

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Civil Action No. 1:19-cv-4676-PAE

Civil Action No. 1:19-cv-5433-PAE

Civil Action No. 1:19-cv-5435-PAE

SECOND DECLARATION OF MEAGAN GALLAGHER

I, Meagan Gallagher, declare and state as follows:

1. I am the President and Chief Executive Officer of Planned Parenthood of Northern New England, Inc. (“PPNNE”), a plaintiff in this action. On June 17, 2019, I submitted a declaration, *see* Civil Action No. 1:19-cv-05433-PAE, ECF No. 21-3 (“First Gallagher Decl.”), in support of Plaintiffs’ Motion for a Preliminary Injunction, which seeks to prevent the enforcement of the final rule “Protecting Statutory Conscience Rights in Health Care,” 84 Fed. Reg. 23,170 (May 21, 2019) (to be codified at 45 C.F.R. pt. 88) (the “Refusal of Care Rule” or the “Rule”). I submit this second declaration in further support of Plaintiffs’ motion for a preliminary injunction, and also in support of Plaintiffs’ motion for summary judgment.

2. In my initial declaration, I discussed PPNNE’s participation in the federal Title X program in Maine, New Hampshire and Vermont. As I explain further below, after more than two decades of participation in the Title X program, PPNNE has recently been forced to withdraw from the Title X program. I therefore submit this declaration to update the record on these changed facts.

3. I incorporate by reference my background and experience as set forth in my initial declaration. *See* First Gallagher Decl. ¶¶ 1–3.

4. At the time my initial declaration was filed, PPNNE received federal funding through the Title X program. Under that program, established by Title X of the Public Health Services Act, the Secretary of the U.S. Department of Health and Human Services (“HHS”) makes grants to public or nonprofit private entities for the purpose of operating voluntary family planning projects. 42 U.S.C. § 300(a). Title X grantees may either provide the program services themselves or contract with delegate agencies (or “subgrantees”). At the time my initial declaration was filed, PPNNE served as a direct Title X grantee in New Hampshire and as a subgrantee in Maine and Vermont. *See* First Gallagher Decl. ¶ 19.

5. Since that time, however, due to HHS’s implementation of new Title X regulations, PPNNE, along with all other Planned Parenthood affiliates participating in Title X, has been compelled to withdraw from the Title X program.

6. As a result, PPNNE no longer receives any federal funding through the Title X program, either as a direct Title X grantee or as a subgrantee.

7. As I stated in my initial declaration, however, PPNNE participates in other federal programs and projects and receives millions of dollars in federal funds through programs other than Title X. *See* First Gallagher Decl. ¶¶ 22–25. Thanks to this federal funding, PPNNE can continue to provide vital reproductive health care services, including contraceptive services and counseling, pelvic exams, pregnancy testing and counseling, testing for STIs and HIV, screening for breast and cervical cancer, and certain basic infertility services.

8. All of this federal funding—about \$4.8 million total—remains under threat from the Refusal of Care Rule challenged in this lawsuit. In fact, while the figures listed in my first

declaration comprise federal funds only, PPNNE receives some of those federal funds through joint federal-state funding streams (for example, the Global Commitment to Health waiver program). Under the Refusal of Care Rule, PPNNE risks losing both federal funds *and* any state funds that are awarded jointly with federal funds—and that, accordingly, are conditioned on federal grant eligibility. Thus, in reality, the amount of funding that we stand to lose if found out of compliance with the Rule is even greater than \$4.8 million.

9. In addition to all the ways in which the Refusal of Care Rule will interfere with PPNNE's mission to promote and provide quality sexual and reproductive health services, and will put patients at risk of being denied care and information about the services they seek, *see* First Gallagher Decl. ¶¶ 27–59, the loss of PPNNE's remaining federal funding would be devastating. While we are still assessing the impact of our loss of Title X funding and attempting to piece together alternative funding sources, no long-term solution is in sight, and it is clear that our remaining federal funds are more vital than ever.

10. As I stated in my initial declaration, a complete loss of federal funding would likely result in a significant decrease in our size and ability to provide health care services to our patients. We anticipate that it would require us to close health centers, to eliminate staff positions in those health centers, and to reduce our administrative and centralized support staffing. In addition to these closures, we would have to consider reducing our hours and staffing at the remaining health care centers, and/or increasing what we charge for our services. *See* First Gallagher Decl. ¶ 61.

11. If PPNNE had to close health centers, reduce hours, reduce staffing, or increase its fees, these changes would significantly undermine (and at a minimum, delay) low-income individuals' access to the critical reproductive health services we provide. There are not enough other health care providers in the region to take care of our patients if we are forced to cut back.

In particular, other providers in our communities do not have the capacity to take our Medicaid patients, nor do I believe they would want to do so given Medicaid reimbursement rates. *See* First Gallagher Decl. ¶ 62.

12. In sum, I remain deeply concerned about the threat the Refusal of Care Rule poses to our ability to offer high-quality, comprehensive, and nonjudgmental care.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on this 4th day of September 2019.


Meagan Gallagher