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In The  
**Supreme Court of the United States**

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WHOLE WOMAN'S HEALTH ET AL. PETITIONERS

*v.*

KIRK COLE, M.D., COMMISSIONER OF THE TEXAS  
DEPARTMENT OF STATE HEALTH SERVICES ET AL.

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE FIFTH CIRCUIT

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**JOINT APPENDIX  
VOLUME IV**

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**Petition For Certiorari Filed Sept. 2, 2015  
Certiorari Granted Nov. 13, 2015**

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS (AUSTIN)**

(Admitted Aug. 4, 2014)

**DEFENDANT'S EXHIBIT 36**

**REDACTED**

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES  
Abortion Complications Reporting**

Dept. of State Health Services

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JAN 30 2013

VITAL STATISTICS UNIT

**Where and when the abortion was performed:**

Facility Name Whole Women's Health of Austin

Date: 12/15/12

Facility Type: \_\_\_\_\_ License #: \_\_\_\_\_

Telephone: (877) 6308090

Address: 8401 N. I35 Suit 200 Pflugerville TX 78753

Contact person(s): \_\_\_\_\_

Type of abortion that caused or may have caused the  
complication(s): DtC, elective AB.

The number of weeks of gestation at which the abor-  
tion was performed: 5 weeks 6 days

Number of patient's previous induced abortions: 0

Number of patient's previous live births: 4

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

HCS 767 on 1/17/13, vaginal bleeding, passing large clots on 1/17/13.

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**Within 20 calendar days of the discovery of the complication:**

**Return this form via certified mail and marked confidential to:**

Texas Department of State Health Services  
 Vital Statistics Unit  
 Post Office Box 4124  
 Austin, Texas 78765-4124

\_\_\_\_\_

Postmark 07/05/13

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Dept. of State Health Services

RECEIVED

JUL 11 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: June 3, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 06 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Patient returned to clinic on June 29, 2013 for regular scheduled follow up appointment. Repeat ultrasound revealed continuing pregnancy. Surgical aspiration completed on June 29, 2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

\_\_\_\_\_

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Dept. of State Health Services

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JUL 18 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: June 3, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 05 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt reported no bleeding following 600mcg of Cytotec. Pt RTC for sono on 05/29/2013, which reveled complete pregnancy. Post-Mife suction preformed on 05/29/2013.

**Within 20 calendar days of the discovery of the complication:**

**Return this form via certified mail and marked confidential to:**

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: June 3, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 05 weeks

Number of patient's previous induced abortions: 02

Number of patient's previous live births: 01

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. RTC on 05/03/2013 for routine follow up, pt had no complaints, sono showed complete pregnancy still intact, post-mife suction preformed on 05/03/2013.

**Within 20 calendar days of the discovery of the complication:**

**Return this form via certified mail and marked confidential to:**

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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JUL 18 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: June 3, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 05 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 03

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt advised that she vomited shortly after taking Mife on 05/02/2013. Pt RTC on 05/04/2013 and sono showed complete pregnancy still present. Post-mife suction completed on 05/04/2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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JUL 18 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: July 10, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abortion was performed: 04 weeks

Number of patient's previous induced abortions: 02

Number of patient's previous live births: 02

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. RTC on 07/10/2013 for second follow up, UCG pregnancy test positive and ultrasound showed continued pregnancy measuring 09 weeks gestation. Resuction completed on July 10, 2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: July 20, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 04 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. RTC on 07/20/2013 concerned that she did not have bleeding following Cytotec. Sono reveled continued pregnancy measuring 7.1 weeks 1mp. Resuction procedure completed on 07/20/2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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OCT 21 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Beaumont

Date: July 30, 2013

Facility Type: Abortion Facility License #: AF000079

Telephone: (409) 833-9208

Address: 440 18th Street Suite A Beaumont, TX 77707

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 13 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. missed her f/u came in on 7/30/2013 for routine follow up, pt had no sono showed complete pregnancy still intact, post-mife suction preformed on 07/30/2013.

Within **20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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OCT 21 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Beaumont

Date: August 01, 2013

Facility Type: Abortion Facility License #: AF000079

Telephone: (409) 833-9208

Address: 440 18th Street Suite A Beaumont, TX 77707

Contact person(s): ██████████

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 9.2 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 01

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. came in for f/u came in on 08/01/2013 for routine follow up, pt had no complaints sono showed complete pregnancy still intact, post-mife suction preformed on 08/06/2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Postmark 08/21/2013.

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Dept. of State Health Services

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AUG 27 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: August 6, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Suction Cutterage

The number of weeks of gestation at which the abor-  
tion was performed: 03 weeks

Number of patient's previous induced abortions: 03

Number of patient's previous live births: 02

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt RTC on August 6, 2013 complaining on nausea and still feeling pregnant. UCG pregnancy test Positive and Sono reveled continued pregnancy with FHT. Resuction procedure completed.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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SEP 11 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: August 5, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Suction Cutterage

The number of weeks of gestation at which the abor-  
tion was performed: Resuction following D&E at 21  
weeks

Number of patient's previous induced abortions: 0

Number of patient's previous live births: 03

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt showed to follow up on 07/31/2013, sono reveled RPOC, resuction scheduled for 08/01/2013. During procedure doctor diagnosed a perforation in the uterus. Patient was then transferred to Harris Medical Center for further observation, testing and possible surgery.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

\_\_\_\_\_



Postmark 10/14/13.  
—TSO

Dept. of State Health Services  
RECEIVED  
OCT 21 2013

VITAL STATISTICS UNIT  
**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**  
**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Austin Whole Woman's Health

Date: 8-24-13

Facility Type: Clinic License #: \_\_\_\_\_

Telephone: (512) 250-1005

Address: 8401 N IH35 200

Contact person(s): \_\_\_\_\_

Type of abortion that caused or may have caused the  
complication(s): elective abortion

The number of weeks of gestation at which the abor-  
tion was performed: 11 weeks

Number of patient's previous induced abortions: 0

Number of patient's previous live births: 0

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: Seton Medical Center  
Harker Heights Emergency Department

Date: 9-24-13

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other Pain

Summary of abortion complication(s):

Patient complains of vaginal bleeding and pain related to an abortion completed three weeks ago per the patient.

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**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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OCT 21 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Beaumont

Date: September 01, 2013

Facility Type: Abortion Facility License #: AF000079

Telephone: (409) 833-9208

Address: 440 18th Street Suite A Beaumont, TX 77707

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 7.1 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 03

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. came in on 9/12/13 for her medical AB pt. c/o keeping cyto in her cheek for 10min. Pt. came in on 9/14/13 for an sono u/s revealed continued pregnancy. R/S was completed on 9/14/2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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OCT 29 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: October 21, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Suction Cutterage

The number of weeks of gestation at which the abor-  
tion was performed: 05 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 01

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt RTC on September 26, 2013 scheduled follow up appointment. Patient complained of continued pregnancy symptoms. Sono reveled continued pregnancy with fetal heart tones. Resuction completed on October 21, 2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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Dept. of State Health Services

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DEC 16 2013

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Beaumont

Date: Nov. 11, 2013

Facility Type: Abortion Facility License #: 008137

Telephone: (409) 3833-9208

Address: 440 18th Street Suite A Beaumont, TX 77707

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Medical Abortion (Mifeprex, Cytotec)

The number of weeks of gestation at which the abor-  
tion was performed: 06 weeks

Number of patient's previous induced abortions: 01

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s) **Pt. called clinic on 10/18/2013 concerned about being nauseated and lower back pain. Pt. came in to be examine on 10/18/2013 u/s revealed continued pregnancy. Scheduled pt. t come in on 10/22/2013 for a post-mife suction.**

**Within 20 calendar days of the discovery of the complication:**

**Return this form via certified mail and marked confidential to:**

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

\_\_\_\_\_



Dept. of State Health Services

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JAN 07 2014

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Beaumont

Date: December 03, 2013

Facility Type: Abortion Facility License #: 008137

Telephone: (409) 833-9207

Address: 440 N 18th Street Beaumont, Texas 77707

Contact person(s): [REDACTED]

Type of abortion that caused or may have caused the  
complication(s): Suction Cutterage

The number of weeks of gestation at which the abor-  
tion was performed: 06 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 00

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

TSO

01/21/14

Summary of abortion complication(s):

Pt RTC on December 03, 2013 scheduled follow up appointment. Patient complained of continued pregnancy symptoms. Sono reveled continued pregnancy with fetal heart tones. Resuction completed on December 03, 2013.

**Within 20 calendar days of the discovery of the complication:**

Return this form **via certified mail** and **marked confidential** to:

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

\_\_\_\_\_

Postmark 01/09/14.

—TSO

Dept. of State Health Services

RECEIVED

JAN 14 2014

VITAL STATISTICS UNIT

**TEXAS DEPARTMENT OF  
STATE HEALTH SERVICES**

**Abortion Complications Reporting**

**Where and when the abortion was performed:**

Facility Name Whole Woman's Health, Fort Worth

Date: December 14, 2013

Facility Type: Abortion Facility License #: 14000

Telephone: (817) 377-0614

Address: 3256 Lackland Rd. Fort Worth, Texas 76116

Contact person(s): ██████████

Type of abortion that caused or may have caused the  
complication(s): Suction Cutterage

The number of weeks of gestation at which the abor-  
tion was performed: 05 weeks

Number of patient's previous induced abortions: 00

Number of patient's previous live births: 01

Type of anesthesia used during the procedure:

intravenous sedation     general anesthesia

**Where and when the complication was diagnosed and treated *if different* than the above information:**

Facility Name and Type: \_\_\_\_\_

Date: \_\_\_\_\_

**Complications Information** (check all that apply):

- Incomplete Abortion
- Post-procedure infection
- Hemorrhage
- Damage to the uterus
- Death
- Other

Summary of abortion complication(s):

Pt. RTC on 01/03/2014 for routine follow up. UCG results positive and sono revealed continuing pregnancy. Resuction procedure completed on 01/03/2014.

**Within 20 calendar days of the discovery of the complication:**

**Return this form via certified mail and marked confidential to:**

Texas Department of State Health Services  
Vital Statistics Unit  
Post Office Box 4124  
Austin, Texas 78765-4124

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS (AUSTIN)**

(Admitted Aug. 4, 2014)

**DEFENDANT'S EXHIBIT 39**

**[LOGO] Whole Woman's Health  
Complication Log**

Month of August 2013 Start Date (this page): 08/01/2013 End Date (this page): 08/31/2013

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
8/6/13	Redacted	7/26/13	nausea/pregnancy 3/3x	resuction completed 08/06/13 Bicornate UT.	MS	AM
8/1/13		7/16/13 @ ASC w SA	left abdominal pain	pt. transferred to HMC DI: uterine perforation	MS	AM

REDACTED

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of July 2013 Start Date (this page): 07/01/13 End Date (this page): 07/31/13

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
7/10/13	Redacted	06-01-13	cont. pregnancy 3/3x	resuction 7/10/13	MS	AM
7/20/13		07-15-13	ee 0 bleeding to Cyto	resuction 7/20/13	MS	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of June 2013 Start Date (this page): 06/01/13 End Date (this page): 06/30/13

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
6/29/13	Redacted	Mife 6/8/13	Aone MS preg 5x Sunu reveled cont. preg.	Resuction	MS	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of May 2013 Start Date (this page): 05/01/13 End Date (this page): 05/31/13

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
5/4/13	Redacted	5/2/13	Unable to keep Mife down on 5/2/13	post-Mife suction 5/4/13	MS	AM
5/29/13		5/24/13	Q bleeding—Cytotec	post-Mife suction 5/29/13	MS	AM
5/3/13		4/19/13	none	Failed Mife post-mife suction 5/5/13	MS	AM



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of March 2013 Start Date (this page): 3/1/13 End Date (this page): 3/31/13

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
3/7/13	Redacted	3/5/13 Mife	Severe cramping vomiting	failed Mife resuction ordered by Dr. Kraus	MS	AM
3/4/13		3/21/13 Mife	pregnancy 3x	failed Mife resuction ordered by Dr. Kraus	MS	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of February Start Date (this page): 2/25/13 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
2/25/13	Redacted	2/8/13 Mife	Pt. stated hasn't hardly any bleeding since taking Cyto on day 20 vaginal itching	per West for resuction failed Mife, sono during f/u & showed uterus not empty	SA	AM
2/13/13		11/23/12	Pt. didn't have menss since TOP 11/23/12 2 am test had been neg 0 didnt come in for f/u	sono was done 2/13/13 uterus wasn't clear per [REDACTED] to have resuction	SA	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of January Start Date (this page): 1/15/13 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
1/15/13	Redacted	12/22 Top	Continued viable pregnancy seen @ f/u on 1/7/13	resuctions per [REDACTED]	BIA	AM
1/26/13		1/12/13 Mife	Pt. stated to have lots of lower abdominal per cramping. Doesn't feel right/clots seen on sono	resuc—per [REDACTED]	SA	AM



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of November Start Date (this page): 11/1/12 End Date (this page): 11/30/12

Patient Label <i>Name/DOB/DOS</i> <i>MD/MR#</i>	Date of TOP	Complication	Same Day Return to OR Y/N	Hospital Transfer Y/N	Resolution	Staff Initials	Medical Director Initials
===== NO	COMPL						
Redacted	11/1/12	[Illegible] clots cramping, bleeding	N	N	Resolution	@	SW

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of October Start Date (this page): 10/1/12 End Date (this page): 10/31/12

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
_____NO COMPLICATIONS		[ILLEGIBLE] _____				@	SW







[LOGO] **Whole Woman's Health**  
**Resuction Log**  
 Month of {blank}

Patient Name and DOB	MD Performed TOP	Surgical or Mifeprex	Date of Abortion	MD Performed Resutcion	Date of Resuction	Retained clots	Retained POC (pos UCG or incomplete AB)	Continued pregnancy	Missed AB—nonviable sac present	Other treatment attempted before resuction? If yes, what tx?	Staff initials	Medical Director Initials
X		mife	5/31 2013		6/22 2013		X				[Illegible]	[Illegible]
		surgical	5/16 2013		5/30 2013		X				[Illegible]	[Illegible]
		mife	4/18 2013		5/16 2013		X				[Illegible]	[Illegible]
		surgical	5/4 2013		5/9 2013		X				[Illegible]	[Illegible]
		mife	4/13 2013		5/4 2013		X				[Illegible]	[Illegible]

[LOGO] **Whole Woman’s Health**  
**Resuction Log**  
 Month of {blank}

Patient Name and DOB	MD Performed TOP	Surgical or Mifeprex	Date of Abortion	MD Performed Resutcion	Date of Resuction	Retained clots	Retained POC (pos UCG or incomplete AB)	Continued pregnancy	Missed AB—nonviable sac present	Other treatment attempted before resuction? If yes, what tx?	Staff initials	Medical Director Initials
X		surgical	9/6 2013		9/24 2013	X	X				[Illegible]	[Illegible]
		mife	6/11 2013		7/30 2013		X				[Illegible]	[Illegible]
		mife	6/8 2013		7/12 2013		X				[Illegible]	[Illegible]
		mife	6/19 2013		7/5 2013		X				[Illegible]	[Illegible]
		mife	6/8 2013		6/29 2013		X				[Illegible]	[Illegible]

[LOGO] **Whole Woman's Health**  
**Resuction Log**  
 Month of {blank}

Patient Name and DOB	MD Performed TOP	Surgical or Mifeprex	Date of Abortion	MD Performed Resutcion	Date of Resuction	Retained clots	Retained POC (pos UCG or incomplete AB)	Continued pregnancy	Missed AB—nonviable sac present	Other treatment attempted before resuction? If yes, what tx?	Staff initials	Medical Director Initials
X		mife			12/21 2013		X				[Illegible]	[Illegible]
		surgical	11/8 2013		11/13 2013	X	X				[Illegible]	[Illegible]
		mife	10/16 2013		11/8 2013		X				[Illegible]	[Illegible]
		mife	10/12 2013		10/25 2013		X				[Illegible]	[Illegible]
		surgical	9/00 2013		10/5 2013	X	X				[Illegible]	[Illegible]

[LOGO] **Whole Woman's Health**  
**Resuction Log**  
 Month of {blank}

Patient Name and DOB	MD Performed TOP	Surgical or Mifeprex	Date of Abortion	MD Performed Resutcion	Date of Resuction	Retained clots	Retained POC (pos UCG or incomplete AB)	Continued pregnancy	Missed AB—nonviable sac present	Other treatment attempted before resuction? If yes, what tx?	Staff initials	Medical Director Initials
X		surgical	2/8 2013		2/14 2013		X				[Illegible]	[Illegible]
		surgical	2-11-13		2/14 2013		X				[Illegible]	[Illegible]
		surgical	1-11-13		1-30-13	X	X				[Illegible]	[Illegible]
		[illegible] Mife	1-11-13		1-30-13		X				[Illegible]	[Illegible]
		surgical [illegible]	1-19-2013		1-30-13		X					[Illegible]

[LOGO] **Whole Woman’s Health**  
**Resuction Log**  
 Month of {blank}

Patient Name and DOB	MD Performed TOP	Surgical or Mifeprex	Date of Abortion	MD Performed Resutcion	Date of Resuction	Retained clots	Retained POC (pos UCG or incomplete AB)	Continued pregnancy	Missed AB—nonviable sac present	Other treatment attempted before resuction? If yes, what tx?	Staff initials	Medical Director Initials
X		surgical	3/30 2013		4/23 2013		X				[Illegible]	[Illegible]
		mife	3/30 2013		4/13 2013		X				[Illegible]	[Illegible]
		mife	2/20 2013		3/6 2013		X				[Illegible]	[Illegible]
		mife	2/8 2013		2/27 2013		X				[Illegible]	[Illegible]
		surgical	11-29-13		2/20 2013	X	X					[Illegible]



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of December Start Date (this page): \_\_\_\_\_ End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
12-7-12	Redacted	11-23-12 (Mife)	Continued pregnancy nonviable/Pt. threw up Cyto	per [REDACTED] resuction	SQ	AM
12/10/12		11/27/12 (Mife)	Pt. came in for Mife f/up & test is sono and show uterus to have something in it	Dr. [REDACTED] reviewed chart of per [REDACTED] resuction would be best	SQ	AM
12/22/12		12/4/12 (Mife)	Pt. came in for f/u 12/22/12 sono shows viable pregnancy	Dr. [REDACTED] to resuction	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of November Start Date (this page): 11/1/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
11/1/12	Redacted	10-6-12	Clots were visible on f/u 10/18/12 per [REDACTED] 600 Cyto [Illegible] 1/1/12 for possible resuc-	11-2-12 Pt. came in for resuction by Kraus	SQ	AM
11-19-12		11-14-12	Bleeding-clots	Pt. came in for sono uterus had visible clots & lower pain per [REDACTED] to view sono best to have resuction for pt.	SQ	AM
11/23/12		11/8/12 Mife	Sono shows to have some clots 10 ft in uterus on #up 11/23/12	Per [REDACTED] to resuction Pt. came back on 12/10/12 FUP & fine	SQ	AM
11-28-12		11/15/12 Mife	Pos @ f/up large visible clots in uterus	Per [REDACTED] to resuction on 11/28	SQ	AM
11/28/12		11/24/12	Pt. called 4 days later with complaints of chills nausea advised to come in for sono to make sure pregnancy wasn't contained	Per [REDACTED] to resuction sono showed uterus to have large clots possible pregnancy left	SQ	AM



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of October Start Date (this page): 10/1/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
10/20/12	Redacted	9-26-12	Pt. came in <del>10/8/12</del> 10/5/12 w/pains cramping large clots	Per [REDACTED] gave 600 Cyto to relieve clots shown in sono 10/13 [REDACTED] resuc-	SQ	AM
10/15/12		9-25-12	Clots pain & large clots	Per [REDACTED] to resuction	SQ	AM
10/9/12		9-25-12	Pain & fever	Per [REDACTED] to resuction sono showed clots on f/u	SQ	AM
<del>10/6/12</del>						

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of September Start Date (this page): 9/1/12 End Date (this page): \_\_\_\_\_

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
9/7/12	Redacted	8/30/12	0 bleeding/clots extremely bad cramping	Pt. to come in for sono 8/30/12 possible resuction if needed	SQ	AM
9/26/12		9/1/12 Mife	Continued pregnancy when came in for HUD 9/26	██████████ after seeing sono to repeat TOP	SQ	AM
9/11/12		9/11/12	Pt. started hemorrhaging was taken to JPS Hosp.	Pt. is ok hospital performed hysterectomy	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of August Start Date (this page): 8/11/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
8/1/12	Redacted	7/27/12 (Mife)	Pt. feels pregnant only been 4 days, lots of vomitting	Sono showed pregnancy still present resuction per [REDACTED]	SA	AM
8/21/12		8/7/12	Bleeding large clots, dizzy feels pregnant still	Per [REDACTED] 600 Cyto today & pt return for 2 wks. for reso to see clots have passed 9/4/12 [REDACTED] resuction pt.	SA	AM
8/24/12		8/2/12 (Mife)	Pt. complained of bleeding badly 0 pain	Pt. had some clots left in uterus on f/u 8/21/12 per [REDACTED] 600 Cyto & return following wk, but pt came in next day complaining of bleeding heavy explained this was to happen [Illegible] for persons uterus appeared much clearer	SA	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of July 2012 Start Date (this page): 6/7/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
7-9-12	Redacted	Mife 7-5-12	pain in lower abdomen	per [REDACTED] to resuction	SA	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of June 2012 Start Date (this page): 06/01/12 End Date (this page): 06/30/12

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
6/6/12	Redacted	5/22/12 Mife	pos pregnancy test sono showed continued pregnancy	Resuction	MS	AM
6/7/12		5/16/12 Mife	sono shows possible clots in uterus	Per [REDACTED] give end round of 600 Cyto & return for sono on 6/11/12 to see if any clots have gone	SQ	AM
6/7/12		6/2/12 TOP	Pt. complaining of severe pain, abdominal & clots large sono showed to have many clots in uterus	[REDACTED] resuctioned	SQ	AM
6/8/12		5/22/12	Pt. came in for f/u Mife preg. UCG shows 0 sono showed to have possible clots in uterus	Per [REDACTED] 800 Cyto to pass clots & return 6/11/12 for resono & go from there/pt. came in 6/11/12 and uterus appears empty & neg - pretest	SQ	AM
6/9/12		5/30/12	Pt. still feels pregnant sono showed pregnancy still there [REDACTED] did advise pregnancy can be missed & have precautions. Early pregnancy 5-3	[REDACTED] to do resuction	SQ	AM
6/11/12		5/26/12	Mife—came in for f/u to see if neg - but sono shows there is possible clots in uterus	Per [REDACTED] 2nd end of Cyto to clear uterus up & will return 6/14/12 for resono	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of May Start Date (this page): 5/01/2012 End Date (this page): 5/31/12

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
5-7-12	Redacted	Mife 4-18-12	Uterus appears to have some clots present	Per [REDACTED] to resuction Pt. didn't return was going to own PCC for clots	SQ	AM
5-7-12		Mife 4-19-12	retained clots	Per [REDACTED] to resuction 5/15/12 pt. came in for resono & uterus appears to be empty 0 clots	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of April 2012 Start Date (this page): 04/01/2012 End Date (this page): \_\_\_\_\_

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
4/5/12	Redacted	3/27/12	Clotting, abdominal pain	resuction	MS	AM
4-25-12		4-19-12	Pt. states feels pregnant still & went to ER sono says preg- is there	resuction	SQ	AM

[LOGO] Whole Woman's Health  
**Complication Log**

Month of March Start Date (this page): 3/1/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
3/3/2012	Redacted	2/17/12 (Mife)	Retained tissue from Mife, Pt. came in for f/u 3/2/12 had + test	Per [REDACTED] gave 800 Cyto on 3/2/12 to resolve came back 5/3/12 still visible tissue [REDACTED] will suction	SQ	AM
3-10-12		2/24/12 (Mife)	retained clots & tissue seen on sono @ f/u 3/8/12	[REDACTED] will perform resuction	SQ	AM
3-13-12		2/28/12 (Mife)	appears tissue 2 in f/u sono	[REDACTED] performing resuction	SQ	AM
3-5-12		2/16/12 (Mife)	came in for f/u 2 UCG +/-sono doesn't appear empty	Dr. [REDACTED] performed resuction	SQ	AM
3-15-12		2/29/12 (Mife)	preg-test + @ f/up & symptoms of pregnancy still cramping bad & bleeding 14 days straight	Pt. will come in 3/16/12 for Mife resuction	SQ	



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of February Start Date (this page): 2/1/12 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
2-20-12	Redacted	Mife 2-7-12	came in for f/u & sono showed several clots 2-20-12	Per [REDACTED] 600 Cyto repeat sono 2-27-12	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of January Start Date (this page): 1/1/2012 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
2-16-12	Re-dacted	Mife 1-28-12	Came in for F/U & pregtest 2-9-12	Per [REDACTED] 600 Cyto vaginal to clear clots/return 2/16/12 repeat sono & test	SQ	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of \_\_\_\_\_ Start Date (this page): \_\_\_\_\_ End Date (this page): \_\_\_\_\_

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>

Revised Feb 2010 AHM

**Whole Woman's Health****Complication Log**Month of Jan. 2011 Start Date (this page): 01/11/11 End Date (this page): 02/20/11

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
01/11/11	Redacted	12/30/10	Pain, bleeding (R POC)	Resuction	SQ	LD
02/03/11		02/03/11	fever w/infection	D&C Hospitalization	SQ	LD
02/10/11		02/10/11	Uterine perforation	Hospitalization 2 units of blood Hysterectomy	SQ	LD
02/23/11		02/23/11	Severe pain post-Laminaria	Laminaria removed same night	SQ	LD
02/24/11		02/24/11	Pain & bleeding post D&E.	Resuction same day. Hospital transfer due to bleeding	SQ	LD
02/24/11		02/24/11	Severe bleeding during procedure Poss. Perf.	transferred to Hospital incomplete D&E. R/O Perf.	SQ	LD

**Whole Woman's Health****Complication Log**Month of MARCH, 2011 Start Date (this page): 03/24/11 End Date (this page): 8/31/11

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
03/24/11	Redacted	(Mife) 03/11/11	Pregnancy symptoms & UCG @ f/u	Resuction (Post-Mife)	SQ	SW
04/21/11		04/21/11	Severe bleeding & pain immediately Post-op Uterine Perforation	Transfer to ER. Hysterectomy 4-units of blood	SQ	SW
05/05/11		05/05/11	Severe bleeding Post-op. Placenta Secundi Cervical Laceration	Transfer to ER. Resuction (removed 2nd placenta) suture of laceration.	SQ	SW
06/08/11		05/04/11	Pt. called w/pain. "[Illegible] clot". Pt. went to ER. was admitted	(infection) [illegible] to re-fused to clinic w/Antibiotics	SQ	SW
08/11/11		08/11/11	Cervical Laceration	suture	SQ	SW
08/17/11		07/15/11 (Mife)	f/u received cont. pregnancy. Failed Mife.	suction	SQ	SW

**Whole Woman's Health**

**Complication Log**

Month of September 2011 Start Date (this page): 9/1/11 End Date (this page): 9/30/11

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
09/09/11	Redacted	07/06/11	R POC: pt. went to ER (severe cramps & bleeding)	Resuction	SQ	SW



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of December Start Date (this page): 12/1/2011 End Date (this page): \_\_\_\_\_

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
12/3/11	Redacted	12/3/11	bleeding $\bar{p}$ procedure poss acreda tear	transported to ER @ Harris [illegible] to be seen by Gyn [REDACTED]	MS	AM
12/12/11		10/26/11	cramping & bleeding sono revealed retained clots	resuction 12/13/11	MS	AM
12/17/11		12/2/11	pt. feeling pregnancy symptoms	resuction	SQ	AM
12/17/11		12/2/11 mifeprex	retained clots & tissue	Resuction 12/17/11	SQ	AM



**Whole Woman's Health****Complication Log**Month of November Start Date (this page): 11/01/11 End Date (this page): 11/30/2011

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
11/01/11	Redacted	10/14/11	nausea & positive pregnancy	Resuction completed	LB	AM
11/08/11		10/25/11	nausea & positive pregnancy test Fail MIFE	Resuction	[Illegible]	AM
11/26/11		11/26/11	depressed respirations procedure (12.0 LMP)	pt. transported to ER & FPS	MS	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of October Start Date (this page): 10/1/11 End Date (this page): 10/31/11

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
10-1-11	<del>Redacted</del>	9-20-11	retained clots & F/U	resuction	MS	AM
10-17-11		9-27-11	retained clots	resuction	MS	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of August Start Date (this page): 08/01/11 End Date (this page): 08/31/11

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
08/20/11	Redacted	MIFE 07/02/11	Failed MIFE	Resuction	CA	AM
08/25/11		MIFE 08/10/11	Failed MIFE	Resuction	CA	AM
08/25/11		MIFE 08/20/11	retained clots	Resuction	CA	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of July 2011 Start Date (this page): 07/01/11 End Date (this page): 07/31/11

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
07/21/11	Redacted	06/21/11		Resuction	CA	AM
07/21/11		07/21/11	Failed MIFE	Resuction	CA	AM
10/0711		10/07/11	Bleeding & clots cramping	[illegible] seen Resuction [illegible]	LB	AM

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of June 2013 Start Date (this page): 6/1/13 End Date (this page): 6/30/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
Redacted	6/21/13	Failed Mife—post suction post-up bleeding	N	Y	Transferred to Mission Hills Baptist via EMS blood prod- ucts/IVf therapy	SQ	SW
	6/22/13	Swelling on hands & feet	N	N	Pt sent to ER MD notified (Spanish)	SQ	SW

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of June Start Date (this page): 6-1-13 End Date (this page): 6-30-13

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials

No Complication



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of July Start Date (this page): 7-1-13 End Date (this page): 7-31-13

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials

No Complications

[Illegible]

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of August Start Date (this page): 8-1-13 End Date (this page): 8-30-13

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
8/30/13	Redacted	82913	heavy bleeding, & <2 pads & 1hr. 8/10 pain lower Abd. 0 fever	Sent to University OB SR for further assessment	KH	
		10-9-81	Pt called to report she passed/fainted at home & went to ER	Pt went to ER for evaluation	KH	



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of September Start Date (this page): 9-1-13 End Date (this page): 9-30-13

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials

No Complications



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of October Start Date (this page): 01 End Date (this page): 31

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>

No Complications



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of November Start Date (this page): 01 End Date (this page): 30

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials



No Complications

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of December Start Date (this page): 01 End Date (this page): 31

<b>Today's Date</b>	<b>Patient Name</b>	<b>Date of TOP</b>	<b>Chief Complaint</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
12/28/13	Redacted	11/23/13	Passing clots, bleeding x 2 wks	Cytotec Buccally 800 mcg → 0 resolution Resuction performed 12/28/13	KA	

**Whole Woman's Health****Complication Log**Month of August 2010 Start Date (this page): 08/29/10 End Date (this page): ~~October 2010~~

12/11

Today's Date	Patient Name	Date of TOP	Chief Complaint	Resolution	Staff Initials	Medical Director Initials
08/29/10	Redacted	8/27/10	Pulmonary Edima	Hospitalization	SQ	SW
09/10/10		9/10/10	Breast Infection	Antibiotics & follow up —Keflex —Tylenol	SQ	SW
10/26/10		10/22/10	Severe Pain (R POC)	Misoprostol 200 mg x4—buoc. resorc.	SQ	SW
12/31/11 12		12/28/11	pain 0 relieved 2 meds	D&C—placenta removed hospitalized overnight fever— [Illegible]	CW	SW
1/18/12		1/5/12	soaking 1 pad/1 hour pains relieved 2 meds	post MIFE suction	CW	Errs SW
9/20/12		9/20/12	post abortion bleeding	Transferred to University Hospital	SQ	Errs SW



[LOGO] Whole Woman's Health  
**Complication Log**

Month of February 2013 Start Date (this page): 2/1/13 End Date (this page): 2/28/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
Redacted	2/16/13	Severe cramping & bleeding	N [R] N	N [R] Y	Admitted to Seton Hospital in Austin, TX underwent emergency hysterectomy	SQ	SW
	2/21/13	Uncontrolled post-op cervical bleeding	N [R] Y	Y	Pt monitored @ Mission Trails Baptist Hosp after transfer via EMS from WWH. 0 tx requested. Pt advised [illegible] complications	SQ	SW





[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of ~~March~~ April 2013 Start Date (this page): 4/1/13 End Date (this page): 4/30/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
Redacted	3/16/13	Abd pain/tenderness yellow vaginal discharge clotting	N	N	[Illegible] by [Illegible] IM xbx given in clinic [Illegible] 250 mg & script for Doxycycline given in clinic	SQ	SW
	4/2/13	Cramping, clots s/p MIFE	N	N	SONO shows retained clots D&C performed in clinic	SQ	SW



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of June 2013 Start Date (this page): 6/1/13 End Date (this page): 6/30/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
Redacted	6/21/13	Failed MIFE—post suction post-op bleeding	N	Y	Transferred to Mission Hills Baptist via EMS blood products/IVf therapy	SQ	SW
Redacted	6/22/13	Swelling on hands & feet	N	N	Pt sent to ER MD notified (Spanish)	SQ	SW



[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of August 2013 Start Date (this page): 8/1/13 End Date (this page): 8/31/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
		No Complications Noted				SQ	
						-	
						-	
						-	
						↓	

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of September 2013 Start Date (this page): 9/1/13 End Date (this page): 9/30/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
		No Complications Noted				SQ	
						-	
						-	
						-	
						↓	

[LOGO] **Whole Woman's Health**  
**Complication Log**

Month of October 2013 Start Date (this page): 10/1/13 End Date (this page): 10/31/13

<b>Patient Label</b> <i>Name/DOB/DOS</i> <i>MD/MR#</i>	<b>Date of TOP</b>	<b>Complication</b>	<b>Same Day Return to OR Y/N</b>	<b>Hospital Transfer Y/N</b>	<b>Resolution</b>	<b>Staff Initials</b>	<b>Medical Director Initials</b>
/		0 Complications Noted [Illegible]			/	SQ	
/		/			/		
/		/			/		
/		/			/		
/		/			/		







**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS (AUSTIN)**

(Admitted Aug. 4, 2014)

DEFENDANT'S  
EXHIBIT

44  
A 14 CV 284LY

[LOGO] TEXAS

Department of  
State Health Services

Table 33 Selected Characteristics of Induced Terminations of Pregnancy Texas Residence

Table 33  
Selected Characteristics of Induced  
Terminations of Pregnancy  
Texas Residences, 2009

<b>TOTAL NUMBER REPORTED IN TEXAS*</b>	77,850
Out of State/Country Residents	2,526
Total Texas Residents	74,835
Not Stated	489
-----	
<b>AGE</b>	
11 Years or Less	0
12-13 Years	53
14-15 Years	575
16-17 Years	2,353
18-19 Years	6,365
20-24 Years	24,964
25-29 Years	19,409
30-34 Years	11,339

35-39 Years	6,814
40 Years and Over	2,600
Not Stated	363
-----	
<b>RACE</b>	
Asian	3,184
Hispanic	28,327
White	23,595
Black	18,570
Native American	139
Other	534
Not Stated	486
-----	
<b>MARITAL STATUS</b>	
Married	12,764
Not Married	61,938
Not Stated	133
-----	
<b>FACILITY OF OCCURRENCE</b>	
Abortion Clinic	69,861
Ambulatory Surgical Center	4,531
Hospital	183
Physicians	40
Out of State	220
-----	
<b>WEEKS OF GESTATION</b>	
8 Weeks or Less	54,886
9-10 Weeks	9,533
11-21 Weeks	4,853
13-14 Weeks	3,014
15-16 Weeks	1,394
17-20 Weeks	682

21-25 Weeks	429
26 Weeks or More	7
Not Stated	37
-----	
<b>TYPE OF PROCEDURE</b>	
Suction Curettage	55,570
Medical (Non Surg.)	15,108
Dilation and Evacuation	4,069
Intra-Uterine	4
Sharp Curettage (D&C)	28
Hysterotomy/Hysterectomy	2
Other	54
Not Stated	
-----	
<b>PREVIOUS LIVE BIRTHS</b>	
None	27,895
One	20,032
Two	16,064
Three	7,036
Four	2,556
Five or more	1,182
Not Stated	70
-----	
<b>PREVIOUS INDUCED ABORTIONS</b>	
None	42,472
One	19,757
Two	7,939
Three	2,839
Four	1,016
Five or More	703
Not Stated	109
-----	

<b>PATIENT SURVIVED</b>	
Survived	74,835
Did Not Survive	0
* Includes women residing outside of Texas.	
<b><u>2009 Annual Report List of Tables and References</u></b>	
<b><u>Annual Reports for Other Years</u></b>	
<b><u>Center for Health Statistics</u></b>	

*Last updated December 16, 2011*

[LOGO] TEXAS

Department of  
State Health Services

Table 33 Selected Characteristics of Induced Terminations of Pregnancy Texas Residence

Table 33  
Selected Characteristics of Induced  
Terminations of Pregnancy  
Texas Residences, 2010

<b>TOTAL NUMBER REPORTED IN TEXAS*</b>	77,592
Out of State/Country Residents	2,421
Total Texas Residents	74,959
Not Stated	212
-----	
<b>AGE</b>	
11 Years or Less	3
12-13 Years	49

14-15 Years	507
16-17 Years	2,109
18-19 Years	5,882
20-24 Years	24,561
25-29 Years	19,778
30-34 Years	12,105
35-39 Years	6,959
40 Years and Over	2,830
Not Stated	176
-----	
<b>RACE</b>	
Asian	3,345
Hispanic	28,817
White	22,651
Black	18,623
Native American	112
Other	729
Not Stated	682
-----	
<b>MARITAL STATUS</b>	
Married	12,671
Not Married	62,579
Not Stated	9
-----	
<b>FACILITY OF OCCURRENCE</b>	
Abortion Clinic	65,131
Ambulatory Surgical Center	9,457
Hospital	182
Physicians	60
Out of State	129
-----	

<b>WEEKS OF GESTATION</b>	
8 Weeks or Less	55,851
9-10 Weeks	9,133
11-21 Weeks	4,628
13-14 Weeks	2,943
15-16 Weeks	1,347
17-20 Weeks	649
21-25 Weeks	386
26 Weeks or More	14
Not Stated	8
-----	
<b>TYPE OF PROCEDURE</b>	
Suction Curettage	52,942
Medical (Non Surg.)	18,313
Dilation and Evacuation	3,631
Intra-Uterine	7
Sharp Curettage (D&C)	39
Hysterotomy/Hysterectomy	1
Other	15
Not Stated	11
-----	
<b>PREVIOUS LIVE BIRTHS</b>	
None	27,623
One	19,784
Two	16,205
Three	7,331
Four	2,706
Five or more	1,282
Not Stated	28
-----	

<b>PREVIOUS INDUCED ABORTIONS</b>	
None	41,858
One	20,277
Two	8,140
Three	2,715
Four	1,110
Five or More	810
Not Stated	49
-----	
<b>PATIENT SURVIVED</b>	
Survived	74,959
Did Not Survive	0

\* Includes women residing outside of Texas.

**2010 Annual Report List of Tables and  
References**

**Annual Reports for Other Years**

**Center for Health Statistics**

*Last updated June 08, 2012*



## [LOGO] TEXAS

Department of  
State Health Services

Table 33 Selected Characteristics of Induced Terminations of Pregnancy Texas Residence

Table 33  
Selected Characteristics of Induced  
Terminations of Pregnancy  
Texas Residences, 2011

<b>TOTAL NUMBER REPORTED IN TEXAS*</b>	72,470
Out of State/Country Residents	2,240
Total Texas Residents	70,003
Not Stated	227
-----	
<b>AGE</b>	
11 Years or Less	0
12-13 Years	43
14-15 Years	485
16-17 Years	1,798
18-19 Years	5,171
20-24 Years	22,561
25-29 Years	18,480
30-34 Years	11,722
35-39 Years	6,611
40 Years and Over	2,955
Not Stated	177
-----	
<b>RACE</b>	
Asian	3,110
Hispanic	26,392

White	21,645
Black	17,336
Native American	124
Other	721
Not Stated	675
-----	
<b>MARITAL STATUS</b>	
Married	11,474
Not Married	58,521
Not Stated	8
-----	
<b>FACILITY OF OCCURRENCE</b>	
Abortion Clinic	53,799
Ambulatory Surgical Center	15,853
Hospital	178
Physicians	35
Out of State	138
-----	
<b>WEEKS OF GESTATION</b>	
8 Weeks or Less	52,062
9-10 Weeks	8,310
11-21 Weeks	4,514
13-14 Weeks	2,758
15-16 Weeks	1,254
17-20 Weeks	723
21-25 Weeks	351
26 Weeks or More	23
Not Stated	8
-----	
<b>TYPE OF PROCEDURE</b>	
Suction Curettage	47,520
Medical (Non Surg.)	18,164
Dilation and Evacuation	4,233
Intra-Uterine	4

Sharp Curettage (D&C)	20
Hysterotomy/Hysterectomy	4
Other	58
Not Stated	0
-----	
<b>PREVIOUS LIVE BIRTHS</b>	
None	25,996
One	18,473
Two	14,824
Three	6,858
Four	2,538
Five or more	1,286
Not Stated	28
-----	
<b>PREVIOUS INDUCED ABORTIONS</b>	
None	39,574
One	18,587
Two	7,551
Three	2,552
Four	974
Five or More	707
Not Stated	58
-----	
<b>PATIENT SURVIVED</b>	
Survived	70,003
Did Not Survive	0

\* Includes women residing outside of Texas.

**2011 Annual Report List of Tables and References**

**Annual Reports for Other Years**

**Center for Health Statistics**

*Last updated March 29, 2013*

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## LOGO] TEXAS

Department of  
State Health Services

Table 33 Selected Characteristics of Induced Terminations of Pregnancy Texas Residence

Table 33  
Selected Characteristics of Induced  
Terminations of Pregnancy  
Texas Residences, 2012

<b>TOTAL NUMBER REPORTED IN TEXAS*</b>	68,298
Out of State/Country Residents	2,056
Total Texas Residents	66,098
Not Stated	144
-----	
<b>AGE</b>	
11 Years or Less	0
12-13 Years	25
14-15 Years	411
16-17 Years	1,475
18-19 Years	4,362
20-24 Years	21,047
25-29 Years	17,891
30-34 Years	11,573
35-39 Years	6,362
40 Years and Over	2,769
Not Stated	183
-----	
<b>RACE</b>	
Asian	3,023
Hispanic	24,800

White	19,986
Black	16,545
Native American	104
Other	1,030
Not Stated	610
-----	
<b>MARITAL STATUS</b>	
Married	10,365
Not Married	55,714
Not Stated	19
-----	
<b>FACILITY OF OCCURRENCE</b>	
Abortion Clinic	51,740
Ambulatory Surgical Center	14,016
Hospital	202
Physicians	43
Out of State	97
-----	
<b>WEEKS OF GESTATION</b>	
8 Weeks or Less	48,377
9-10 Weeks	8,062
11-21 Weeks	4,443
13-14 Weeks	2,723
15-16 Weeks	1,362
17-20 Weeks	766
21-25 Weeks	342
26 Weeks or More	11
Not Stated	12
-----	
<b>TYPE OF PROCEDURE</b>	
Suction Curettage	43,327
Medical (Non Surg.)	18,335

Dilation and Evacuation	4,339
Intra-Uterine	3
Sharp Curettage (D&C)	59
Hysterotomy/Hysterectomy	4
Other	23
Not Stated	8
-----	
<b>PREVIOUS LIVE BIRTHS</b>	
None	24,538
One	17,209
Two	13,975
Three	6,632
Four	2,455
Five or more	1,253
Not Stated	36
-----	
<b>PREVIOUS INDUCED ABORTIONS</b>	
None	37,431
One	17,847
Two	6,836
Three	2,392
Four	832
Five or More	698
Not Stated	62
-----	
<b>PATIENT SURVIVED</b>	
Survived	66,098
Did Not Survive	0

\* Includes women residing outside of Texas.

**2012 Annual Report List of Tables and References**

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**Annual Reports for Other Years**

**Center for Health Statistics**

*Last updated June 26, 2014*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

WHOLE WOMAN’S HEALTH;	)	
<i>et al.</i> ,	)	
	)	CIVIL ACTION
Plaintiffs,	)	
	)	CASE NO.
v.	)	14-CV-284-LY
DAVID LAKEY, M.D.; <i>et al.</i> ,	)	
	)	
Defendants.	)	

**DIRECT TESTIMONY OF  
AMY HAGSTROM MILLER**

(Filed Aug. 5, 2014)

AMY HAGSTROM MILLER under penalty of perjury, testifies as follows:

1. I am the founder, President and CEO of Whole Woman’s Health, which has been providing high-quality reproductive health care services, including abortion services, to Texas women for over a decade. We currently operate licensed abortion facilities in Fort Worth and San Antonio. In addition, we operate a licensed ASC in San Antonio. Until recently, Whole Woman’s Health also operated licensed abortion facilities in Austin, Beaumont, and McAllen (the “McAllen clinic”). These facilities closed as a result of Texas House Bill No. 2—in particular, as a result of the “admitting privileges requirement,” which mandates that all physicians who provide abortion services “have active admitting privileges at a hospital



that . . . is located not further than 30 miles from the location at which the abortion is performed or induced,” and the “ASC requirement,” which mandates that “the minimum standards for an abortion facility must be equivalent to the minimum standards . . . for ambulatory surgical centers” under Texas law.

2. Whole Woman’s Health is a member of the National Abortion Federation (“NAF”). All of our medical facilities therefore comply with NAF’s Clinical Policy Guidelines.

### **The McAllen Clinic**

3. The McAllen clinic provided a range of reproductive health care services, including abortion services, to women in the Rio Grande Valley. After October 31, 2013, the McAllen clinic was forced to stop providing abortion services as a result of the admitting privileges requirement. It continued to provide non-abortion services such as pregnancy testing, ultrasound, and contraceptive counseling for another four months, while operating at a substantial loss, but ultimately, it was forced to cease operations altogether on March 6, 2014. Nevertheless, Whole Woman’s Health remains in possession of the McAllen clinic’s building and abortion facility license, and we intend to reopen the clinic if we obtain a favorable decision from the Court.

4. Whole Woman’s Health first began operating the McAllen clinic in January 2004. It has been licensed by the Texas Department of State Health

Services (“DSHS”) to provide abortion services since that time.

5. Prior to the admitting privileges requirement taking effect, Texas law limited the provision of surgical abortion in a facility like ours to 16 weeks of pregnancy, and we adhered to that limit at the McAllen clinic. Texas law now limits the provision of medication abortion to five weeks of pregnancy. If the McAllen clinic were to resume providing services, we would adhere to that requirement.

6. The highest level of sedation offered to patients at the McAllen clinic was moderate sedation/analgesia, also known as conscious sedation. We did not use deep sedation or general anesthesia.

7. The McAllen clinic had an outstanding safety record. During the past ten years, we provided abortion services to over 14,000 women at the McAllen clinic. Few patients experienced serious complications from an abortion procedure and only two patients required transfer from the clinic to a hospital. In both of those cases, the patients were successfully treated at the hospital.

#### **Inability to Comply with the Admitting Privileges Requirement**

8. After the admitting privileges requirement was enacted, four physicians who provide abortion services for Whole Woman’s Health sought to obtain admitting privileges at a hospital within 30 miles of

the McAllen clinic, but each was ultimately unable to do so. All four physicians are board-certified obstetrician-gynecologists with years of experience performing abortion procedures. Three of them have admitting privileges at hospitals in other parts of the State.

9. To assist these physicians in obtaining the required admitting privileges, my staff conducted research to identify all of the hospitals within 30 miles of the McAllen clinic. We determined that there are eight such hospitals, seven of which provide obstetric or gynecological services: Rio Grande Regional Hospital, Mission Regional Medical Center, Doctors Hospital at Renaissance, and four hospitals affiliated with the South Texas Health System.

10. We then contacted the hospitals to determine the procedures and requirements for obtaining admitted privileges. All seven McAllen-area hospitals require, as a condition of granting admitting privileges, that an application be signed by a “designated alternate” physician willing to attend to the applicant’s patients when the applicant is unavailable. The designated alternate physician must already have admitting privileges at the hospital. If an application is not signed by a designated alternate physician, it will not be considered, regardless of whether the applicant meets the hospital’s other criteria.

11. My staff and I reached out to numerous physicians in the McAllen area about serving as the required designated alternate physician. Only one

physician, who had admitting privileges at Doctors Hospital at Renaissance, was willing to do so. The others expressed concern about retaliation from the hospitals at which they had admitting privileges and the possibility that their privileges would be revoked or discontinued if they facilitated the application of an abortion provider.

12. Thus, our physicians were only able to satisfy the designated alternate physician requirement for one hospital within 30 miles of the McAllen clinic: Doctors Hospital at Renaissance.

13. The first step in applying for admitting privileges at Doctors Hospital at Renaissance is to send a letter requesting an application for admitting privileges. In September 2013, each of the four physicians submitted requests.

14. Subsequently, each of the physicians received a letter in response from the hospital stating that his or her request for an application had been denied. In particular, each letter stated that, based on the recommendation of the hospital's Credentials Committee, the Medical Executive Committee was denying the physician's request for an application for privileges. Each letter further stated that the Board of Governors had considered the request and determined not to extend an application, "as authorized under the Bylaws and Rules and Regulations of the Medical Staff for the Hospital" and that the "decision of the Governing Board was not based on clinical competence consideration." The letters provided no

other explanation for why each of the four physicians were being denied the opportunity to apply for admitting privileges at the hospital. The letters are being offered collectively as Plaintiffs' trial exhibit P-068.

15. Despite extensive efforts, Whole Woman's Health has been unsuccessful in recruiting physicians who already possess admitting privileges at a hospital within 30 miles of the McAllen clinic to provide abortion services at the clinic. We engaged in direct recruitment of physicians, posted job listings on listservs maintained by reproductive health organizations, and utilized professional networks to spread the word.

16. Physicians have cited several reasons for declining recruitment offers from Whole Woman's Health: Many are worried about their personal safety and the safety of their families. Harassment and threats of violence have been a particular problem at the McAllen clinic, leading to a recent investigation by the Federal Bureau of Investigation and Department of Justice. In addition, some physicians are concerned about the hostile regulatory environment in Texas and potential exposure to criminal liability. Some also express concern about retaliation by hospital administrators and other medical professionals who are opposed to abortion.

**Impact of Clinic Closures on  
Women in the Rio Grande Valley**

17. Following the closure of the McAllen clinic, women now have to travel outside the region to obtain legal abortion care, but many lack the resources to do so or face obstacles that are too substantial to overcome.

18. During the four-month period of time when the McAllen clinic was open but not providing abortion services, Whole Woman's Health worked with a nonprofit organization to provide financial assistance in the form of gas cards and bus tickets to women who presented at the clinic seeking abortion services. The purpose was to enable patients to travel to a licensed abortion facility in San Antonio. The vast majority of women, however, would not accept the assistance because other obstacles prevented them from making the trip to San Antonio. These obstacles included the inability to take the required length of time off from work and the inability to secure child-care for that length of time. Many women also reported having an immigration status that permitted them to be present in the region of the United States bordering Mexico, but did not permit them to travel north of Falfurrias.

19. During this period of time, staff at the McAllen clinic saw a significant increase in women who had attempted self-abortion through various methods, including using medication obtained over the Internet, on the black market, or over the border

in Mexico. The staff also encountered women who had attempted to use herbal teas, douches, or non-coerced physical abuse to their pelvic region to attempt to induce an abortion.

### **Inability to Comply with the ASC Requirement**

20. The license for our Austin clinic was set to expire at the end of last month. We did not renew it because we would not have been able to provide abortion services there after the ASC law took effect. Accordingly, that facility is now closed. If we prevail in this lawsuit, however, we would reestablish a licensed abortion facility in Austin.

21. We also operate facilities in Ft. Worth and San Antonio that do not meet ASC construction standards. These facilities will have to close by September 1, 2014, if the ASC requirement is not enjoined.

22. Furthermore, the McAllen clinic does not meet ASC construction standards. Even if one of our doctors was able to obtain admitting privileges at a McAllen-area hospital, we would not be able to reopen the clinic after the ASC requirement takes effect.

23. We have made a variety of efforts over the past year to lease or purchase an ASC facility. All of these efforts proved fruitless. An ASC available for lease in Austin seemed promising, but it turned out that a restrictive covenant runs with the property that prohibits its use for “sterilization procedures,

abortions, or the promotion of such activities.” A copy of this covenant is being offered as Plaintiffs’ Trial Exhibit P-066. An ASC available for purchase in Ft. Worth also seemed promising. But the property is appraised for \$ 2.3 million, and to date, we have been unable to obtain financing for the purchase.

24. Absent relief from the Court, on September 1, 2014, all of the remaining facilities operated by Whole Woman’s Health except one—our ASC in San Antonio—will be forced to close. This will cause a dramatic reduction in access to abortion services for women throughout Texas.

Dated: August 3, 2014  
Austin, Texas

By: /s/ Amy Hagstrom Miller  
Amy Hagstrom Miller

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