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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12
 13 CITY AND COUNTY OF SAN FRANCISCO,
 14 Plaintiff,
 15 vs.
 16 ALEX M. AZAR II, et al.,
 17 Defendants.

18 STATE OF CALIFORNIA, by and through
 ATTORNEY GENERAL XAVIER 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.

No. C19-02405 WHA
 No. C19-02769 WHA
 No. C19-02916 WHA

**DECLARATION OF DR. JEANNE
 HARRIS-CALDWELL IN SUPPORT
 OF PLAINTIFF'S MOTION FOR
 SUMMARY JUDGMENT AND IN
 SUPPORT OF THEIR OPPOSITION
 TO DEFENDANTS' MOTION TO
 DISMISS OR, IN THE
 ALTERNATIVE, FOR SUMMARY
 JUDGMENT**

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

1 I, Dr. Jeanne Harris-Caldwell, declare:

2 1. I am an executive board member for the Health Services Association, California
3 Community Colleges (HSACCC) and the Dean of Wellness, Social Services, and Child
4 Development at Saddleback College, as the Dean I oversees all operations of health services. Over
5 the last 26 years I have held several progressive leadership and management roles in healthcare,
6 and education in both California Community College, and private college systems.

7 2. Additionally, I have presented nationally on several occasions on health related
8 topics and most recently for the American College Health Association. HSACCC is a
9 membership organization of CCC healthcare professionals and community partners. HSACCC's
10 mission is to support and foster student access to quality health service programs within the
11 California Community Colleges.

12 3. The California Community Colleges (CCC) are the largest system of higher
13 education in the nation, with 2.1 million students attending 115 colleges. With a wide range of
14 educational offerings, the colleges provide workforce training, basic courses in English and math,
15 certificate and degree programs and preparation for transfer to four-year institutions. CCCs offer
16 training for students who are pursuing careers as registered nurses, paramedics, emergency
17 medical technicians, phlebotomists, and other health care professionals. Saddleback College
18 offers more than 300 certificate or degree programs from architecture to oceanography. The
19 colleges play a critical role in California's public education system and healthcare workforce
20 training.

21 4. The CCCs are organized in 72 districts. Each district's Board of Trustees
22 determines how to provide health services to students. A minority of districts outsource services
23 to a third party; most districts run an on-campus health center. These health centers vary in size
24 from a single practitioner to a team of dozens of medical professionals.

25 5. Currently, 90 community colleges have a health center. Health centers have the
26 primary purpose of providing a scope of services to meet the student's physical, social, and
27 mental health needs necessary to facilitate a successful completion of their academic goals and
28 objectives. This is accomplished through provision of first aid, urgent care services, health

1 assessment and treatment, psychological counseling & crisis intervention, health education, and
2 community partnerships.

3 6. Many of the 90 health centers across within the CCC system offer robust health
4 centers which include medical doctors, registered nurses, nurse practitioners, physician assistants,
5 clinical psychologists, clinical psychiatrists and mental health therapists. These services provide
6 primary care for many of the 2.1 million students within the CCC system.

7 7. I am familiar with the rule, Protecting Statutory Conscience Rights in Health Care;
8 Delegations of Authority, RIN 0945-AA10, issued by the U.S. Department of Health and Human
9 Services (HHS) on May 2, 2019 (Rule), and published in the Federal Register on May 21, 2019.

10 8. The Rule will impose an immediate cost on CCC health centers due to its notice,
11 assurance and certification, recordkeeping, and reporting requirements.

12 9. The notification provision of the Rule will impose costs on CCC health centers.
13 Although the Rule indicates that the notice provisions are now voluntary (unlike in the proposed
14 rule), the Rule also states that adherence to the notice provisions will be taken into consideration
15 when assessing whether an agency is in compliance. To provide notice, CCC health centers will
16 need to: (1) post the notice in Appendix A (or similar text) at each CCC health center
17 establishment where notices to the public and workforce are customarily posted, and thereafter
18 continuously take steps to ensure that the notice is not altered, defaced, or covered by other
19 materials, (2) include the notice on each of its websites, and (3) include the notice in its personnel
20 manuals, applications, and benefits and training materials, as inclusion in these materials will be a
21 factor in determining whether a CCC health center is in compliance. The estimated costs of
22 compliance with these notification provisions is \$1,350,000, due to the necessary changes to
23 websites, physical postings, as well as costs associated with updates to training manuals, new
24 employee documentation, internship materials, and updates to benefits handbooks.

25 10. The Rule also includes an assurance and certification requirement that should be
26 included with all applications, reapplications, and amendments and modifications. The provision
27 also places an obligation on CCC to take actions to come into compliance. Notably and under the
28 compliance provision, if a sub-recipient (as defined by the Rule) is found in violation, CCC will

1 be subject to remedial action. This Rule thus places some oversight obligation on CCC which
2 could cost CCC \$7,200,000 annually for additional staff time (1 staff member for monitoring and
3 compliance, web page maintenance, form revisions, etc. at 78,000 per year with benefits at 90
4 health care centers) necessary to engage in this sub-recipient monitoring component as some of
5 the health centers are operated by local hospitals. Outsourcing of health centers through MOU is
6 utilized within the CCC system in areas where resources are limited in order to provide access and
7 care for all students within the CCC system.

8 11. The compliance provision also includes a recordkeeping and reporting requirement
9 applicable to all recipients and sub-recipients which obligates CCC to include information
10 concerning any compliance reviews or complaints to the Office of Civil Rights within the last
11 three years as part of the application process. The costs of the record keeping and reporting
12 requirements are reported in the above figures for compliance.

13 12. As with any compliance reporting, the HSACCC is additionally estimating another
14 \$ 135,000.00 annually for any periodic compliance reviews and/or investigations.

15 13. The Rule creates a broad exemption for medical professionals and personnel to opt
16 out of healthcare services based on a moral or religious ground. Specifically, personnel may opt
17 out of healthcare services involving abortion, sterilization, and euthanasia. Further, the rule
18 appears to enable objections to providing a broad range of healthcare services, including certain
19 vaccinations if there is an “aborted fetal tissue” connection (rubella, polio, Hepatitis A,
20 chickenpox, small pox), contraception, gender transition/gender dysphoria (counseling,
21 administering hormone prescriptions, etc.), tubal ligations, hysterectomies, and assisted suicide.
22 There does not appear to be any exception provided for emergency situations under the Rule.

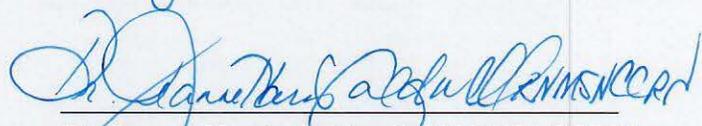
23 14. Many CCC health centers provide services such as immunization/vaccinations,
24 HIV testing and counseling, contraception, STD/STI screening, gynecological services, and
25 referrals for these and follow-up services where appropriate. The Rule appears to target many of
26 these services for potential refusal which could hinder the provision of these services to students.
27 The Rule could also hinder the provision of services to LGBTQ students, including counseling
28 services that members of this community could seek out.

1 15. In addition, HSACCC is concerned that the rule will impact access or create
2 barriers to care or services including contraception, including emergency contraception,
3 medication abortion, family planning, etc.

4 16. Currently, if CCC health center staff refuse to provide a service due to a religious
5 or moral objection, substitute staff is found to perform the objected-to service. But the Rule
6 expands the scope of objections that can be made to include objections on the basis of
7 “conscience, religious beliefs, or moral convictions” to not just services such as abortion,
8 sterilization, and euthanasia, but also “other health services.” The Rule will be unworkable if it
9 permits a medical provider to refuse “other health services” without notifying a supervisor of the
10 denial of service, or without providing notice or alternative options and/or referrals to patients.
11 Additionally, it would be difficult if not impossible to find a substitute provider at a health center
12 that employs only a single health professional.

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

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16 Executed on 8-27-19 in Missisquoi, California.

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19 Dr. Jeanne Harris-Caldwell RN MSN CCRN
20 Executive Board Member
21 Health Services Association
22 California Community Colleges

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