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Blue Mountain Clinic, and Helen Weems
Pro hac vice applications forthcoming

**MONTANA FIRST JUDICIAL DISTRICT COURT,
COUNTY OF LEWIS & CLARK**

ALL FAMILIES HEALTHCARE; BLUE)
MOUNTAIN CLINIC; AND HELEN)
WEEMS MSN APRN-FNP, on behalf of)
themselves and their patients)
Plaintiffs,)
vs.)
STATE OF MONTANA; MONTANA)
DEPARTMENT OF PUBLIC HEALTH)
AND HUMAN SERVICES; and CHARLIE)
BRERETON, in his official capacity as)
Director of the Department of Public Health)
and Human Services)
Defendants.)
)
)
)
)
)
)

Cause No. _____
Judge: _____

**AFFIDAVIT OF JENNIFER
MAYO, MD, IN SUPPORT OF
PLAINTIFFS' APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I, Jennifer Mayo, MD, affirm that:

1. I submit this affidavit in support of Plaintiffs' Application for a Temporary Restraining Order and Preliminary Injunction against the enforcement of HB 937 (the "Act") related to the licensure of clinics that provide abortion services.

Background and Experience

2. I am a board-certified obstetrician-gynecologist licensed to practice in Montana. I obtained my medical degree from Oregon Health & Science University ("OHSU") in June 2006 and completed my ob-gyn residency at OHSU in June 2010. I am a fellow of the American College of Obstetricians and Gynecologists ("ACOG"), the leading professional organization of ob-gyns in the United States. Additionally, I have served as a clinical instructor for the University of Washington Medical School WWAMI (Washington, Wyoming, Alaska Montana, and Idaho), a collaborative medical education program among medical schools in those 5 states. Through that program, I train medical students during 6-week clerkships in obstetrics and gynecology.

3. I have been practicing medicine in Montana since September 2010. I currently practice at Western Montana Clinic, a clinicians' office that has been providing multi-disciplinary health services to the Montana community since 1922. In my office, I provide outpatient obstetric and gynecological care, including annual gyn exams, prenatal care; miscarriage management by procedure and medication; and surgical and non-surgical gynecological consultation. I also routinely care for patients in the operating room; many procedures I provide there can also be safely performed in the office. Additionally, I trained in abortion care, performed in the outpatient setting, through the second trimester.

4. My *curriculum vitae*, which sets forth my experience and credentials in greater detail is attached as Exhibit A.

5. The opinions in this affidavit are my expert medical opinions, based on my education, training, clinical experience, ongoing review of relevant, peer-reviewed professional literature, and discussions with colleagues.

6. I am familiar with HB 937, about licensure for abortion clinics in Montana. It is my understanding that HB 937 may be read to require clinics that provide abortion services to obtain facility licensure from the Department of Public Health and Human Services (“DPHHS”) in order to continue providing abortion services, but that it is unclear. It is also my understanding that, to date, DPHHS has not set out in regulations the requirements for abortion clinic licensure.

7. It is my opinion that, to the extent HB 937 requires clinics that provide abortion services to be licensed, it has no medical justification. The procedures I perform in my office in Montana are comparable in skill, technique, and risk to abortion procedures. In particular, I manage miscarriage by an identical procedure as that which is used to induce an abortion. Additionally, the medications I prescribe to manage miscarriage are identical to the medications used to induce an abortion. There is no medical reason that would necessitate different facility licensure or facility requirements for the procedures I perform or the medications I prescribe, as compared with outpatient abortion services.

Outpatient Gynecological and Other Services

8. In my office, I provide several procedures that are comparable to procedural abortion. My provision of this care, however, does not trigger application of HB 937 and any related requirements. My office is not required to have a facility license from DPHHS under HB 937 or otherwise.

9. Managing miscarriage by procedure requires identical skill and carries the same risk as inducing an abortion by procedure. In both procedures, a clinician dilates the cervix and a

curette is used to remove the uterine contents through suction, instruments, or a combination. At the same point in pregnancy, the procedure does not differ medically, in terms of risk or technique, for patients who have lost their pregnancies as a result of embryonic or fetal death, incomplete miscarriage, or induced abortion.

10. Abortion is also comparable to other outpatient gynecological procedures in terms of risk, invasiveness, duration, and instrumentation, each of which I offer in my office. For example, it is similar in some ways to hysteroscopy (a procedure used to examine the inside of the uterus with a camera), loop electrosurgical excision procedures (“LEEPs”) (a procedure to remove abnormal cells from the cervix to prevent cancer), and insertion and removal of IUDs. For these procedures, I administer a cervical block with lidocaine to numb the cervix prior to the procedure. I also offer anxiolytic (anxiety) medication as necessary.

11. Some clinicians may provide these procedures in ambulatory surgical or hospital settings, but it is not necessary. In my experience, for example, clinicians may perform suction aspiration in an ambulatory surgical or hospital setting because that is how they were trained or where they have access to the suction equipment. But there is no health or safety reason that miscarriage management needs to be performed in such settings. The same is true for the identical procedure performed to induce an abortion.

12. Managing miscarriage with prescription medications is also identical to medication abortion. Indeed, miscarriage can be managed with misoprostol, with or without mifepristone—the same medications used in a medication abortion. I currently prescribe mifepristone and misoprostol for miscarriage management, which is more effective than a misoprostol-only

regimen, as research demonstrates, and my experience confirms.¹

13. Abortion care, by medication or procedure, can be safely and effectively provided in a clinic setting such as a clinician's office, just as miscarriage care, and other similar gynecologic procedures, can be provided safely and effectively in that setting.

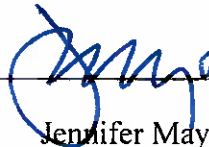
14. I routinely refer to Blue Mountain Clinic for abortion care, including first and second trimester procedures. My patients have always received excellent and safe care at this outpatient facility.

15. Requiring facility licensure or additional requirements for clinics that provide abortion care is medically inappropriate. There is no medical reason to apply unique requirements to abortion care simply because it is abortion care.

¹ See, e.g., ACOG, Early Pregnancy Loss, <https://www.acog.org/clinical/clinical-guidance/practice-bulletin/articles/2018/11/early-pregnancy-loss>.

I declare under penalty of perjury that the foregoing is true and correct.

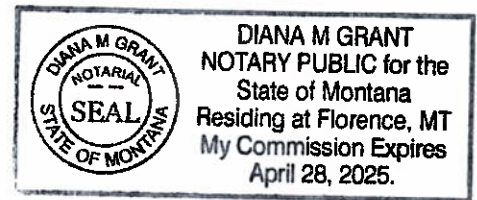
Dated: 8/31/23



Jennifer Mayo, MD

State of Montana)

County of Missoula)



Signed and affirmed to me this 31 day of August 2023.



Notary Public

Exhibit A

Jennifer B. Mayo, M.D., F.A.C.O.G.

Western Montana Clinic
PO Box 7609
Missoula, MT 59807-7609

Education and Training

7/2006 – 6/2010	Oregon Health & Science University Obstetrics and Gynecology Residency	Portland, Oregon
8/2001 – 6/2006	Oregon Health & Science University <i>Alpha Omega Alpha Honors Society</i> Doctorate of Medicine	Portland, Oregon
9/1995 – 12/1999	Oregon State University Honors College <i>Summa Cum Laude</i> Bachelor of Science – Microbiology Certificate of Applied Ethics	Corvallis, Oregon
9/1997 – 6/1998	University of Sussex Microbiology	Brighton, England

Employment/Professional Work

9/2010 – present	Western Montana Clinic – Ob/Gyn <i>2019 – present Executive Council Member</i>	
9/2015 – present	Saint Patrick Hospital Department of Surgery Representative	
2011 – 2012	American College of Ob/Gyn, Montana Section Junior Fellow Chair	
2010 – 2011	American College of Ob/Gyn, Montana Section Junior Fellow Vice Chair	

Board Certification

12/2012 – present	American Board of Obstetrics and Gynecology
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Teaching Experience

9/2010 – present	University of Washington Medical School, WWAMI Clinical Instructor
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Awards

2020	Association of Professors of Gynecology and Obstetrics (APGO) <i>Excellence in Teaching Award</i>
2018	WWAMI Excellence in Teaching Award
2013 – 2016	Missoula Independent's "Best Gynecologist"

CERTIFICATE OF SERVICE

I, Alexander H. Rate, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit in Support to the following on 09-01-2023:

Austin Miles Knudsen (Govt Attorney)

215 N. Sanders

Helena MT 59620

Representing: Charlie Brereton, State of Montana, Department of Public Health and Human Services

Service Method: eService

Electronically signed by Krystel Pickens on behalf of Alexander H. Rate

Dated: 09-01-2023