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10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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 14 CITY AND COUNTY OF SAN FRANCISCO,
 Plaintiff,
 15
 vs.
 16 ALEX M. AZAR II, et al.,
 17 Defendants.

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

**DECLARATION OF DR. ELEANOR
 DREY 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**

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

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

23 COUNTY OF SANTA CLARA et al,
 24 Plaintiffs,
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 vs.
 26 U.S. DEPARTMENT OF HEALTH AND
 27 HUMAN SERVICES, et al.,
 Defendants.
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I, Dr. Eleanor Drey, declare:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to all the matters set forth below.

2. I earned my medical degree at Harvard Medical School. I also completed my residency in Obstetrics, Gynecology and Reproductive Sciences and a fellowship in Family Planning Clinical Care and Research at the University of California, San Francisco School of Medicine. I am licensed to practice medicine in the State of California. I am a Professor in the Department of Obstetrics, Gynecology & Reproductive Sciences at the University of California, San Francisco. My areas of interest include risk factors associated with delayed presentation for abortion, and I have published several articles on this topic, as well as other topics related to reproductive health.

3. I am currently the Medical Director of the Zuckerberg San Francisco General Hospital (“ZSFG”) Women’s Options Center (“Center”). I have served in this role since 2003. Before that, I served as Acting Medical Director from 2002-2003. In addition, I currently am serving as the Acting Chief of the ZSFG Obstetrics and Gynecology division.

4. The mission of the ZSFG Women’s Options Center is to offer high quality, sensitive and confidential abortion services.

5. We provide both first- and second-trimester abortion care, including medication abortion, and have on-site ultrasound and interpretation services. Highly trained counselors provide individual counseling before procedures and are present to offer emotional support during abortions. We offer intravenous (“IV”) sedation for first- and second-trimester abortion procedures. Because we are located within a trauma hospital, we have the resources to care safely for the most medically high-risk patients. Our experienced licensed nursing staff are present during and after all phases of procedures to provide the highest quality of care and support. Patients are offered contraceptive counseling, with all birth control methods available during their visit.

1 6. The women who come to the Center for care disproportionately tend to be
2 vulnerable individuals who have less ability to navigate complex medical systems. Many already
3 have suffered significant setbacks in their attempts to access care before they get to our Center.
4 Many patients come to us because they have no other option for obtaining the medical care they
5 need. Some have limited options because of financial constraints or medical comorbidities.
6 Others have limited options because of the nature of the care they require—the Center is one of
7 very few providers in the area that will provide abortions up to 24 weeks and is equipped to
8 handle medically complicated procedures.

9 7. I am familiar with the rule “Protecting Statutory Conscience Rights in Health
10 Care; Delegations of Authority,” RIN 0945-AA10, issued by the U.S. Department of Health and
11 Human Services (the Rule), published in the Federal Register on May 21, 2019.

12 8. The Rule creates a broad exemption to opt out of any healthcare service based on a
13 moral or religious ground (right granted to medical provider but also to anyone with an articulable
14 connection to the provision of that service, including helping to make arrangements for that
15 service). Specific potentially relevant scenarios are included in the Rule: abortion, certain
16 vaccinations if there is an “aborted fetal tissue” connection (such as rubella, Hepatitis A,
17 varicella, or “chickenpox”), contraception, and gender transition/gender dysphoria (counseling,
18 administering hormone prescriptions, etc.), tubal ligations, hysterectomies, and physician-assisted
19 dying. There does not appear to be any exception provided for emergency situations under the
20 Rule.

21 9. There are a number of ways that the Rule could negatively impact people’s ability
22 to receive evidence-based care. If a potential patient hoped to get an abortion or contraception or
23 any of the other services touched upon by the Rule and a telephone receptionist or operator
24 refused to refer the individual for those services, then the individual would be left without access
25 or honest information. A health care institution would have no way to track how many and which
26 patients were being denied services. The negative impact on access and health could be
27 significant. For example, decreased access to contraception could lead to more undesired
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1 pregnancies, which are associated with worse maternal and child outcomes. Decreased access to
2 abortions also has been shown to result in later abortions, which involve more risk than early
3 abortions, which have virtually no risks or adverse health consequences.

4 10. If call operators or receptionists refuse to direct patients to our Center or to
5 schedule appointments for women seeking abortions, we need to be able to transfer those
6 individuals—involuntarily if necessary—to another position or to an area where these refusals
7 would be less likely to occur. If those individuals cannot be transferred, patients and potential
8 patients would, at best, be delayed in accessing care. This is highly problematic because abortion
9 is a time-sensitive procedure; abortion's medical risks and costs increase with any delay, along
10 with patient distress at having to delay receiving care. At worst, some patients would not be able
11 to obtain safe abortion care at all. In such instances, I have seen women be forced to carry
12 unwanted pregnancies to term. Tragically, I also have seen women in these circumstances take
13 desperate measures such as throwing themselves in front of moving traffic or having their
14 partners beat them in the abdomen to try to self-induce termination of their pregnancies.

15 11. The Rule also would make it difficult to work safely as a team if some of the team
16 members were unwilling to participate. Inadequate communication and limited health care
17 provision also could compromise safety, leading to worse patient outcomes if some staff were not
18 communicating openly and thoroughly to others about all of the patient care that was being
19 provided.

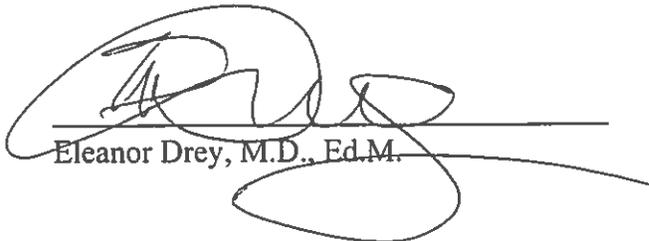
20 12. In addition, patients might not know what health care they were being restricted
21 from receiving. For example, if a patient wanted palliative care but had a provider who insisted
22 on aggressive resuscitation, the patient and their family would be unlikely to know about the
23 limits to end-of-life care before being admitted to the hospital.

24 13. Moreover, the Rule would make it financially unsustainable to provide many
25 services. We would be prohibited from transferring employees within a facility to another area
26 where refusals would be less likely to occur and could have insufficient participating staff to meet
27 the needs of our patients. For example, we could have a nurse working in our unit who refused to
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1 care for patients having abortions. In a setting where there are mandated nursing ratios, you then
2 either would have to limit the number of patients seen in order to accommodate the non-
3 participant, or you would have to hire a replacement nurse because one was refusing to care for
4 patients. Either of these options would be financially prohibitive.

5 I declare under penalty of perjury under the laws of the United States and the State of
6 California that the foregoing is true and correct to the best of my knowledge.

7 Executed on Sept. 11th, 2019 in San Francisco, California.

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11 Eleanor Drey, M.D., Ed.M.
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