

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 JESSE C. SMITH, State Bar #122517
 Chief Assistant City Attorney
 3 RONALD P. FLYNN, State Bar #184186
 Chief Deputy City Attorney
 4 YVONNE R. MERÉ, State Bar #173594
 Chief of Complex and Affirmative Litigation
 5 SARA J. EISENBERG, State Bar #269303
 JAIME M. HULING DELAYE, State Bar #270784
 6 Deputy City Attorneys
 City Hall, Room 234
 7 1 Dr. Carlton B. Goodlett Place
 San Francisco, California 94102-4602
 8 Telephone: (415) 554-4633
 Facsimile: (415) 554-4715
 9 E-Mail: sara.eisenberg@sfcityatty.org

10 *Attorneys for Plaintiff*
 CITY AND COUNTY OF SAN FRANCISCO

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13

14 CITY AND COUNTY OF SAN FRANCISCO,
 15 Plaintiff,
 16 vs.
 17 ALEX M. AZAR II, et al.,
 18 Defendants.

No. C 19-02405 WHA
Related to
 No. C 19-02769 WHA
 No. C 19-02916 WHA

DECLARATION OF DR. GRANT COLFAX IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF THEIR OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

19 STATE OF CALIFORNIA, by and through
 ATTORNEY GENERAL XAVIER BECERRA,
 20 Plaintiff,
 21 vs.
 22 ALEX M. AZAR, et al.,
 23 Defendants.

Date: October 30, 2019
 Time: 8:00 AM
 Courtroom: 12
 Judge: Hon. William H. Alsup
 Action Filed: 5/2/2019

24 COUNTY OF SANTA CLARA et al,
 25 Plaintiffs,
 26 vs.
 27 U.S. DEPARTMENT OF HEALTH AND
 HUMAN SERVICES, et al.,
 28 Defendants.

1 I, Dr. Grant Colfax, declare as follows:

2 1. I have personal knowledge of the facts set forth in this declaration and, if called as
3 a witness, could and would testify competently to the matters set forth below.

4 2. I am Director of the San Francisco Department of Public Health (“SFDPH”). I
5 have served in this position since February 2019.

6 3. Prior to becoming Director of SFDPH, I served as director of Marin County’s
7 Department of Health and Human Services for nearly four years. Prior to that, I worked as
8 Director of HIV Prevention and Research at SFDPH, and as the Director of the Office of National
9 AIDS Policy at the White House. I attended Harvard College and Harvard Medical School, and
10 completed my residency at University of California, San Francisco.

11 4. The mission of SFDPH is to protect and promote health and well-being for all in
12 San Francisco. SFDPH is dedicated to reducing health inequities and providing inclusive care to
13 *all* patients.

14 5. For example, SFDPH established Gender Health SF to provide access to
15 transgender surgeries and related education and preparation services to eligible transgender adult
16 residents. Currently, SFDPH also provides a range of health services to transgender residents such
17 as primary care, prevention, behavioral health, hormone therapy, specialty, and inpatient care.

18 6. SFDPH strives to achieve its mission through the work of two main branches—the
19 Population Health Division and the San Francisco Health Network.

20 7. **San Francisco Health Network:** Through the San Francisco Health Network
21 (“SFHN”), SFDPH administers a complete health care system including primary care for all ages,
22 dental care, emergency and trauma treatment, medical and surgical specialties, diagnostic testing,
23 skilled nursing and rehabilitation, and behavioral health to residents of San Francisco, and within
24 the county jail system.

25 8. SFHN includes two hospitals: Zuckerberg San Francisco General Hospital
26 (“ZSFG”) and Laguna Honda Hospital.

27 9. ZSFG is a licensed general acute care hospital and trauma center owned and
28 operated by the City and County of San Francisco. ZSFG delivers over one thousand babies a

1 year, has been at the forefront of HIV/AIDS care from the beginning of the AIDS crisis, and
2 provides inpatient medical and psychiatric treatment. ZSFG also routinely provides both first-
3 and second-trimester abortion care at the Women's Options Center.

4 10. The hospital provides care for approximately one in eight San Franciscans a year,
5 regardless of their ability to pay. As the City's safety net hospital, ZSFG provides the highest-
6 quality services, including to many patients covered through Medi-Cal (California's Medicaid
7 program). As the only level one trauma center serving a region of more than 1.5 million people,
8 it provides life-saving emergency care to individuals and victims of mass tragedies like airplane
9 crashes and natural disasters. With the busiest emergency room in San Francisco, ZSFG receives
10 one-third of all ambulances in the City, and treats nearly four thousand patients with traumatic
11 injuries, annually. ZSFG's emergency department regularly treats people experiencing ectopic
12 pregnancies and other emergent complications from pregnancy whose treatment may necessarily
13 result in the termination of the pregnancy. ZSFG's emergency department also regularly treats
14 rape victims, and its rape protocol requires offering the patient emergency contraception,
15 consistent with the medical standard of care. Many of ZSFG's programs focus on providing life-
16 saving care in emergency situations.

17 11. Laguna Honda Hospital provides a full range of skilled nursing services to adult
18 residents of San Francisco who are disabled or chronically ill, including specialized care for those
19 with chronic wounds, head trauma, stroke, spinal cord and orthopedic injuries, HIV/AIDS, and
20 dementia.

21 12. In addition to these two hospitals, SFHN includes fourteen clinics throughout the
22 community where patients can access health care services, including primary care, pediatric care,
23 vaccinations, phlebotomy, asthma care, cardiology, HIV prevention and treatment services,
24 dermatology, physicals, dental care, cancer care, family planning, and prenatal care.

25 13. The Maternal, Child and Adolescent Health ("MCAH") Section of SFDPH also
26 offers a wide range of services to patients through SFHN. MCAH focuses on the most vulnerable
27 children and families, filling what would otherwise be a serious public health gap. Its aim is to
28

1 reduce health disparities and improve health outcomes by strengthening the public health systems
2 and services that address the root causes of poor health.

3 14. Behavioral Health Services (“BHS”) is also part of the comprehensive SFHN.
4 BHS operates the County Mental Health Plan and provides San Franciscans with a robust array of
5 services to address mental health and substance use disorder treatment needs. Treatment services
6 include: early intervention/prevention; outpatient treatment (including integrated medical and
7 behavioral health services); residential treatment; and crisis programs.

8 15. The Transitions Division of SFHN serves severely mentally ill individuals who
9 have multiple complex characteristics—including mental health issues, being medically
10 compromised, and those with cognitive impairments.

11 16. The Managed Care Section oversees the contracts under which the SFHN provides
12 medical and mental health care to members of managed care programs including those operated
13 by the San Francisco Health Plan, which is the government entity that administers the Medi-Cal
14 managed care plan for the City and County of San Francisco, and by private insurance plans.

15 17. SFHN is also the lead entity in the Whole Person Care Pilot designed by the State
16 of California to serve the multiple medical and mental health care needs of adults experiencing
17 homelessness and high users of multiple systems.

18 18. **Population Health Division:** SFDPH also includes a Population Health Division
19 (“PHD”). This division addresses public health concerns, including consumer safety, health
20 promotion and disease prevention, and the monitoring of threats to the public’s health.

21 19. PHD consists of ten integrated branches that work together to assess and monitor
22 the health status of San Francisco and implement traditional and innovative public health
23 interventions. For example:

- 24 • Applied Research, Community Health Epidemiology, and Surveillance coordinates data
25 collection, processing, management, analysis and interpretation related to health and
26 morbidity in San Francisco.
- 27 • Bridge HIV is a global leader in HIV prevention, research, and education. Operating as a
28 clinical trials unit within SFDPH, Bridge HIV conducts innovative research that guides

1 global approaches in HIV prevention. The Department’s contributions in the early fight
2 against HIV/AIDS has made it a trusted and renowned resource for understanding HIV
3 infection and disease.

- 4 • Community Health Equity and Promotion includes the core public health functions of
5 informing, educating and supporting communities. Through the use of comprehensive
6 approaches across the spectrum of prevention, the Branch plans, implements, and
7 evaluates prioritized community initiatives, including promoting active living, preventing
8 HIV, other sexually transmitted infections, viral hepatitis, and the effects of trauma.
- 9 • Disease Prevention and Control integrates core public health communicable disease
10 functions, along with specialty care and treatment, and laboratory diagnostics. It is
11 responsible for interacting with SFDPH health delivery systems in order to coordinate and
12 maximize disease screening and other prevention activities in primary care and the
13 hospitals.
- 14 • And Emergency Medical Services Agency (“EMS”) manages and prepares for all types of
15 medical emergencies in San Francisco. Among other things, they direct, plan, monitor,
16 evaluate, and regulate the San Francisco EMS System in collaboration with system and
17 community providers.

18
19 20. I am familiar with the new U.S. Department of Health and Human Services
20 (“HHS”) regulations entitled, “Protecting Statutory Conscience Rights in Health Care;
21 Delegations of Authority” (the “Final Rule”).

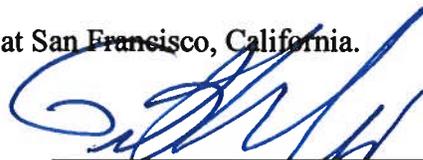
22 21. The Final Rule puts SFDPH to an impossible choice.

23 22. If the Final Rule goes into effect and SFDPH is required to comply with it,
24 SFDPH’s mission to protect and promote health and well-being for *all* people in San Francisco
25 will be undermined. Based on my years of experience in the public health field, including as a
26 practicing physician, I expect that patients will delay seeking medical care based on fear of being
27 discriminated against or mistreated in healthcare facilities. Delays in seeking care lead to worse
28 individual and public health outcomes as well as higher costs to the healthcare system. In

1 addition, If SFDPH cannot involuntarily transfer personnel who refuse to perform their job
2 duties—like receptionists or schedulers who refuse to schedule patients for medically necessary
3 services—our hospitals and clinics will not be able to function efficiently, significantly
4 compromising patient care for everyone.

5 23. On the other hand, if SFDPH refuses to comply with the Final Rule and HHS
6 terminates funding to SFDPH, the result would be catastrophic. Virtually all of the services and
7 programs discussed above would be impacted. SFDPH would have to restructure the entire
8 public health system with a drastic reduction in services. Hospital beds, behavioral health clinics,
9 primary care clinics, and emergency services would all have to be significantly reduced.
10 Hundreds of employees would likely lose their jobs. People in need of urgent and emergent
11 health care might not be able to receive timely services, and could die as a result. In the event of
12 an earthquake or other catastrophic event, the health and safety of the entire region could be
13 compromised. In short, termination of all HHS funds would cause a loss of critical health care
14 capacity for San Francisco and the region.

15
16 I declare under penalty of perjury that the foregoing is true and correct and that this
17 declaration was executed on September 9, at San Francisco, California.

18 
19 _____
20 Grant Colfax, MD