

1 Marjorie J. Menza, State Bar No. 321512
 HUESTON HENNIGAN LLP
 2 523 West 6th Street, Suite 400
 Los Angeles, CA 90014
 3 mmenza@hueston.com
 Telephone: (213) 788-4340
 4 Facsimile: (888) 775-0898

5 Shannon Rose Selden*
 DEBEVOISE & PLIMPTON LLP
 6 919 Third Avenue
 New York, NY 10022
 7 srselden@debevoise.com
 Telephone: (212) 909 6082
 8 Facsimile: (212) 909 6836
 *Admitted pro hac vice

9 Attorneys for *Amici Curiae*

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 CITY AND COUNTY OF SAN FRANCISCO,

13 Plaintiff,

14 vs.

15 ALEX M. AZAR II, et al.,

16 Defendants.

17 STATE OF CALIFORNIA, by and through
 ATTORNEY GENERAL XAVIER
 18 BECERRA,

19 Plaintiff,

20 vs.

21 ALEX M. AZAR, et al.,

22 Defendants.

23 COUNTY OF SANTA CLARA, et al.

24 Plaintiffs,

25 vs.

26 U.S. DEPARTMENT OF HEALTH AND
 HUMAN SERVICES, et al.

27 Defendants.
 28

Case No. 3:19-cv-02405-WHA

Related to

Case No. 3:19-cv-02769-WHA

Case No.: 3:19-cv-02916-WHA

**MOTION FOR LEAVE TO PRESENT
 ORAL ARGUMENT OF LEADING
 MEDICAL ORGANIZATIONS AS *AMICI
 CURIAE* IN SUPPORT OF PLAINTIFFS’
 OPPOSITION TO DEFENDANTS’
 MOTION TO DISMISS OR, IN THE
 ALTERNATIVE, FOR SUMMARY
 JUDGMENT**

Judge: Hon. William Alsup

Department: 12

Date: October 30, 2019

Time: 8:00 a.m.

Courtroom: Philip Burton Federal Building &
 United States Courthouse
 450 Golden Gate Ave., 19th Floor
 San Francisco, CA 94102

1 The American College of Obstetricians and Gynecologists, the American Medical
2 Association, the American Academy of Pediatrics, the American College of Emergency Physicians,
3 the American College of Osteopathic Obstetricians and Gynecologists, the American Society for
4 Reproductive Medicine, the National Association of Nurse Practitioners in Women’s Health, the
5 Society for Maternal-Fetal Medicine, the American College of Nurse-Midwives, the North
6 American Society for Pediatric and Adolescent Gynecology, the American Muslim Health
7 Professionals, the California Medical Association, Kaiser Permanente and the World Professional
8 Association for Transgender Health (collectively, “*amici*”), respectfully move for leave to
9 participate in oral argument in support of Plaintiffs’ opposition to Defendants’ motion to dismiss,
10 or in the alternative, motion for summary judgment at the hearing on the Defendant’s motion on
11 October 30, 2019 at 8:00 a.m. The parties oppose this motion.

12 *Amici* move this Court for an order (1) permitting counsel for proposed *amici curiae* to
13 present oral argument upon the Defendants’ Motion to Dismiss or, in the Alternative, for Summary
14 Judgment; and (2) granting such other and further relief as this Court deems just and proper.

15 *Amici* are the leading medical organizations representing physicians and health practitioners
16 in the United States. They include the American Medical Association, the largest professional
17 association of physicians, residents, and medical students in the country; the American College of
18 Obstetricians and Gynecologists, the nation’s leading organization of physicians who provide
19 health services unique to women; the American Academy of Pediatrics, representing more than
20 67,000 pediatricians and pediatric subspecialists; the American College of Emergency Physicians,
21 the leading advocate for emergency physicians and their patients, and many others. *Amici* are
22 dedicated to healthcare, to research, and to evidence-based health policy. *Amici* are opposed to all
23 forms of discrimination, and are committed to advocating for the public health and to preserving
24 access to healthcare for all ages and populations.

25 *Amici* have valuable insight to provide to the Court as to the implications of the Department
26 of Health and Human Services rule entitled “Protecting Statutory Conscience Rights in Health
27 Care,” 84 Fed. Reg. 23170 (May 21, 2019) (the “Rule”) for patient health and the ethical practice
28 of medicine. *Amici* are uniquely positioned to answer any questions the Court might have about

1 how the Rule would actually affect patient care. “The classic role of amicus curiae is to assist a
2 court in a case of public interest by supplementing the efforts of counsel, and drawing the court's
3 attention to law that escaped consideration.” *California by & through Becerra v. United States*
4 *Dep't of the Interior*, 381 F. Supp. 3d 1153, 1163–64 (N.D. Cal. 2019) (quotations and citations
5 omitted). *See also, Roche Molecular Sys., Inc. v. Cepheid*, No. 14-CV-03228-EDL, 2017 WL
6 6311568, at *7 (N.D. Cal. Jan. 17, 2017), *aff'd*, 905 F.3d 1363 (Fed. Cir. 2018) (referring to
7 *amicus's* oral argument); *Ctr. for Envtl. Health v. Vilsack*, No. 15-CV-01690-JSC, 2016 WL
8 3383954, at *13 (N.D. Cal. June 20, 2016) (same). For these reasons, *amici* respectfully request
9 leave to present oral argument regarding the impact of the Rule.

10
11 Dated: September 12, 2019

Respectfully submitted,

12
13 /s/ Marjorie Menza
14 Marjorie Menza
15 Rami Bachour
16 HUESTON HENNIGAN LLP
17 523 West 6th St., Suite 400
18 Los Angeles, CA 90014
19 *mmenza@hueston.com*

20 Shannon Rose Selden*
21 DEBEVOISE & PLIMPTON LLP
22 919 Third Avenue
23 New York, NY 10022
24 *srselden@debevoise.com*

25 Anna A. Moody*
26 DEBEVOISE & PLIMPTON LLP
27 801 Pennsylvania Ave, NW
28 Washington, D.C. 20004
amoody@debevoise.com

*admitted pro hac vice