

March 4, 2022

**VIA EEOC PORTAL**

Natascha Deguire  
Equal Employment Opportunity Commission  
Kansas City Area Office  
Gateway Tower II  
400 State Avenue, Suite 905  
Kansas City, KS 66101

**Re: Suzanne Schuler v. MinuteClinic Diagnostics of Kansas  
EEOC Charge No. 563-2022-00500**

Dear Ms. Deguire:

Please accept the following Position Statement of MinuteClinic Diagnostic of Kansas, P.A.<sup>1</sup> (“MinuteClinic” or “Respondent”), in connection with the above-referenced Charge of Discrimination (“Charge”) filed by Complainant Suzanne Schuler (“Complainant”). Complainant, a former Nurse Practitioner, alleges MinuteClinic failed to provide her with a reasonable accommodation for her religious beliefs under Title VII. Complainant sought, as a reasonable accommodation, to be excused from performing the essential functions of prescribing contraceptives and abortifacient medications, and discussing sexual health options, with MinuteClinic patients as she claimed such duties conflicted with her religious beliefs.

MinuteClinic denies Complainant’s allegations in their entirety.<sup>2</sup> As explained in detail below, MinuteClinic terminated Complainant’s employment after determining it could no longer excuse her from performing these essential job duties without imposing an undue hardship on its business operations. MinuteClinic’s business model has transitioned from a retail or acute care model to a more holistic health services model. The new holistic health care model is geared toward creating consistent relationships with patients similar to a community health center. As such, it was imperative that Nurse Practitioners, such as Complainant, be prepared and able to treat any number of conditions, including counseling and advice about contraceptives, abortifacients, and other birth control options, and prescribing such medications.

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<sup>1</sup> Respondent was also incorrectly named as CVS Health in the Charge. MinuteClinic is associated with CVS, and where appropriate, CVS is referred to in the Position Statement below.

<sup>2</sup> To the extent that an allegation in the Charge is not specifically addressed herein, it is denied. Moreover, the statement of facts and position set forth herein is based upon MinuteClinic’s current understanding and investigation of the facts and circumstances at the time this statement is submitted. By submitting this statement of position, MinuteClinic in no way waives its right to present new or additional facts and/or arguments based upon subsequently acquired information and/or evidence. Further, MinuteClinic expressly denies that this statement of facts and position constitutes binding admissions on the part of any third party referenced herein.

Indeed, Complainant would often, if not always, have been the only Nurse Practitioner available to provide such patient care, including writing prescriptions for contraceptives. The only alternative would therefore have been to turn away patients seeking such services, refer them to a different business entirely, and/or to inform patients they needed to return to a different practitioner at the same clinic on a different day (if possible). Such an accommodation would have meant either turning away business entirely or putting patients in the position of not being able to have their medical needs met in a timely fashion. Particularly given the new business model, MinuteClinic could not continue to excuse Complainant from performing these essential job functions. Indeed, to do so would cause MinuteClinic more than a *de minimis* hardship. As such, MinuteClinic's refusal to do so was in no way discriminatory.

Further, Complainant's assertion that MinuteClinic had allowed her to turn away patients in prior years is of no import where its business needs had changed. MinuteClinic was not required to provide Complainant with the same accommodation indefinitely (especially where such accommodation caused it undue hardship as a matter of law).

Accordingly, because Complainant will be unable to establish that MinuteClinic engaged in discriminatory conduct of any kind, her claims are meritless and should be dismissed for lack of probable cause.

## **I. FACTUAL BACKGROUND**

### **1. CVS and MinuteClinic**

#### **A. CVS**

Headquartered in Woonsocket, Rhode Island, CVS—combined with its relevant parents and affiliates—is a retail drug store chain with over 9,900 retail pharmacy locations operating throughout the United States. CVS employs approximately 300,000 people working in its stores, distribution centers, and corporate headquarters. CVS is engaged in the retail drugstore industry and seeks to promote the health and well-being of its customers and patients through the sale of prescription drugs and provision of health care services. CVS provides expert care and innovative solutions in pharmacy and health care that help put people on a path to better health. CVS sells prescription drugs and a variety of general merchandise, including over-the-counter drugs, greeting cards, film and photo finishing services, beauty products, cosmetics, seasonal merchandise, and convenience foods through its pharmacy retail stores. Relative to the Charge, CVS operates a CVS Store and Pharmacy located at 18351 W 119th Street, Olathe, KS 66061 (“Store 5156”).

#### **B. MinuteClinic and HealthHUB**

As part of CVS stores, MinuteClinic operates more than 1100 locations across more than 33 states and the District of Columbia and offers convenient, affordable, high-quality care for a variety of conditions. MinuteClinics are community based clinics staffed by Nurse Practitioners and Physician's Assistants, who follow evidence based clinical practice guidelines to treat and

diagnose a range of conditions including the diagnosis and treatment of minor illnesses and injuries and skin conditions (such as pink eye, strep throat, flu, bronchitis, bladder infections, minor burns and cuts, and insect stings); administration of vaccinations, injections, health screening and physicals; and monitoring of chronic conditions such as cholesterol, diabetes, and high blood pressure. In their original formulation, MinuteClinics were designed as a “quick fix” for walk-in patients seeking a solution for a fast and immediate medical need. Over the years, MinuteClinic has begun to roll out more advanced services for the care of chronic conditions, such as diabetes and high blood pressure monitoring and wellness exams.

In addition, beginning in 2019 the Company piloted an expansion of its retail health offerings through the addition of the CVS “HealthHUB.” While MinuteClinics have traditionally focused primarily on easily treatable, acute health concerns such as immunizations, colds, and minor infections, the HealthHUB stores, in partnership with MinuteClinic, offer an even more comprehensive health care experience, with a team of care professionals providing a variety of health care services and expanded pharmacy, health product, and wellness support in an elevated, affordable health care destination. Among the expanded offerings of a CVS HealthHUB include, but are not limited to, enhanced in-person screenings by Nurse Practitioners or Physicians Assistants, who use their advanced skills to diagnose and treat common and certain chronic conditions, provide interventions, and prescribe medications. These advanced practitioners are supported by a Licensed Practical Nurse or Registered Nurse for clinical service assistance and intake oversight, along with a Care Concierge who assists customers in navigating in-store services, providing nutritional counseling and other health and wellness support, and connecting customers to the in-store providers. CVS locations with HealthHUBs are significantly remodeled to accommodate the more in-depth healthcare experience.

The program’s 2019 pilot proved an early success, and the Company has continued to expand its HealthHUB offerings in CVS retail locations throughout 2020 and 2021, including placing one in Store 5156. The MinuteClinic business model, and now HealthHUB in particular, has evolved over the years with an eye toward creating more of a consistent care relationship, known as “primary care enablement,” with its patients, rather than simply one of “urgent” care. The draw of MinuteClinic, in connection with HealthHUBs, is to create ongoing relationships with patients, rather than one-time “quick fixes” for health problems.

## 2. CVS and MinuteClinic Policies

CVS is committed to the principle of equal employment opportunity and ensures that applicants and employees are treated without regard to their race, color, sex, age, religion, national origin, disability, sexual orientation, veteran’s status, or any other legally-prohibited basis of discrimination. **Exhibit A** (relevant pages of the CVS Health Colleague Handbook, hereinafter referred to as the “CVS Colleague Handbook”), at pp. 10-13. Pursuant to its Code of Conduct, CVS expects its colleagues to comply with the law and treat others with “respect, honesty, and courtesy.” **Exhibit B** (relevant pages of the Code of Conduct), at p. 34.

CVS has a Problem Solving/Issue Resolution Process available to all employees if any employment-related problem, such as a perception of discrimination or retaliation, should arise. The policy explains that if employees feel as though they have been subjected to harassment, discrimination, or retaliation, they should report the concerns to management level supervisors or Human Resources. **Exhibit A**, at p. 12. If employees are uncomfortable speaking to their supervisor, employees are encouraged to report the incident to Human Resources, the next level of management, CVS's Ethics Hotline, or its Advice and Counsel Department. *Id.* at 14-15. CVS's Code of Conduct echoes many of the policies outlined in the CVS Colleague Handbook. **Exhibit B**. CVS strictly prohibits retaliation against an employee for raising a legal or ethical concern or for cooperating with an investigation. **Exhibit A**, at p. 12.

CVS also has a process for seeking a Reasonable Accommodation. The policy states that employees are expected to let CVS know when they think they might need a workplace accommodation for a religious belief and to contact myHR for the Leave of Absence/Reasonable Accommodations department. *Id.*, at p. 15-16. The policy states that once the request is made, CVS and the employee will engage in an interactive process to determine whether a reasonable accommodation is available and appropriate. *Id.* at 17. Employees should expect to be asked to provide documentation and other supporting documents. *Id.* The policy further clarifies that CVS will work as quickly as possible to complete the request, but that more time may be necessary depending on the employee's position and the complexity of the request. *Id.* at 17-18. The policy contains a non-exhaustive list of possible accommodations, including, but not limited to:

- Altering how or when job duties are performed;
- Modifying work schedules, and time off for religious holidays or other religious observances;
- Reassigning or removing non-essential job duties;
- Providing assistive equipment, devices, or technology; qualified readers or interpreters;
- Modifying job training and tests;
- Reconfiguring workspaces, providing seating, and improving physical accessibility;
- Providing ergonomic evaluations and modified equipment;
- Work from home on either a full-time or part-time basis;
- Time and appropriate space for scheduled prayer;
- Time off for medical appointments, finite intermittent leave of absence or a finite continuous leave of absence; [and/or]
- Transferring the colleague to another open position for which he or she is qualified.

*Id.* at 16. The policy is clear that any or all of these accommodations may not be appropriate for the employee depending on the circumstances and location, and that there is no "one size fits all" approach to the reasonable accommodation process. *Id.*

The policy further elaborates that there are certain accommodations that will not be

considered a reasonable accommodation, including, but not limited to, the following:

- Removing essential functions of the job;
- Lowering production or performance standards;
- Hiring another individual to assist the colleague or applicant;
- Providing unlimited or indefinite leave;
- Terminating or changing the position of other colleagues;
- Creating a new position for the colleague or applicant;
- Deleting past discipline or negative performance reviews;
- Allowing working conditions that create a direct threat of harm to the colleague of others; or
- Purchasing personal aids for the colleague or applicant, such as a wheelchair that will be used in and out of work.

*Id.* at 17.

CVS and MinuteClinic employees are provided with a copy of the Colleague Handbook to review at the commencement of their employment, and employees are also required to complete training on the Code of Conduct.

### **3. Complainant's Employment with MinuteClinic and Requests for Accommodation**

#### **A. Complainant Begins as Nurse Practitioner in MinuteClinic in 2009.**

Complainant was hired as a Nurse Practitioner on or about August 4, 2009. MinuteClinic Nurse Practitioners are required to, among other things, evaluate primary care, acute, chronically ill, and transitional care patients, ranging in age 18 months and older; provide patient counseling, including for pregnancy and STI prevention; educate patients on health maintenance and respond to patient inquiries; document patient care; and work effectively within a patient care team, including other providers and pharmacists. **Exhibit C**, Job Description, Nurse Practitioner. As the Nurse Practitioner for Store 5156's MinuteClinic, Complainant was often, if not always, the only Nurse Practitioner on the schedule able to write prescriptions for MinuteClinic patients.<sup>3</sup>

In or about May 2017, Complainant sought a reasonable accommodation on the basis of her religious belief (Christian) to be relieved from prescribing contraceptives, birth control, or Plan B (abortifacients). Complainant indicated as part of her request that she had been receiving a similar informal accommodation dating back to 2011. MinuteClinic granted Complainant's accommodation request and relieved her from prescribing such medication. MinuteClinic directed Complainant to refer patients to a different MinuteClinic provider, if possible or an alternative

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<sup>3</sup> Occasionally, Complainant would work at the same time as a Registered Nurse or other support person, but she would generally not be staffed with another Nurse Practitioner for an overlapping schedule.

provider outside of MinuteClinic for such services. MinuteClinic informed Complainant that such accommodation was subject to re-evaluation should business needs change.

**B. Complainant's Renewed Request for Accommodation in 2021.**

In or about 2021, in connection with MinuteClinic's continuing evolution and the introduction of HealthHUBs to CVS stores across the country, the essential functions of the MinuteClinic Nurse Practitioner position were re-evaluated. Although the job duties of a Nurse Practitioner always included discussing and prescribing contraceptives, and such duties were specifically identified in the original job description, the job description was revised to emphasize these duties were essential functions of the position. **Exhibit D**, Revised Job Description, Nurse Practitioner. Indeed, Nurse Practitioners needed to be willing and able to perform these duties as doing so enabled the business to complete its mission of providing "primary care enablement" services to patients without having to turn them away for services (such as the prescription of contraceptives and/or abortifacients).

Understanding that some MinuteClinic employees had sought and received reasonable accommodations not to prescribe contraceptives over the years, MinuteClinic held "town hall" meetings and issued correspondence in or about August 2021 that discussed the change in essential functions. **Exhibit E**, Town Hall Summary, dated August 26, 2021. Most importantly, it was communicated that, regardless of prior accommodations, Nurse Practitioners would be expected to provide holistic, evidence-based care inclusive of education and treatment for pregnancy prevention, STI prevention, and safer sex practices and that accommodations in the form of exemptions from performing these essential functions would no longer be granted. Nurse Practitioners were informed that should they remain unwilling to prescribe contraceptives and/or otherwise discuss sexual health options with patients, their employment with MinuteClinic would be terminated as of October 31, 2021. MinuteClinic sought to give providers who would not prescribe contraceptives and/or abortifacients and/or discuss sexual health options due to a religious objection ample time (approximately 60 days) to either comply with the change in essential functions or procure new employment.

Complainant's supervisor, Senior Practice Manager Jenny Faircloth, discussed this change in essential functions with the Complainant in or about September 2021. Ms. Faircloth reiterated that Complainant could not remain in her position as a Nurse Practitioner and that her employment would be terminated effective October 31, 2021, if she continued to remain unwilling to prescribe contraceptives and/or Plan B to MinuteClinic patients. Complainant stated that she would not agree to prescribe these medications, and, given her inability to perform the job duties of a Nurse Practitioner, her employment was terminated effective October 31, 2021.

**II. ARGUMENT**

**1. MinuteClinic Did Not Fail to Accommodate Complainant's Religious Beliefs Where Doing So Would Cause It Undue Hardship.**



Complainant alleges MinuteClinic failed to provide her with a reasonable accommodation for her religious beliefs in violation of Title VII. What Complainant requested, however, was to be excused from an essential function of her position as a Nurse Practitioner – more specifically, the requirement that she provide advice and counseling and prescriptions for birth control and STI prevention – which was not a reasonable accommodation and would have caused MinuteClinic more than *de minimis* hardship.

Title VII of the Civil Rights Act of 1964 prohibits an employer from discriminating—including discharging or disciplining—against any employee on the basis of religion. 42 U.S.C. § 2000e-2(a). The statute defines “religion” as “includ[ing] all aspects of religious observance and practice, as well as belief unless an employer demonstrates that [it] is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.” 42 U.S.C. § 2000e(j). *See also Toledo v. Nobel-Sysco, Inc.*, 892 F.2d 1481, 1489 (10th Cir. 1989) (Title VII requires reasonable accommodation or a showing that reasonable accommodation would be an undue hardship on the employer).

In order for Complainant to establish a *prima facie* case of failure to accommodate a religious belief, she is required to demonstrate: (1) she has a bona fide religious belief that conflicts with an employment requirement; (2) she informed the employer of this belief; and (3) she was disciplined for failing to comply with the conflicting employment requirement. *See Thomas v. National Ass'n of Letter Carriers*, 225 F.3d 1149, 1155 (10th Cir. 2000). Once the employee establishes the *prima facie* case, the burden shifts to the employer to demonstrate that it attempted to reasonably accommodate Complainant's religious belief and/or that accommodating such belief would cause the employer undue hardship. *See id.* at 1156. Said another way, “[a]ny cost in efficiency or wage expenditure that is more than *de minimis* constitutes undue hardship.” *Lee v. ABF Freight System, Inc.*, 22 F.3d 1019, 1023 (10th Cir. 1994). As the Tenth Circuit noted in *Toledo*, *supra*, “particular jobs may be completely incompatible with particular religious practices [and] [i]t would be unfair to require employers faced with such irreconcilable conflicts to attempt futilely to resolve them.” 892 F.2d at 1489.

For example, federal courts have routinely found that an accommodation will create an undue hardship if it causes more than a *de minimis* impact on an employee's co-workers. *See Harrell v. Donahue*, 638 F.3d 975, 980 (8th Cir. 2011) (accommodation creates undue hardship if causes more than *de minimis* burden on co-workers); *Bruff v. N. Miss. Health Serv., Inc.*, 244 F.3d 495, 501 (5th Cir. 2001) (requiring coworkers to assume disproportionate workload in order to accommodate plaintiff's request not to counsel certain patients due to the client's sexual orientation based on religious grounds would involve more than *de minimis* cost); *Bhatia v. Chevron USA, Inc.*, 734 F.2d 1382, 1384 (9th Cir. 1984) (holding that it would be undue hardship to reassign plaintiff's share of other job duties to co-workers); *Noesen v. Medical Staffing Network, Inc.*, 232 Fed. Appx. 581, 584-585 (7th Cir. 2007) (unpublished opinion) (employer was not required to excuse pharmacist from telephone and counter duties to accommodate his request not

Natascha Deguire

March 4, 2022

Page 8

to discuss birth control with patients).

Furthermore, “[t]he cost of hiring an additional worker or the loss of production that results from not replacing a worker who is unavailable due to a religious conflict can amount to undue hardship.” *Lee, supra*, at 1023 (citing *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977)). *See also Beadle v. City of Tampa*, 42 F.3d 633, 636 (11th Cir. 1995) (*de minimis* cost entails not only monetary concerns “but also the employer’s burden in conducting its business”).

In *Bruff v. N. Miss. Health Serv., Inc. supra.*, the Fifth Circuit similarly examined whether an Employee Assistance Program counselor could be retained in her position where she refused to provide and sought to be excused from counseling homosexual employees on the basis of her religious beliefs. 244 F.3d at 500-501. The employer employed two other counselors in its program, one of whom would have had to assume the counseling of any homosexual employees in the event the plaintiff/employee refused to do so. *Id.* The Fifth Circuit upheld the employer’s denial of such an accommodation because excusing the employee from these job functions would burden other employees and constituted more than a *de minimis* hardship. *Id.* (“[Bruff] apparently assumed she would only have to perform those aspects of the position she found acceptable. Title VII does not require an employer to accommodate such an inflexible position.”). The court found that all potential alternatives, including shifting the duties to other counselors, staffing an additional counselor with the plaintiff/employee for counseling of homosexual employees, and hiring an additional counselor, constituted an undue hardship as a matter of law. *Id.* at 501.

Similarly in *Noesen v. Medical Staffing Network, supra.*, the Seventh Circuit analyzed whether it was a reasonable accommodation for a pharmacist who did not want to discuss birth control with patients to be excused from telephone and counter duties as a reasonable accommodation. 232 Fed. Appx. at 583-584. There, the court held such accommodation would be an undue hardship as a matter of law as it again created more work for other employees. *Id.* at 584-585 (“[A]n accommodation that requires other employees to assume a disproportionate workload (or divert them from their regular work) is an undue hardship as a matter of law.”). The court held the employer was under no obligation to “rearrange staffing and incur such costs to accommodate an inflexible employee.” *Id.* at 585.

Here, Complainant was often, if not always, the only staff member working in a MinuteClinic on any given day, and certainly would have been the only staff member available to write prescriptions for contraceptives or abortifacients when scheduled for a MinuteClinic shift. Complainant’s proposed accommodation was to either turn away MinuteClinic patients to go to an alternative provider or to re-route patients to other MinuteClinic providers on alternative days and times.<sup>4</sup> Neither of these alternatives were reasonable accommodations and would have caused MinuteClinic undue hardship. More specifically, such an accommodation would have a) cost

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<sup>4</sup> As noted above, Complainant was given approximately 60 days’ notice of the change in essential functions and to procure new employment, if necessary. During this time, Complainant did not identify any potential lateral position into which she could be transferred, nor is CVS aware of any MinuteClinic or other lateral position for transfer for which she would have been qualified.



MinuteClinic the potential business of these patients seeking medical services from Complainant or b) placed the burden of providing medical services to these patients on other MinuteClinic providers. Any alternative accommodation, such as staffing an additional Nurse Practitioner at the same time as Complainant or hiring an additional Nurse Practitioner to cover some of Complainant's shifts, would also have caused MinuteClinic more than a *de minimis* hardship. Most importantly, turning patients away from MinuteClinic was contrary to the new business model of attempting to create ongoing care relationships with individuals. Such customer service would undoubtedly lead to loss of business and would not be aligned with the updated mission of creating ongoing/primary care relationships with patients.

Complainant's primary contention in the Charge is that MinuteClinic had accommodated her prior 2021 by allowing her to send patients to other MinuteClinics and that therefore it should be required to continue to do so indefinitely. The law, however, does not require such indefinite accommodation. Indeed, it is well-settled that accommodations may be re-evaluated, revisited, and altered as business needs change. Moreover, the fact that an accommodation has been provided does not mean that it is a "reasonable accommodation" and/or one that the employer must continue to provide and/or ever had to provide. *See Rehrs v. Iams Co.*, 486 F.3d 353, 358 (8th Cir. 2007) (temporary exception from shift rotation does not imply that employer must provide same accommodation indefinitely); *Phelps v. Optima Health, Inc.*, 251 F.3d 21, 26 (1st Cir. 2001) (allowing employee to engage in job-sharing arrangement as a reasonable accommodation does not oblige employer to provide that accommodation indefinitely); *Laurin v. Providence Hosp.*, 150 F.3d 52, 60-61 (1st Cir. 1998) (accommodation allowing shift change temporarily should not be held against employer where "it would be perverse to discourage employers from accommodating employees"); *Holbrook v. City of Alpharetta, Ga.*, 112 F.3d 1522, 1527-1528 (employer not required to accommodate police officer with "reshuffling" of case assignments despite having done so in the past especially where "previous accommodation may have exceeded that which the law requires"); *Shiring v. Runyon*, 90 F.3d 827, 831 (3d Cir. 1996) (removal of essential function of position of mail carrier temporarily did not necessarily mandate employer provide that accommodation indefinitely); *Wagner v. Sherwin-Williams Co.*, 647 Fed. Appx. 645, 650 (6th Cir. 2016) (unpublished opinion) ("[E]vidence of a temporary accommodation does not mean that a permanent accommodation would have no consequences to the employer.").<sup>5</sup>

Indeed, more than arguably the accommodation Complainant received for the last several years was more than a *de minimis* hardship and one that MinuteClinic did not have to provide. However, the more recent change in MinuteClinic's business mission and model necessitated Complainant fully performing the essential functions of her job, including prescribing contraceptives and abortifacient medications and discussing sexual health options with patients. In other words, the hardship MinuteClinic had been assuming was significantly compounded by

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<sup>5</sup> Though these cases are in the context of the Americans with Disabilities Act, "jurisprudence under the ADA can provide guidance as to when an employer's duty to provide a reasonable religious accommodation is triggered until Title VII." *EEOC v. Abercrombie & Fitch Stores, Inc.*, 731 F.3d 1106, 1141 (10th Cir. 2013), overturned on other grounds by *EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768 (2015) (citation omitted).

the new business model and undercut the new business mission.

As the only “accommodation” Complainant sought was to be excused from performing these essential job duties there was no accommodation MinuteClinic could provide that did not cause more than a *de minimis* hardship to both its business operations and/or other MinuteClinic providers. Accordingly, given Complainant’s continued refusal to perform these job duties, MinuteClinic had no choice but to terminate her employment for entirely legitimate and non-discriminatory reasons and Complainant’s Charge must be dismissed.

### **III. AFFIRMATIVE DEFENSES**

- (1) Complainant has failed to state a claim upon which relief may be granted.
- (2) Complainant’s claims are barred in whole or in part by the applicable statutes of limitation.
- (3) To the extent Complainant suffered any adverse employment action, such action was based upon legitimate business reasons and was not in any way motivated by discriminatory animus.
- (4) To the extent Complainant suffered any adverse employment action, such action was based upon bona fide, neutral, and uniformly applied employment policies and was not in any way motivated by discriminatory or retaliatory or any other illegal animus.
- (5) At all relevant times, Respondent had an anti-discrimination and anti-retaliation policy in place that prohibited the improper conduct Complainant has alleged.
- (6) Complainant has suffered no injury or damage as a result of any conduct by Respondent.
- (7) The Charge is barred by the doctrine of unclean hands.
- (8) The Charge is barred in whole or in part by the after-acquired evidence doctrine to the extent that she engaged in misconduct prior to her termination that otherwise would have resulted in his discharge if such conduct were then known to Respondent.
- (9) Complainant has failed to mitigate any damages she may have suffered.
- (10) Respondent reserves the right to assert additional defenses if additional facts are uncovered during the course of this Charge or any related investigation.

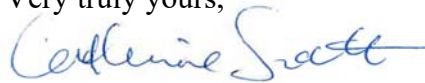
Natascha Deguire  
March 4, 2022  
Page 11

**IV. CONCLUSION**

For the foregoing reasons, MinuteClinic respectfully requests that the Commission dismiss Complainant's Charge for lack of probable cause.

Please do not hesitate to contact me if you require additional information to complete your investigation.

Very truly yours,



Catherine M. Scott

# **Exhibit A**

# CVS Health Colleague Handbook

## II. Our Commitment to You



## **A. Diversity Management**

At CVS Health, we are committed to building an environment of inclusion and acceptance that values diversity across all areas of our business. Your role in creating and supporting an inclusive environment is to demonstrate respect for your colleagues and customers, and the broad range of ideas and viewpoints they contribute to our organization every day.

CVS Health offers a number of programs to support our commitment to diversity management. For more information on these opportunities, please contact your supervisor or Advice & Counsel.

## **B. Anti-Discrimination, Anti-Harassment, & Anti-Retaliation**

### **1. Unlawful Discrimination**

CVS Health is committed to the principle of equal employment opportunity and takes affirmative action to recruit, hire, employ, develop, compensate, promote and advance in employment based on an individual's job-related qualifications, abilities, and job performance. In addition, CVS Health prohibits discrimination against applicants and colleagues on the basis of race, ethnicity, ancestry, color, religion, sex/gender (including pregnancy, pregnancy related condition or condition related to childbirth), national origin, sexual orientation, gender identity or expression, physical or mental disability, medical condition, age, veteran status, military status, marital status, genetic information, citizenship status, unemployment status, political affiliation, or on any other basis or characteristic prohibited by applicable federal, state or local law. This policy applies to all terms and conditions of employment including but not limited to hiring, compensation, benefits, promotion, job assignments, demotion, transfer, training, and termination. It is our policy to recruit, hire, train, develop and promote the best people available, based solely upon job-related qualifications. Additionally, CVS Health is committed to complying with the Americans with Disabilities Act by prohibiting discrimination against applicants and colleagues with disabilities and by making reasonable accommodations that allow disabled individuals to perform the essential functions of their jobs and enjoy equal access to the benefits and privileges of employment with our company. Information regarding CVS's Reasonable Accommodation processes and procedures is provided in greater detail in this Handbook.

### **2. Workplace Harassment**

CVS Health strictly prohibits harassment on the basis of race, ethnicity, ancestry, color, religion, sex/gender (including pregnancy), national origin, sexual orientation, gender identity or expression, physical or mental disability, medical condition, age, veteran status, military status, marital status, genetic information, citizenship status, unemployment status, political affiliation, or on any other basis or characteristic prohibited by applicable federal, state or local law. Engaging in workplace harassment will result in disciplinary action, including immediate termination of employment.

Harassment of a team member by a manager/supervisor, by another team member, by a customer, by a vendor or by anyone associated with CVS Health

can take many forms. Inappropriate physical contact, threats, displaying vulgar objects, offensive jokes or comments, creating an uncomfortable work environment, or any other harassing behavior, whether written or otherwise transmitted or conveyed (e.g., in person, in a letter or a note, via email, or via social media), are all forms of harassment. Harassment can take place inside the workplace, any place where CVS Health work is performed, or outside the workplace during non-working hours.

Harassment that is prohibited by this policy may also include acts of Workplace Violence committed by managers/supervisors, colleagues, contractors, visitors, patients, or vendors, if those acts are perpetrated based on colleague's race, ethnicity, ancestry, color, religion, sex/gender (including pregnancy), national origin, sexual orientation, gender identity or expression, physical or mental disability, medical condition, age, veteran status, military status, marital status, genetic information, citizenship status, unemployment status, political affiliation, or on any other basis or characteristic prohibited by applicable federal, state or local law.

### **3. Workplace Sexual Harassment**

CVS Health strictly prohibits and will not tolerate sexual harassment in the workplace. Sexual Harassment is illegal. The company firmly believes that every colleague is entitled to a work environment free of offensive conduct of a sexual nature, regardless of its form or manner. The company recognizes that sexual harassment in the workplace negatively impacts colleague morale, trust, communication, teamwork and productivity, and creates legal liabilities for the company, its supervisors, and, in some cases, its colleagues.

Sexual harassment consists of sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature either explicitly or implicitly when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; and
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or altering the terms and conditions of the individual's employment by creating an intimidating, hostile or offensive working environment.

Specific behaviors and particular patterns of behavior that the company considers inappropriate (and which could potentially constitute unlawful sexual harassment) include, but are not limited to, the following:

- Attempted or actual sexual assault;
- Inappropriate touching of any kind;
- Propositions or any sexual advance that is unwelcome;
- Sexually oriented comments about a colleague's body or appearance;
- Sexual innuendos, derogatory remarks, sexually obscene language or offensive gestures, threats, comments about a colleague's body or appearance made in person, through email or other written communication, or through social media postings;
- Improper questioning of a colleague about their personal or private life;
- Comments or jokes of a lewd, offensive or sexual nature;
- Spoken or written abuse related to a colleague's gender;

- Inappropriate staring or leering;
- Gender-related names, titles or references;
- Showing or displaying pictures, drawings or objects of a sexual or offensive nature;
- Repeatedly asking a colleague for a date, after the colleague has said “No”; or
- Any other sexual conduct deemed inappropriate by CVS Health that interferes with a colleague’s job performance, the work environment or other conditions of employment.

Sexual harassment can involve males or females being harassed by members of either sex. Sexual harassment can occur in the workplace, anywhere CVS Health work is performed, or outside the workplace during non-working hours. Sexual harassment can be perpetrated by managers, supervisors, co-workers, and third parties, such as customers and vendors. All colleagues are strictly forbidden to engage in any form of sexual harassment and will be disciplined, up to and including immediate termination of employment.

#### **4. Retaliation**

CVS Health prohibits retaliation against a colleague for filing or pursuing a discrimination, workplace harassment, or sexual harassment claim in good faith, or for participating in good faith in an investigation of a prohibited discrimination, workplace harassment or sexual harassment claim (“protected activities”). Retaliation occurs when an employer takes an adverse action against an individual because they have engaged in a protected activity or they have a close association with someone who has engaged in such protected activity. Adverse actions include termination, refusal to hire, denial of a promotion, harassment or other action that negatively affect employment such as undesirable job assignments, threats, unjustified negative evaluations, or increased surveillance. Retaliation by colleagues can take the form of a retaliatory hostile work environment. Any colleague who engages in retaliation will be subject to disciplinary action, up to and including immediate termination of employment.

#### **5. Reporting Conduct**

Colleagues are expected to report incidents of inappropriate behavior, prohibited discrimination, workplace or sexual harassment, and retaliation as soon as possible after it has occurred.

Colleagues who believe they have witnessed or have been subjected to unlawful discrimination, harassment, or retaliation regardless of whether the offensive act was committed by a manager, supervisor, coworker, vendor, visitor or customer, should promptly notify their manager/supervisor, or Advice & Counsel. Colleagues may contact Advice & Counsel by calling 888-My-HR-CVS (888-694-7287) as well as the CVSHealth Ethics Line at 1-877-CVS-2040 (1-877-287-2040) at any time to report any incidents of prohibited discrimination, harassment, or retaliation.

It is hoped that most complaints of this nature and incidents can be resolved within CVS Health. However, a colleague has the right to contact their state fair employment practices agency or the U.S. Equal Employment Opportunity Commission (EEOC) about filing a formal complaint.

The contact information for the various state fair employment practices agencies and the local offices of the Equal Employment Opportunity Commission, along with additional information for filing such a complaint, is included in CVS Health's separate Anti-Discrimination, Anti-Harassment, and Anti-Retaliation Policy.

## **6. Investigations**

Every claim of prohibited discrimination, harassment, and retaliation will be treated seriously, no matter how trivial it may appear. All complaints of inappropriate conduct will be promptly and thoroughly investigated by Advice & Counsel and/or the respective department manager. Colleagues are expected to cooperate fully with any ongoing investigation.

To the extent possible, the company will keep all complaints and related information confidential.

Management will take all necessary and reasonable steps to ensure the safety of those who are affected by or involved in the alleged behavior.

Colleagues who believe they have been unjustly charged with prohibited discrimination, harassment, or retaliation may defend themselves verbally or in writing at any stage in the investigation.

At the conclusion of an investigation, the complainant and the accused shall be informed of the determination of the investigation. Where appropriate, the complainant and the accused may be offered counseling through the company's Employee Assistance Program (EAP).

## **7. Consequences for Violation of Prohibited Discrimination, Workplace Harassment, Sexual Harassment, and Retaliation Policy**

If an investigation determines that an individual has engaged in conduct that constitutes prohibited discrimination, workplace harassment or sexual harassment, retaliation or otherwise violates the CVS Health standards of behavior, necessary corrective discipline up to and including termination will be taken by the company.

If after investigating any complaint of harassment, prohibited discrimination, or retaliation, CVS Health determines that the complaint was made maliciously or that a colleague has maliciously provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information.

## C. Open Door and Problem Solving

CVS Health strives to create a working environment in which everyone can communicate freely.

We encourage you to speak honestly and constructively to your supervisors and managers about your work-related concerns. The company will treat your questions, concerns, and complaints seriously and address them in a timely manner.

When you have a work-related question or concern, it is best to discuss the issue first with your immediate supervisor. Your supervisor is most familiar with your job and working environment and may be able to give you advice, help you to understand a difficult situation, and advise you on next steps.

There may be situations, however, where you are not comfortable discussing the issue with your supervisor or where you require further assistance. When those situations arise, we recommend that you follow the steps in the CVS Health Problem Solving/Issue Resolution Process below.

### CVS Health Problem Solving/Issue Resolution Process:

If	Then
You have a question, problem or issue ...	... inform your immediate supervisor or manager.
You have a routine benefit/payroll/leave of absence issue that has not been resolved by your immediate supervisor ...	... call myHR at 888-694-7287.
You are not comfortable with this approach, or your immediate supervisor cannot or does not resolve your question, problem or issue satisfactorily...	...you may contact your next-level leader.
You are not satisfied with the outcome after speaking with your next-level leader...	... you may contact Advice & Counsel by calling myHR at 1-888-694-7287 and follow the prompts for Advice & Counsel

## D. CVS Health Ethics Line

In the event you think you have observed violations of the Code of Conduct, company policies, unethical conduct, illegal behavior, unsafe conditions or any violation of applicable law and/or regulations, including but not limited to state pharmacy laws, we urge you to discuss this with your immediate supervisor and continue your inquiry “up-the-ladder” until you feel you have received an

appropriate response. If a question or concern cannot be readily addressed within your work group or through your supervisor, you have the option to contact the CVS Health Ethics Line at 1-877-CVS-2040 (1-877-287-2040).

The Ethics Line is available 24 hours per day, 7 days per week, 365 days per year. When you contact the Ethics Line, you will be treated with dignity and respect. All calls will be treated in a highly confidential manner to the extent the company deems possible. You do not have to identify yourself. Caller ID is not used, and an independent third party handles all calls placed to the Ethics Line. The company is fully committed to its non-retaliation policy meaning that the company prohibits retaliation against anyone for raising a legal or ethical concern in good faith or for cooperating with an investigation.

If you call the Ethics Line anonymously, you will be given a unique identification number so that you can call back for a status report on your call. The company is committed to responding to all reports and will investigate all good faith reports of wrongdoing. Based on the findings of the investigation, the company will address any perceived and actual ethical or business conduct issues. In the event you identify yourself, but do not want your name revealed further, CVS Health will protect your identity to the extent reasonably possible.

Please refer to the Resource Guide at the end of this Handbook for contact numbers and additional information. You can also consult the CVS Health intranet site.

## **E. My EAP, Solutions for Everyday Life**

CVS Health colleagues and household family members can access My EAP, the employee assistance program from Aetna Resources for Living, for access to an array of services. From child and elder care referrals, to pet sitters and home maintenance services, My EAP can bridge the gap between worry and peace of mind to help you live better at work and at home.

In addition, colleagues and household family members benefit from six face-to-face counseling sessions per person, per issue, per year. Provided by licensed mental health professionals, this service is available to you and your family even if you're not enrolled in a CVS Health medical plan.

My EAP services also include, but are not limited to:

- Behavioral health
- Autism Family Support program
- Legal assistance (e.g., family law, probate matters, separation/divorce)
- Daily living (e.g., fitness and nutrition, relocation services, pet sitters)
- Financial assistance (budgeting, debt consolidation, identity theft recovery)

My EAP is available 24 hours a day, seven days a week by calling 800-789-8990 or by visiting on at [www.myeapCVSHealth.com](http://www.myeapCVSHealth.com).

## **F. Reasonable Accommodation**

CVS Health is committed to providing all colleagues with the opportunity to enjoy a fulfilling work experience and removing barriers that may deny individuals that opportunity as a result of a disability, religious belief, pregnancy or childbirth



related conditions, domestic violence, or other safety related situations. As described below, CVS Health will provide reasonable accommodations to eligible colleagues in accordance with applicable law.

Colleagues seeking an accommodation for pregnancy, pregnancy related conditions, or conditions related to child-birth, including lactation accommodations, should reference the CVS Health Pregnancy and Lactation Non-Discrimination and Accommodation Policy outlined in this Handbook. An accommodation is any change to the job application process, job duties, work environment or conditions that will allow the colleague or applicant: to have an equal opportunity to compete for a job; to perform the essential functions of a job; or to enjoy equal access to the benefits and privileges of employment. An accommodation is considered “reasonable” if it enables the colleague to perform the essential functions of their job and does not impose an undue hardship on CVS Health.

**Eligibility for Accommodation:** A colleague or applicant, who has a disability (as defined by applicable law), may be eligible for a reasonable accommodation in order to enjoy equal access to the benefits and privileges of employment, to complete the job application/hiring process and to perform the essential functions of their job. In addition, a colleague or applicant whose sincerely held religious belief, practice or observance conflicts with a work requirement or a colleague who themselves or their family member is facing a domestic violence or other safety related situation may also be eligible for a reasonable accommodation. A colleague or applicant with questions about their individual situation and whether it is covered should contact Advice & Counsel.

**Some Examples of What May be Reasonable Accommodations:** The determination of what is and is not a reasonable accommodation and what presents an undue hardship depends greatly on the specific facts of each request. An accommodation that is made for one colleague or applicant in one location or area of the business may not be made for another colleague or applicant in another location or area of the business, even though they have the same disability and title. Some examples of possible reasonable accommodations include the following:

- Altering how or when job duties are performed;
- Modifying work schedules, and time off for religious holidays or other religious observances;
- Reassigning or removing non-essential job duties;
- Providing assistive equipment, devices or technology; qualified readers or interpreters
- Modifying job training and tests;
- Reconfiguring work spaces, provide seating, and improve physical accessibility;
- Providing ergonomic evaluations and modified equipment;
- Work from home on either a full-time or part-time basis;
- Lifting assistance, additional time off, modified seating and equipment, additional rest breaks, or more frequent restroom, food and water breaks for pregnant colleagues;
- Time and appropriate space for scheduled prayer;
- Time off for medical appointments, finite intermittent leave of absence or a finite continuous leave of absence;
- Providing an exception to the dress code; and

- Transferring the colleague to another open position for which they are qualified.

**Some Examples of What Will Not be Reasonable Accommodations:**

The Company is not expected to provide an accommodation that would be an undue hardship. Generally, CVS will not be expected to accommodate a colleague or applicant by:

- Removing essential functions of the job;
- Lowering production or performance standards;
- Hiring another individual to assist the colleague or applicant;
- Providing unlimited or indefinite leave;
- Terminating or changing the position of other colleagues;
- Creating a new position for the colleague or applicant;
- Deleting past discipline or negative performance reviews;
- Allowing working conditions that create a direct threat of harm to the colleague or others; or
- Purchasing personal aids for the colleague or applicant, such as a wheelchair that will be used in and out of work.

**Requesting an Accommodation:** Eligible colleagues or applicants are expected to let CVS Health know when they think they might need a workplace accommodation under this policy. Colleagues or applicants should not assume that, if CVS Health is aware that the colleague or applicant has a certain disability, medical condition, or belongs to a particular religion, that the Company will know exactly how the colleague or applicant may be limited at work. To request an accommodation during hiring, job applicants should contact the hiring manager for their opening or anyone in the Talent Acquisition department. Current colleagues who want to make an accommodation request can discuss their request with their manager and should contact myHR by calling 1-888-694-7287 and follow the prompts for Leave of Absence/Reasonable Accommodations, or apply at myHR.cvs.com and select myLeave to initiate a request. The request can be in writing or verbal, and there are no “magic words” that colleagues or applicants need to use. To help ensure a prompt response, however, colleagues or applicants should make it clear that they want to request a possible workplace accommodation as a result of their disability or religion.

**Interactive Process:** Once the request is made the CVS Health Reasonable Accommodations Team will begin the “interactive process,” which refers to the back-and-forth discussion between CVS Health and the colleague or applicant regarding the colleague or applicant’s request. The process is flexible and may be more or less involved depending on the complexity of the colleague or applicant’s request, but the process often begins with a discussion with the colleague or applicant where the Reasonable Accommodations Team member may ask questions to better understand the colleague or applicant’s limitations and the accommodations that may or may not help the colleague or applicant.

**Requests for Medical Information or Other Supporting Documentation:** As part of the interactive process, the colleague or applicant may be asked to provide information, including medical documentation from a health care provider, to substantiate and explain the colleague or applicant’s limitations, how those limitations impact the job and what accommodations may help. The colleague or applicant must provide all requested information and complete requested forms in a complete and timely fashion. If the colleague or applicant

does not provide sufficient information, CVS Health may not be able to continue with the interactive process, and no accommodation can be granted.

**Timeframe for Review of Request:** CVS Health will work hard to complete the accommodation request review process as quickly as possible. In most cases, once the colleague or applicant has provided the necessary information, the company should be able to respond with a decision within a couple of weeks or less. If more time is needed, the colleague or applicant will be updated. Whether a temporary accommodation will be put into place on an interim basis while the accommodation request is pending will depend upon the circumstances.

**Determination by CVS Health:** Once CVS Health has reached a decision regarding the accommodation request, the Reasonable Accommodations Team member will communicate the decision to the colleague or applicant. If the request is granted, the accommodation will be put into effect going forward. If the request is denied, the Reasonable Accommodations Team member will confer with the colleague or applicant regarding any other accommodations that either party can think of to consider. Colleagues and applicants are not entitled to the specific accommodation that he or she requests. CVS Health may choose among reasonable accommodations as long as the chosen accommodation is effective.

**Modification or Change of Circumstances:** The interactive process is meant to be an on-going dialogue between the colleague or applicant and CVS Health. No reasonable accommodation that has been granted by CVS Health is ever considered permanent. For example, if business related circumstances or the needs of the Colleague change, which then that impacts a requested or granted accommodation, the parties may revisit and review the accommodation.

**Confidentiality:** CVS Health recognizes that the information provided by the colleague or applicant in connection with an accommodation request is often very sensitive, and the company will treat all information received with appropriate discretion and care in accordance with company policy and applicable privacy laws. Any accommodation-related records that contain medical information will be handled like other colleague medical records and kept confidential and separate from the colleague's regular personnel file.

**Prohibition Against Discrimination and Retaliation:** CVS Health prohibits all forms of discrimination and retaliation against any individual for requesting or receiving an accommodation. If an individual believes that he or she has been discriminated or retaliated against in violation of this rule, he or she should report the matter immediately to a manager or Advice & Counsel.

For additional information on this topic please see CVS Health's Reasonable Accommodations in the Workplace policy.

# **Exhibit B**

# Code of Conduct



## Consequences of Wrongdoing

On and off the job, CVS Health expects all colleagues to comply with the law and treat other people with respect, honesty and courtesy. Disruptive, unproductive, immoral, unethical or illegal actions are NOT acceptable at CVS Health. A failure by any colleague to comply with laws or regulations governing CVS Health business, this Code or any other CVS Health policy or requirement, may subject CVS Health and the colleague(s) involved to civil and criminal penalties or prosecution. Non-compliance includes failure to properly supervise subordinates to prevent and detect misconduct. It also includes knowing about violations, but failing to report them.

CVS Health sanctions colleagues at all levels of the organization for participating in, encouraging, directing, facilitating or permitting non-compliant activities. The Company is committed to consistently undertaking appropriate disciplinary action to address non-compliance and deter future violations, and to that end, compliance-related disciplinary actions are fairly and firmly enforced. Disciplinary action may be in any form, up to and including termination of employment, and if warranted, legal proceedings.

The following are examples of some, but not all, forms of rule violations or misconduct that may result in discipline up to and including termination of employment:

- Theft or inappropriate removal or possession of Company property;
- Falsification of timekeeping records or other Company records;
- Possession or working under the influence of alcohol or illegal or non-prescribed drugs;
- Insubordination;

- Engaging in or threatening violence against colleagues, customers, vendors or others a colleague may interact with on behalf of the Company;
- Conduct that violates the CVS Health Equal Employment Opportunity, Affirmative Action, Anti-Discrimination, Anti-Harassment, and Anti-Retaliation Policy;
- Excessive absenteeism or tardiness;
- Unauthorized use of telephones, Company communication services and equipment or other Company-owned equipment;
- Negligent or improper conduct leading to damage of property, harm to others or safety hazards;
- Possession of dangerous or unauthorized materials such as explosives, firearms or weapons in the workplace;
- Failing to comply with the rules and limitations regarding gifts and solicitation from those with whom CVS Health does business as described in the Company's policies and this Code (See the CVS Health Gifts, Meals, Entertainment or Other Things of Value Policy);
- Unauthorized use or disclosure of confidential and proprietary Company information, confidential customer information or patient information; and
- Violation of Compliance policies or procedures resulting in non-compliant behavior.

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**...CVS Health expects all colleagues to comply with the law and treat other people with respect, honesty and courtesy.**

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# **Exhibit C**



## Position Description

<b>Position Title</b>	Nurse Practitioner / Physician Assistant	<b>Business Unit</b>	MinuteClinic
<b>Title of Immediate Supervisor</b>	Senior Practice Manager	<b>Department</b>	Clinical Services

### POSITION SUMMARY:

The MinuteClinic Nurse Practitioner or Physician Assistant (Provider) independently provides holistic, evidenced-based care inclusive of accurate assessment, diagnosis, treatment, management of health problems, health counseling, and disposition planning for our patients, who are age 18 months and above. You will collaborate with and be supported by a dedicated team of professionals. Encounters are documented utilizing an electronic health record (EHR). MinuteClinic Providers report directly to the Senior Practice Manager.

MinuteClinic is a division of CVS Health, with locations primarily located inside select CVS Pharmacy and Target Stores. We are reinventing health care through innovation, collaboration, caring, integrity, and accountability. Our purpose is “helping people on their path to better health” through provision of high quality, accessible and affordable healthcare solutions for our patients.

### PRIMARY DUTIES AND RESPONSIBILITIES:

*Responsibilities include but are not limited to*

#### 1. Patient-Centered Quality and Safety

- Evaluate primary care, acute, chronically ill, and transitional care patients, in addition to providing healthcare education and counseling, and disposition planning for our patients ranging in age 18 months and above
- Provide patient counseling; inclusive of pregnancy prevention, STI Prevention/safer sex practices, contraceptive care counseling and medication management
- Educate patients on health maintenance and respond to patient care inquiries
- Document all patient care within an EHR according to MinuteClinic policies and procedures
- Provide care and coordination of our patients with internal and external colleagues, including the broader patient centered medical home, ensuring the highest standard of care is provided for all patients and at all times
- Effectively work within a patient care team, including fellow Providers, Collaborative Physicians, para-professionals, Pharmacists and other members of the health care team

#### 2. Customer Service Excellence

- Deliver excellent customer service
- Seek to increase patient engagement and satisfaction through integration of feedback from patients, management, and professional colleagues
- Focuses consistently on the patient to create a warm and welcoming environment
- Tailor communication style to effectively influence quality outcomes and patient needs
- Collaborate with pharmacy and front store colleagues to provide a complete patient experience
- Maintain patient confidentiality in accordance with PHI and HIPAA standards

### 3. Healthcare Environment Management

- Resolve conflict using appropriate management techniques
- Cultivate and maintain positive relationships among practice employees, CVS Health colleagues and external partners
- Reprioritize continually throughout the day to fulfill patient and business needs
- Support the overall patient experience, by effectively managing clinical and non-clinical duties as well as patient expectations
- Quickly adopt new service offerings and patient care models
- Adhere to the core values of CVS Health MinuteClinic in all communications and interactions
- Assist with hiring, development and evaluation of Practice employees
- Complete necessary tasks for clinic operations, including but not limited to taking inventory, following up on lab results, receiving incoming phone calls, ordering supplies and maintaining clinic cleanliness

### 4. Business Acumen

- Remain accountable to managing business needs including, but not limited to, budget, payroll, inventory, billing insurance, and payment collection
- Own the success of your practice through implementation of the clinic level business plan designed to meet identified business goals
- Assure complete and accurate payment for services through comprehensive documentation in the patient chart, verification of payment method (insurance, cash or combination) for each visit, and collection of payment as directed by the EMR
- Complete revenue cycle managements tasks including collecting payment at time of service for all visits and preparing nightly deposits.

### 5. Autonomy

- Work independently, prioritize and solve problems, take initiative, and advocate for their patients and their practice
- Actively participate in professional development through professional groups, committees within the organization and/or additional external experiences
- Maintain self-awareness and professionalism of individual actions and how they impact the clinic, practice, and healthcare industry
- Continuing education, including what is required to maintain employment at Minute Clinic, is the responsibility of the provider

### EDUCATION:

Completion of a:

Master's Degree level Family Nurse Practitioner program with current National Board Certification and State of Employment license to practice in the Advanced Practice Nurse role required.

*Or, in select states,*

Masters of Science in Physician Assistant Studies (or other health-related Master's Degree or equivalent experience in conjunction with Bachelors of Science in Physician Assistant Studies) with current National Board Certification and State of Employment license to practice in the role required.

### ADDITIONAL REQUIRED SKILLS AND ABILITIES:

- Minimum of two years of medically-relevant experience or equivalent
- Completed accredited DOT certificate training program prior to start date
- Completion of the DOT certification exam within 30 days of employment
- Effective verbal, written, and electronic communication skills
- Outstanding organizational skills and ability to multi-task
- Initiative, problem solving ability, adaptability and flexibility
- Ability to work without direct supervision and practice autonomously

- Is proficient with information management and technology
- Capacity to collaborate with professional colleagues as necessary to provide quality care
- Depending on the market, the ability to be proficient in both speaking and writing in additional languages not limited to but including Spanish may be required
- Basic Life Support (BLS) certification
- Ability to take and pass a FIT test with the respirators that MinuteClinic provides, and to wear the provided respirator mask when protocol requires. This requirement applies to all clinics that have a co-located point of care COVID-19 testing site.

**WORKING ENVIRONMENT:**

- Providers will be assigned a primary clinic, however, are expected to travel to and staff other clinics within a manager-defined area as needed by the business
- While performing the duties of the job, the employee is regularly required to move about and interact with customers, sit, write, operate the computer and phone, speak intelligibly, and hear patient responses
- The employee must also possess the ability to perform overhead reach, bending / squatting to access supplies, balance and safely use a step stool, lift at least 20 lbs., and move about the surrounding location
- Specific vision abilities include the ability to view and read a computer screen and other electronic devices

# **Exhibit D**



## Position Description

<b>Position Title</b>	Nurse Practitioner / Physician Assistant	<b>Business Unit</b>	MinuteClinic
<b>Title of Immediate Supervisor</b>	Senior Practice Manager	<b>Department</b>	Clinical Services

### POSITION SUMMARY:

The MinuteClinic Nurse Practitioner or Physician Assistant (Provider) independently provides holistic, evidenced-based care inclusive of accurate assessment, diagnosis, treatment, management of health problems, health counseling, and disposition planning for our patients, who are age 18 months and above. You will collaborate with and be supported by a dedicated team of professionals. Encounters are documented utilizing an electronic health record (EHR). MinuteClinic Providers report directly to the Senior Practice Manager.

MinuteClinic is a division of CVS Health, with locations primarily located inside select CVS Pharmacy and Target Stores. We are reinventing health care through innovation, collaboration, caring, integrity, and accountability. Our purpose is “helping people on their path to better health” through provision of high quality, accessible and affordable healthcare solutions for our patients.

### ESSENTIAL FUNCTIONS:

- Provide holistic, evidenced-based care inclusive of accurate assessment, diagnosis, treatment, management of health problems, health counseling, and disposition planning for our patients. This includes education and treatment for pregnancy prevention, sexually transmitted infection (STI) Prevention and safer sex practices.
- Offers, orders and administers immunizations and injections (to include but not limited to COVID19, influenza, TB, Depo, etc.) and provides evidence-based patient/parent vaccine counseling and education.
- Ability to perform Basic Life Support (BLS) assistance, including but not limited to performing CPR and operating an Automated External Defibrillator (AED).

### PRIMARY DUTIES AND RESPONSIBILITIES:

*Responsibilities include but are not limited to*

#### 1. Patient-Centered Quality and Safety

- Evaluate primary care, acute, chronically ill, and transitional care patients, in addition to providing healthcare education and counseling, and disposition planning for our patients ranging in age 18 months and above
- Provide patient counseling; inclusive of pregnancy prevention, STI Prevention/safer sex practices, contraceptive care counseling and medication management
- Educate patients on health maintenance and respond to patient care inquiries
- Document all patient care within an EHR according to MinuteClinic policies and procedures
- Provide care and coordination of our patients with internal and external colleagues, including the broader patient centered medical home, ensuring the highest standard of care is provided for all patients and at all times
- Effectively work within a patient care team, including fellow Providers, Collaborative Physicians, para-professionals, Pharmacists and other members of the health care team



## **2. Customer Service Excellence**

- Deliver excellent customer service
- Seek to increase patient engagement and satisfaction through integration of feedback from patients, management, and professional colleagues
- Focuses consistently on the patient to create a warm and welcoming environment
- Tailor communication style to effectively influence quality outcomes and patient needs
- Collaborate with pharmacy and front store colleagues to provide a complete patient experience
- Maintain patient confidentiality in accordance with PHI and HIPAA standards

## **3. Healthcare Environment Management**

- Resolve conflict using appropriate management techniques
- Cultivate and maintain positive relationships among practice employees, CVS Health colleagues and external partners
- Reprioritize continually throughout the day to fulfill patient and business needs
- Support the overall patient experience, by effectively managing clinical and non-clinical duties as well as patient expectations
- Quickly adopt new service offerings and patient care models
- Adhere to the core values of CVS Health MinuteClinic in all communications and interactions
- Assist with hiring, development and evaluation of Practice employees
- Complete necessary tasks for clinic operations, including but not limited to taking inventory, following up on lab results, receiving incoming phone calls, ordering supplies and maintaining clinic cleanliness

## **4. Business Acumen**

- Remain accountable to managing business needs including, but not limited to, budget, payroll, inventory, billing insurance, and payment collection
- Own the success of your practice through implementation of the clinic level business plan designed to meet identified business goals
- Assure complete and accurate payment for services through comprehensive documentation in the patient chart, verification of payment method (insurance, cash or combination) for each visit, and collection of payment as directed by the EMR
- Complete revenue cycle managements tasks including collecting payment at time of service for all visits and preparing nightly deposits.

## **5. Autonomy**

- Work independently, prioritize and solve problems, take initiative, and advocate for their patients and their practice
- Actively participate in professional development through professional groups, committees within the organization and/or additional external experiences
- Maintain self-awareness and professionalism of individual actions and how they impact the clinic, practice, and healthcare industry
- Continuing education, including what is required to maintain employment at Minute Clinic, is the responsibility of the provider

## **EDUCATION:**

Completion of a:

Master's Degree level Family Nurse Practitioner program with current National Board Certification and State of Employment license to practice in the Advanced Practice Nurse role required.

*Or, in select states,*

Masters of Science in Physician Assistant Studies (or other health-related Master's Degree or equivalent experience in conjunction with Bachelors of Science in Physician Assistant Studies) with current National Board Certification and State of Employment license to practice in the role required.

**ADDITIONAL REQUIRED SKILLS AND ABILITIES:**

- Minimum of two years of medically-relevant experience or equivalent
- Completed accredited DOT certificate training program prior to start date
- Completion of the DOT certification exam within 30 days of employment
- Effective verbal, written, and electronic communication skills
- Outstanding organizational skills and ability to multi-task
- Initiative, problem solving ability, adaptability and flexibility
- Ability to work without direct supervision and practice autonomously
- Is proficient with information management and technology
- Capacity to collaborate with professional colleagues as necessary to provide quality care
- Depending on the market, the ability to be proficient in both speaking and writing in additional languages not limited to but including Spanish may be required
- Basic Life Support (BLS) certification
- Ability to take and pass a FIT test with the respirators that MinuteClinic provides, and to wear the provided respirator mask when protocol requires. This requirement applies to all clinics that have a co-located point of care COVID-19 testing site.

**WORKING ENVIRONMENT:**

- Providers will be assigned a primary clinic, however, are expected to travel to and staff other clinics within a manager-defined area as needed by the business
- While performing the duties of the job, the employee is regularly required to move about and interact with customers, sit, write, operate the computer and phone, speak intelligibly, and hear patient responses
- The employee must also possess the ability to perform overhead reach, bending / squatting to access supplies, balance and safely use a step stool, lift at least 20 lbs., and move about the surrounding location
- Specific vision abilities include the ability to view and read a computer screen and other electronic devices

# **Exhibit E**

# MinuteClinic Providers & Nurses Town Hall Summary

August 26, 2021



## Key Updates

- To access this week's Town Hall recording, visit the COVID-19 Resources Intranet Page under Daily Info you Need to Know>Archives>Town Hall Recordings or [click here](#). **The next Town Hall will take place on September 9, 1:30 to 2:00 p.m. ET.**

### CVS Health COVID-19 Vaccine Mandate

- We are also **updating the essential functions** of our provider and nurse roles to help ensure our patients have a consistent experience at all of our clinics. This includes:
  1. Offering, ordering and administering immunizations and injections and providing evidence-based patient/parent vaccine counseling and education has always been and will continue to be an essential function for all patient-facing roles at MinuteClinic. This includes, but is not limited to evidence-based counseling and administration of the COVID-19 vaccine.
  2. Providing holistic, evidence-based care inclusive of education and treatment for pregnancy prevention, sexually transmitted infection (STI) prevention and safer sex practices is an essential step on our journey to primary care enablement and must be offered by every Provider and Nurse, as appropriate to licensure, at MinuteClinic.