynecological services in Birmingham for more than 15 years. We are located in Birmingham's Southside on the corner of 10th Avenue and 17th Street South."*

**Great News! Low income women can now receive funding for abortion and reproductive health care. Call our office and speak with one of our phone counselors for more information.**

**>> Abortion and GYN Fee Schedule**

Cash and major credit cards are accepted for our services.

**>> RU486 - Abortion by Pill**

Medical abortion using Misoprostol (RU486)

**>> Pre-Abortion Instructions**

All of our abortion procedures are performed by licensed Physicians. All of our nurses are licensed or certified with extensive experience in family planning.

**>> Abortion Procedure: Plan A - Privacy**

For the woman where privacy is mandatory, time is very important and who is concerned about discomfort. Plan to be in our office 2-1/2 to 3-1/2 hours

**>> Map and Directions**

We are located in Birmingham's Southside on the corner of 10th Avenue and 17th Street South near UAB.

**>> Abortion Procedure: Plan B - Heavy Sedation**

For the woman who is concerned about discomfort, but is less concerned about total privacy and time. Plan to be in our office 4 to 4-1/2 hours.

**>> Taking Care of Yourself Afterwards**

What to expect afterwards so you can get back to normal.

**>> Abortion Procedure: Plan C - Local Sedation**

For the woman who has fewer concerns about discomfort, total privacy and time in our office.

[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

**ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

1001 17th Street South Birmingham, Alabama 35205

**Local:** 205-933-1118 **Toll Free:** 1-800-810-2101

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The logo for New Woman All Women Health Care, featuring the organization's name in a serif font.

Phone:

205-933-1118

1-800-810-2101

A black and white close-up photograph of a woman's face, looking directly at the camera with a neutral expression.

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## ABORTION GYN & FEE SCHEDULE

Do you need assistance with the cost of an abortion? Financial assistance is available for those who qualify. Ask your phone counselor for more information when you call for an appointment.

All abortions include ultrasound for every patient, antibiotics, and birth control.

The law in Alabama requires that each patient come to the clinic twice. We have appointments for the first visit every day of the week, Monday through Saturday. This appointment can be made as late as the day before or the morning you wish to come in. During this appointment you will fill out paperwork, have your ultrasound, lab work, and talk with the nurse. Plan to be in the clinic for about 2 hours.

Our abortion procedures are done a few times weekly. After your first visit, the receptionist will work with you on which day would be best to return for the actual abortion procedure. Plan to be in the clinic for about 2 hours.

### LOCAL SEDATION PLAN C:

- 12 Weeks and Under - \$425
- 13-14 Weeks (2.0-2.7 BPD) - \$565
- 15 Weeks (2.8-3.1 BPD) - \$700
- 15-16 Weeks (3.2-3.3 BPD) - \$800
- 16-17 Weeks (3.4-3.5 BPD) - Not Available
- 17 Weeks (3.6 BPD) - Not Available

### HEAVY MEDICATION PLAN B:

- 12 Weeks and Under - \$475
- 13-14 Weeks (2.0-2.7 BPD) - \$625

- 15 Weeks (2.8-3.1 BPD) - \$750
- 15-16 Weeks (3.2-3.3 BPD) - \$859
- 16-17 Weeks (3.4-3.5 BPD) - \$965
- 17 Weeks (3.6 BPD) - \$1100

**PRIVACY PLAN A:**

- 12 Weeks and Under - \$625
- 13-14 Weeks (2.0-2.7 BPD) - \$750
- 15 Weeks (2.8-3.1 BPD) - \$900
- 15-16 Weeks (3.2-3.3 BPD) - \$1050
- 16-17 Weeks (3.4-3.5 BPD) - \$1150
- 17 Weeks (3.6 BPD) - \$1350
- \$200 deposit required when appointment is scheduled.

**ALTERNATE PLAN: RU486 Medical Abortion:**

- 7 Weeks and under - \$500 (Must be 18 years old)

NOTE: All fees are subject to change without notice. Review your fee with the phone counselor when making your appointment.

**ADDITIONAL FEES:**

- Rh Negative - \$75 1st Trimester / \$125 2nd Trimester
- Heart Murmur / Mitral Valve Prolapse - \$25
- Methergine/ergonovine (10-12 wks) - \$10
- Epilepsy - \$25 (IM Valium)
- Ultrasound Only - \$100
- Early Detection Pregnancy Test - \$5

**OTHER SERVICES**

- Pregnancy Testing - \$20 (10:00 am through 4:00 pm Monday through Friday)
- GYN Exams - \$100
- Diaphragm Fitting - \$20 plus PAP at Abortion Follow-Up
- IUD Insertion - \$300 deposit to order / \$200 due on insertion / \$500 Total
- Depo-Provera - \$75 (patient must have an annual PAP smear)
- Pap smear on Follow-Up - \$35

*"All prices subject to change as are hours of service."*

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[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

**ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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## Pre-Abortion Instructions

### ***When coming in for an abortion, be sure to follow these instructions...***

- In October of 2002, a new law went into effect called THE WOMAN'S RIGHT TO KNOW ACT. This law states that all women who want an abortion must receive certain information in advance. Therefore, a woman who wants an abortion must now have informative counseling at least 24 hours before having her abortion. This will require two appointments with our clinic and in an effort to make these two visits as convenient for you as possible, we are offering a wide variety of appointment times for both visits. We know this is a difficult time and when you are ready to schedule your appointment, our phone counselors will work with you to schedule the most convenient times.
- All patients need a picture ID issued by an official source. Minors need a birth certificate, ID, and either a judicial bypass or a parent's consent. The parent must also have an ID and their name must be listed on the patient's birth certificate.
- All guests must have an ID to enter the building.
- If you are getting heavy medication (Plan A or B), you absolutely must not have anything to eat, drink or chew for at least 6 hours prior to your scheduled appointment time, and your bladder should be full when you arrive.
- All fees are paid up front in cash or credit card. The owner of the credit card must be present to sign. We don't accept checks or money orders.
- You must make arrangements with someone such as a friend, relative or taxi to drive you home if you wish to schedule for Plan A or Plan B. With these medications you may not drive, walk, or take the bus home alone. These medications may interfere with your concentration and with your ability to drive or walk unassisted. Plan C patients may drive themselves to and from our clinic if they choose.
- Bring a couple of heavy duty maxi-pads, an extra pair of panties and dress warmly. Guests should also dress warmly.
- Please leave all valuables at home, as we are not responsible for lost, stolen or damaged personal items or vehicles.
- Children are not allowed out of consideration for other patients and their comfort.
- Please arrive promptly for your appointment.
- We may have protesters on the sidewalk across the street. We have a Federal court order designed to keep those protesters 25 feet from our property. For your own safety, please do

not walk over to the protesters and do not speak to them. Remember, you have a right to whatever medical care is best for you. You have the right to an abortion without apology, shame or guilt; and without others imposing their opinion on you.

- Should you have any further questions, please call us at 205-933-1118 or 800-810-2101

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[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

### **ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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### RU486 - Abortion by Pill

We also offer medical abortion or abortion by pill. Abortion by pill is available up to 7 weeks of pregnancy. Several visits are required for this method of abortion. The cost is \$500. We use an alternative method of abortion by pill which has been proven to be equally safe and effective as the Food and Drug Administration regimen. The alternative method allows the patient more privacy, has less side effects, and is more cost effective. Please call for more information concerning medical abortion.

[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

#### **ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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## ABORTION PROCEDURE PLANS

### PLAN A - Privacy

***For the woman where privacy is mandatory, time is very important and who is concerned about discomfort. Plan to be in our office 2-1/2 to 3-1/2 hours.*** Plan A patients have a private waiting and recovery room. They do not see anyone except the staff and physician, and they are the first abortion patients to be seen...

#### **more details**

---

### PLAN B - Heavy Medication

***For the woman who is concerned about discomfort, but is less concerned about total privacy and time. Plan to be in our office 4 to 4-1/2 hours.*** Plan B patients share a waiting area with other women also choosing abortion...

#### **more details**

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### PLAN C - Local Sedation

***For the woman who has fewer concerns about discomfort, total privacy and time in our office.*** Plan C patients share a waiting area with other women also choosing abortion...

#### **more details**

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[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

**ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

1001 17th Street South Birmingham, Alabama 35205

**Local:** 205-933-1118 **Toll Free:** 1-800-810-2101


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The logo for New Woman All Women Health Care, featuring the organization's name in a stylized, light-colored font against a background of soft, out-of-focus floral patterns.

Phone:

205-933-1118

1-800-810-2101

A close-up, black and white photograph of a woman's face, looking directly at the camera with a slight smile. Her hair is dark and styled. The image is partially obscured by the text on the left.

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## ABORTION PROCEDURE - PRIVACY PLAN A

***For the woman where privacy is mandatory, time is very important and who is concerned about discomfort. Plan to be in our office 2-1/2 to 3-1/2 hours.***

Plan A patients have a private waiting and recovery room. They do not see anyone except the staff and physician, and they are the first abortion patients to be seen.

After your fee is paid, an ultrasound and lab work will be done. You will then fill out a medical history and consent forms and will meet privately with an educational counselor who will answer your questions and review your medical history.

While you are in our office, birth control methods will be reviewed and most women can be started on the birth control Pill before leaving the clinic. The birth control shot is also available the day of the abortion procedure if you choose. Please speak with a staff member when scheduling if you have questions about this highly effective method of birth control.

Patients who choose Privacy Plan A will be given a pelvic exam to check the position and size of the uterus. Either the assistant, the nurse, or the doctor will check your blood pressure with the arm cuff. Your physician will explain what he/she is doing so that there will be no surprises. Your assistant is there to lend support, talk to you and help you relax.

The heavy anesthesia consists of a "cocktail" of medications which work together to provide relaxation and pain relief. Valium 10mg is a tranquilizer to help you relax before and during the procedure. Vicodin is a pain medication to help relieve discomfort during and after the procedure. You will receive two of these and both the valium and vicodin are taken in pill form by mouth. You will also receive an injection of Toradol by the nurse for cramping along with 800mg of ibuprofen in pill form to be taken by mouth. **IT IS IMPERATIVE THAT YOU TAKE NO MEDICATIONS BEFORE YOUR APPOINTMENT THAT WE ARE NOT AWARE OF. DEATH CAN RESULT.**

Each patient may react differently to the medications. As always, it is important for you to relax. The more you relax, the better your medications will work.

The procedure begins as the doctor injects lidocaine into the cervix and the surrounding area. This drug is similar to Novocaine at the dentist's office. You may feel a pinch or a slight sting, a ringing

in your ears, and you may even have a funny taste in your mouth. Do not be alarmed...these are normal side effects, and will pass quickly.

The doctor will begin to dilate the cervix. The cervix is a tight, round muscle which closes off the uterus from the vagina. It does this to keep germs in the vagina away from the uterus, and it supports the uterus during pregnancy. It has a natural opening called an "os". The os will be gently stretched to give an opening approximately as big around as your little finger.

Dilation will take approximately one and a half to two minutes. During dilation you will experience a few minutes of moderate to strong cramping. Every woman reacts to pain/discomfort differently, but every woman will have less discomfort if she relaxes as much as possible. If you will relax your legs and let them go limp in the stirrups, your abdomen will automatically relax, and that helps lessen the cramping you feel. Controlling your breathing will help lessen the cramping even further. Your assistant will help you get into an even rhythm with your breathing. Take a deep breath through your nose, hold it for a count of five, then blow out through your mouth, letting your whole body relax. After the dilation is complete, the cramps will probably lessen somewhat during aspiration.

After the cervix is dilated, the aspiration process begins. The aspirator is a machine which produces a vacuum, a gentle suction. A tube is attached to the aspirator which is then attached to a vacurette (a plastic straw-like tube much like what your dentist uses to suction your mouth). The vacurette goes through the cervix into the uterus, and the suction removes the pregnancy and the lining of the uterus. This will take approximately two to three minutes. When the suction is complete, the physician will use a curette, a blunt, spoon-shaped instrument to feel the inside walls of the uterus to make certain the uterus is empty. The entire abortion procedure at 12 weeks or under will take five to six minutes or less. Since you are awake and aware, you will hear the aspirator making a humming noise. This is just a machine noise, and does not have anything to do with your body. Cramping will continue to decrease after your abortion procedure is complete.

You will stay in your room for about 15 minutes so that your assistant can monitor your bleeding and your vital signs. After that time she will help you dress, and will walk with you to your recovery area. We will ask your guest to join you in that area if you choose. one of the assistants will briefly remind you of how to take care of yourself, check your bleeding and vital signs and will make certain you have all appropriate medications and prescriptions. After about 15 minutes you are discharged from the medical area.

You must make arrangements with someone such as a friend, relative or taxi to drive you home if you wish to schedule for Plan A. With these medications you may not drive, walk, or take the bus home alone. These medications may interfere with your concentration and with your ability to drive or walk unassisted. Please get something to eat soon after leaving the clinic as you will probably feel better if you do.

Please remember that complications of abortion in the first 12 weeks are rare, a first trimester abortion being at least 8-14 times safer than childbirth. Although the rate of complications will increase once you pass the 12th week of pregnancy, even at the 18th week of pregnancy, abortion is still a safer procedure than childbirth.

The most common complication associated with abortion is infection. This is not because of the abortion itself, since all the instruments used in abortion have been sterilized, but most often occurs because some patients do not follow the detailed verbal and written suggestions we give for taking care of themselves after the abortion. For a few weeks following the abortion procedure the cervix and uterus are vulnerable to infection, so patients simply must follow instructions to help prevent infection of the cervix and uterus.

Occasionally a pregnancy, pregnancy tissue or uterine lining is missed by the suction, and is retained in the uterus. If there is a missed abortion, or if retained tissue does not pass on its own with bleeding after your abortion, it is possible that a resuctioning of the uterus could be necessary.

Your physician does check the uterus to attempt to make certain a missed abortion has not occurred. This is one reason why a follow-up visit is very important after an abortion.

One of the more serious, but quite rare complication is perforation (puncture) of the uterus or laceration of the cervix.

Anytime instruments are used in or around these soft organs there is a risk of tearing or puncturing them. According to the Center for Disease Control, this occurs in about 1% of abortion procedures nationwide. If this complication should occur, the most common treatment is hospital observation to make certain the uterus repairs itself. Only in the most extreme cases would surgery be required.

All patients are instructed to return here for a post-operative check-up. If you choose not to come to New Woman Health Care, it is imperative you see your own physician or Health Center. You must tell your physician that you have had an abortion, and approximately how far in the pregnancy you were. This check-up is considered the final step to assure the abortion was complete, and that you are on your way to a healthy reproductive future.

Please remember that New Woman Health Care would be happy to help you with the birth control pill, Depo-Provera which is know as the birth control shot, an IUD, a diaphragm, and if necessary, emergency contraception...the Morning After Pill, as well as regular pelvic exams and Pap smears.

---

[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

#### **ABORTION PROCEDURES**

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1001 17th Street South Birmingham, Alabama 35205

**Local:** 205-933-1118 **Toll Free:** 1-800-810-2101

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[Home](#) | [Fees](#) | [Pre-Abortion](#) | [RU-486](#) | [Abortion Services](#) | [Aftercare](#) | [Map](#)

## ABORTION PROCEDURE - HEAVY SEDATION PLAN B

***For the woman who is concerned about discomfort, but is less concerned about total privacy and time. Plan to be in our office 4 to 4-1/2 hours.***

Plan B patients share a waiting area with other women also choosing abortion.

After your fee is paid, an ultrasound and lab work will be done. You will then fill out a medical history and consent forms and will meet privately with an educational counselor who will answer your questions and review your medical history.

While you are in our office, birth control methods will be reviewed and most women can be started on the birth control Pill before leaving the clinic. The birth control shot is also available the day of the abortion procedure if you choose. Please speak with a staff member when scheduling if you have questions about this highly effective method of birth control.

Patients who choose Heavy Medication Plan B will be given a pelvic exam to check the position and size of the uterus. Either the assistant, the nurse, or the doctor will check your blood pressure with the arm cuff. The physician will explain what he/she is doing so that there will be no surprises. Your assistant is there to lend support, talk to you and help you relax.

The heavy anesthesia consists of a "cocktail" of medications which work together to provide relaxation and pain relief. Valium 10mg is a tranquilizer to help you relax before and during the procedure. Vicodin is a pain medication to help relieve discomfort during and after the procedure. Also, you will receive an injection of Toradol by the nurse for cramping along with 800mg of Ibuprofen. **IT IS IMPERATIVE THAT YOU TAKE NO MEDICATIONS BEFORE YOUR APPOINTMENT THAT WE ARE NOT AWARE OF. DEATH CAN RESULT.**

Each patient may react differently to the medications. As always, it is important for you to relax. The more you relax, the better your medications will work.

The procedure begins as the doctor injects lidocaine into the cervix and the surrounding area. This drug is similar to Novocaine at the dentist's office. You may feel a pinch or a slight sting, a ringing in your ears, and you may even have a funny taste in your mouth. Do not be alarmed...these are normal side effects, and will pass quickly.

The doctor will begin to dilate the cervix. The cervix is a tight, round muscle which closes off the uterus from the vagina. It does this to keep germs in the vagina away from the uterus, and it supports the uterus during pregnancy. It has a natural opening called an "os". The os will be gently stretched to give an opening approximately as big around as your little finger.

Dilation will take approximately one and a half to two minutes. During dilation you will experience a few minutes of moderate to strong cramping. Every woman reacts to pain/discomfort differently, but every woman will have less discomfort if she relaxes as much as possible. If you will relax your legs and let them go limp in the stirrups, your abdomen will automatically relax, and that helps lessen the cramping you feel. Controlling your breathing will help lessen the cramping even further. Your assistant will help you get into an even rhythm with your breathing. Take a deep breath through your nose, hold it for a count of five, then blow out through your mouth, letting your whole body relax. After the dilation is complete, the cramps will probably lessen somewhat during aspiration.

After the cervix is dilated, the aspiration process begins. The aspirator is a machine which produces a vacuum, a gentle suction. A tube is attached to the aspirator which is then attached to a vacurette (a plastic straw-like tube much like what your dentist uses to suction your mouth). The vacurette goes through the cervix into the uterus, and the suction removes the pregnancy and the lining of the uterus. This will take approximately two to three minutes. When the suction is complete, the physician will use a curette, a blunt, spoon-shaped instrument to feel the inside walls

of the uterus to make certain the uterus is empty. The entire abortion procedure at 12 weeks or under will take five to six minutes or less. Since you are awake and aware, you will hear the aspirator making a humming noise. This is just a machine noise, and does not have anything to do with your body. Cramping will continue to decrease after your abortion procedure is complete.

You will stay in your room for about 15 minutes so that your assistant can monitor your bleeding and your vital signs. After that time she will help you dress, and will walk with you to your recovery area. We will ask your guest to join you in that area if you choose. one of the assistants will briefly remind you of how to take care of yourself, check your bleeding and vital signs and will make certain you have all appropriate medications and prescriptions. After about 15 minutes you are discharged from the medical area.

You must make arrangements with someone such as a friend, relative or taxi to drive you home if you wish to schedule for Plan B. With these medications you may not drive, walk, or take the bus home alone. These medications may interfere with your concentration and with your ability to drive or walk unassisted. Please get something to eat soon after leaving the clinic as you will probably feel better if you do.

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The most common complication associated with abortion is infection. This is not because of the abortion itself, since all the instruments used in abortion have been sterilized, but most often occurs because some patients do not follow the detailed verbal and written suggestions we give for taking care of themselves after the abortion. For a few weeks following the abortion procedure the cervix and uterus are vulnerable to infection, so patients simply must follow instructions to help prevent infection of the cervix and uterus.

Occasionally a pregnancy, pregnancy tissue or uterine lining is missed by the suction, and is retained in the uterus. If there is a missed abortion, or if retained tissue does not pass on its own with bleeding after your abortion, it is possible that a resuctioning of the uterus could be necessary. Your physician does check the uterus to attempt to make certain a missed abortion has not occurred. This is one reason why a follow-up visit is very important after an abortion.

One of the possible complications is perforation (puncture) of the uterus or laceration of the cervix. Anytime instruments are used in or around these soft organs there is a risk of tearing or puncturing them. According to the Center for Disease Control, this occurs in about 1% of abortion procedures nationwide. If this complication should occur, the most common treatment is hospital observation to make certain the uterus repairs itself. Only in the most extreme cases would surgery be required.

All patients are instructed to return here for a post-operative check-up. If you choose not to come to New Woman Health Care, it is imperative you see your own physician or Health Center. You must tell your physician that you have had an abortion, and approximately how far in the pregnancy you were. This check-up is considered the final step to assure the abortion was complete, and that you are on your way to a healthy reproductive future.

Please remember that New Woman Health Care would be happy to help you with the birth control pill, Depo-Provera which is know as the birth control shot, an IUD, a diaphragm, and if necessary, emergency contraception...the Morning After Pill, as well as regular pelvic exams and Pap smears.

[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

### **ABORTION PROCEDURES**

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[Home](#) | [Fees](#) | [Pre-Abortion](#) | [RU-486](#) | [Abortion Services](#) | [Aftercare](#) | [Map](#)

## ABORTION PROCEDURE -LOCAL SEDATION PLAN C

***For the woman who has fewer concerns about discomfort, total privacy and time in our office.***

After your fee is paid, an ultrasound and lab work will be done. You will then fill out a medical history and consent forms and will meet with an educational counselor who will answer your questions and review your medical history.

While you are in our office, birth control methods will be reviewed and most women can be started on the birth control Pill before leaving the clinic. The birth control shot is also available the day of the abortion procedure if you choose. Please speak with a staff member when scheduling if you have questions about this highly effective method of birth control.

Patients who choose Local Sedation Plan C will be given a pelvic exam to check the position and size of the uterus. Either the assistant, the nurse, or the doctor will check your blood pressure with the arm cuff. A small clip will be placed on your finger. This is called a pulse oximeter, and will be left on throughout your abortion procedure to check your heart rate and the oxygen level in your blood. Your physician will explain what he/she is doing so that there will be no surprises. Your assistant is there to lend support, talk to you and help you relax.

The procedure begins as the doctor injects Lidocaine into the cervix and the surrounding area. This drug is similar to Novocaine at the dentist's office. You may feel a pinch or a slight sting, a ringing in your ears, and you may even have a funny taste in your mouth. Do not be alarmed...these are normal side effects, and will pass quickly.

The doctor will begin to dilate the cervix. The cervix is a tight, round muscle which closes off the uterus from the vagina. It does this to keep germs in the vagina away from the uterus, and it supports the uterus during pregnancy. It has a natural opening called an "os". The os will be gently stretched to give an opening approximately as big around as your little finger.

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---

[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

**ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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[Home](#) | [Fees](#) | [Pre-Abortion](#) | [RU-486](#) | [Abortion Services](#) | [Aftercare](#) | [Map](#)

---

### Getting Back to Normal...

Complications are rare, and you will soon return to normal. Please call us if you have a problem or question. Most of these will be routine and can best be handled during regular daytime office hours. Medical staff is here Monday through Friday, 8:00 am to 5:00 pm and Saturday 7:00 to 12:00 noon. Emergency calls only, may be made anytime. Call 205-933-1118 . Or if after hours, call 205-930-4443 (answering service).

### WHAT CAN I EXPECT NOW?

**EMOTIONS:** Some women feel weak, tired, or depressed for a while. These reactions may be due to emotional factors or to abrupt changes in hormone levels. We suggest you relax for a day or so and resume your normal activities when you feel comfortable. If you have trouble shaking depression after a few days, contact New Woman All Women Health Care, a family service agency, a pastoral counseling center, or any other agency concerned with helping people deal with their feelings. We would be happy to make referrals for you if you call us.

**BLEEDING:** Bleeding following an abortion is normal. The amount of bleeding varies from woman to woman. Some women don't have any bleeding after their abortion. Usually women have some bleeding though, which is no heavier than normal menstrual periods. Bleeding may stop and start many times or you may only bleed for a day or two. These conditions are all normal conditions. Heavy bleeding is usually caused by too much standing, walking, and/or lifting. We consider too much bleeding to be soaking more than one pad in an hour. Depending on certain factors you may have been given a Methergine (or Ergotrate) prescription to help control bleeding. This medicine may cause cramps because it causes the uterus to contract, (and may cause leg cramps as well). You should take this medication every four hours until you have taken six pills. Hold the remaining six pills. If you call with bleeding concerns, we may direct you in taking the last six pills. It is advisable to either wear or keep with you a sanitary pad for about the next 30 days in case you restart bleeding, which can normally occur.

**CRAMPING:** Some women may experience pain or cramping. Cramps can usually be relieved by Tylenol. A heating pad or hot water bottle may also bring relief. Cramps typically only last a few days. They are caused by contractions of the uterus and are sometimes associated with the passage of large clots. If cramping is strong you might try ALEVE, an over-the-counter medication for pain.



(Note: you should not use this medication if you are sensitive or allergic to aspirin or aspirin-like products, such as ibuprofen, etc., have recent history of ulcers, or aspirin induced asthma). If any medication causes drowsiness, do not drive or operate complex machinery. Avoid aspirin, ibuprofen, or similar medications or any medications you can't tolerate or are allergic to.

### **POSSIBLE COMPLICATIONS**

**FEVER:** Significant problems are unusual after an abortion. One problem to watch for is infection, and fever is the first sign of an infection. You should check your temperature twice a day for ten days; once in the morning and once before bed. Fever, which may indicate infection, usually shows up on the second or third day. If you have an infection, it can almost always be handled with medication. To help prevent infection, it is important for you to take all of the Doxycycline antibiotic (or other antibiotic which you have been prescribed). Take your medications correctly. Doxycycline or Ampicillin should be taken by mouth about every twelve hours. If you've been given a different antibiotic, take according to directions given to you by the doctor. If your temperature goes above 100.4 degrees, call NWAHWC for advice. Severe or persistent abdominal pain or urinary discomfort may also be signs of infection.

**TENDER BREASTS:** Breast soreness and tenderness are normal for the first few days and may get worse before it gets better. You may even have some milk in your breasts for a day or two. Do not try to expel any fluid because this will cause more milk to be formed. You will probably be more comfortable in a tight fitting bra. If discomfort is severe, ice packs or a warm shower may bring some relief. Do not breast feed for at least 24 to 48 hours after receiving or taking any medications.

### **GETTING BACK TO NORMAL**

**MENSTRUATION:** Most women will start their birth control pills the first Sunday following their abortion. If you started on birth control pills after your abortion, you will usually have a normal menstrual period following your first packet of pills or occasionally after the second pack of pills. If not, you can expect a period usually within four to eight weeks. If you have not had a normal period or a follow-up visit, you need a pregnancy test 3 to 4 weeks after your abortion to make sure you are not still pregnant or pregnant again and thereafter every 4 to 6 weeks until your menstrual cycle resumes. In rare cases it may take as long as 6 months to restart.

**SEXUAL RELATIONS:** No intercourse for at least three weeks, or not until after your check-up. Your chances of getting an infection from intercourse are much greater during this time. Do not douche or use tampons for the same reason. You can get pregnant even though you have not yet had a normal menstrual period. Remember to use foam and condoms with your first pack of birth control pills because the pills may not be fully effective the first full month. Also, Remember, use foam and latex condoms to help prevent transmissions of sexually transmitted diseases as well as to help prevent unwanted pregnancy. Statistics say that for six (6) months after any pregnancy, you are seven (7) times more likely to get pregnant, so be very careful about birth control.

**ACTIVITIES:** For the next 10 days, you should not be on your feet standing or walking more than 10-15 minutes out of an hour, should not lift over 10 pounds, or do strenuous activities. Otherwise, you can return to normal activities, such as going back to work, school, or housekeeping tomorrow or sooner if you feel like it. Driving a car is fine as long as you don't feel weak, drowsy, or lightheaded. Too much physical activity can cause heavy bleeding, blood clots, fever, and menstrual cramps up to several days later. Remember not to drive a car or operate machinery for 24 hours after your abortion if you received intravenous medications or other medications that interfere with your level of consciousness or ability to concentrate. If you've been given Doxycycline, stay out of the sun and tanning beds until at least 24 hours after finishing the Doxycycline.

**DIET:** No special restrictions. If you have been bothered by nausea, be careful not to overindulge. If you've been given Doxycycline, avoid milk products and alcohol until after the medicine is

finished so that all of the medicine is absorbed properly. If you've been given metronidazole you must absolutely avoid alcohol for 24 hours until after the metronidazole is finished because it will make you very sick and is dangerous to your health!

**BATHING:** Shower and shampoo whenever you like. No tub baths or swimming for three weeks. (Showers are fine).

**YOUR CHECK-UP:** It is important that you be examined in three weeks to help make sure that you have healed properly and you are no longer pregnant. If you intend to return to NAWAHC for a check-up, please make your appointment while you are here. If you do not come back for a follow-up at NAWAHC, make an appointment with a doctor or other medical group. They must know that you have had an abortion and how far in the pregnancy you were. A Pap smear is recommended at your follow-up visit if you have not had one in the last six months, and would be necessary if you want NAWAHC to help you with continued birth control. The cost for a Pap smear is \$25.

**BIRTH CONTROL:** There is no better way of taking care of yourself than learning the facts about birth control, selecting a method, and using it correctly. If you go to your private physician or a clinic for your follow-up visit, ask about birth control while you are there. We at NAWAHC will be happy to answer any questions you might have about the birth control pill, the IUD, the Depo-Provera shot, or a diaphragm, all of which we offer here.

**BE SURE TO CALL NAWAHC IF:**

- (1) Your temperature is over 100.4 degrees.
- (2) Your bleeding is heavier than one pad per hour.
- (3) You have severe or persistent abdominal pain.
- (4) You have any other symptom that distresses you or is out of the ordinary.

We will be glad to answer your questions and discuss any concerns you may have. We will likely refer you to the nearest Emergency Room or to your doctor if there is a possibility of an ectopic pregnancy or other problems that may need immediate evaluation and treatment.

---

^ top ^

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

**ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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[Home](#) | [Fees](#) | [Pre-Abortion](#) | [RU-486](#) | [Abortion Services](#) | [Aftercare](#) | [Map](#)

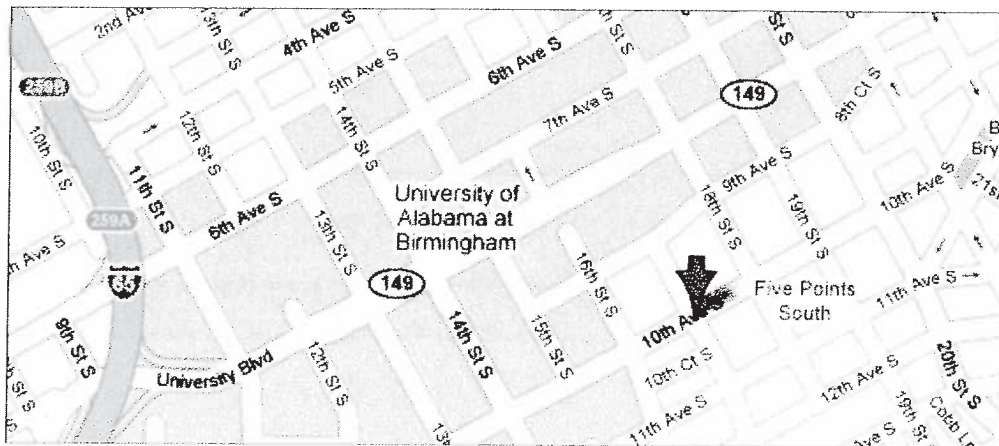
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[^ top ^](#)

[home](#) | [fees](#) | [pre-abortion](#) | [RU-486 abortion pill](#) | [aftercare](#) | [map](#)

### **ABORTION PROCEDURES**

[Privacy - Plan A](#) | [Heavy Sedation - Plan B](#) | [Local Sedation - Plan C](#)

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