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 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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13
 14 CITY AND COUNTY OF SAN FRANCISCO,
 Plaintiff,
 15
 vs.
 16 ALEX M. AZAR II, et al.,
 Defendants.

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

DECLARATION OF DR. JOSEPH MORRIS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF THEIR OPPOSITION TO DEFENDANTS' MOTION 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: The Honorable William H. Alsup
 Action Filed: 5/2/2019

23 COUNTY OF SANTA CLARA et al.,
 24 Plaintiffs,
 25
 vs.
 26 U.S. DEPARTMENT OF HEALTH AND
 27 HUMAN SERVICES, et al.,
 Defendants.
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1 I, Joseph Morris, PhD, MSN, RN, declare:

2 1. I am the Executive Officer of the Board of Registered Nursing (Board) and an
3 active licensed Registered Nurse in the State of California. I make this declaration in my official
4 capacity as the Executive Officer of the Board and make this declaration of my own personal
5 knowledge.

6 2. The California Board of Registered Nursing (the Board) is a state governmental
7 agency established to protect the public by regulating the practice of registered nurses; it is
8 organized under the California Department of Consumer Affairs. Cal. Bus. & Prof. Code §§ 101,
9 2701. The Board is responsible for implementing and enforcing the Nursing Practice Act. The
10 Board's authorizing statutes designate protection of the public as its highest priority. Cal. Bus. &
11 Prof. Code § 2708.1.

12 3. To carry out its mission to protect the public, the Board performs a number of
13 functions, including but not limited to:

- 14 • Establishing educational standards for nursing programs which prepare individuals to
15 become licensed as registered nurses;
- 16 • Evaluating licensure applications to determine whether the applicant meets the criteria
17 for licensure;
- 18 • Enforcing state law by taking appropriate disciplinary action against nurses who
19 violate the Nursing Practice Act and relevant provisions of the Business & Professions
20 Code;
- 21 • Adopting regulations to clarify the performance, practice, and disciplinary standards
22 for its licensees.

23 4. The Board's Enforcement Division protects consumers from licensees who
24 practice in a manner that may be unsafe or unprofessional. The Board has authority to revoke,
25 suspend, or place on probation any license if the licensee has violated a provision of the law
26 governing the profession. Cal. Bus. & Prof. Code § 2759.

27 5. I am familiar with the rule Protecting Statutory Conscience Rights in Health Care;
28 Delegations of Authority, RIN 0945-AAIO, issued by the U.S. Department of Health and Human

1 Services (HHS) on May 2, 2019, and published in the Federal Register on May 21, 2019 (the
2 Rule).

3 6. The Rule creates a broad exemption for medical professionals and personnel to opt
4 out of any healthcare service based on a moral or religious ground. Specific scenarios are
5 included in the Rule, including abortion, sterilization, euthanasia, certain vaccinations if there is
6 an "aborted fetal tissue" connection (rubella, polio, Hep A, chickenpox, small pox),
7 contraception, gender transition/gender dysphoria (counseling, administering hormone
8 prescriptions, etc.), tubal ligations, hysterectomies, assisted suicide, and referrals for advanced
9 directives, and there does not appear to be any exception provided for emergency situations.

10 7. Under the Rule, nurses can refuse medical care without any information about the
11 patient's medical condition or treatment options, not just on the basis of federally protected
12 conscience protections, but also on the basis of "ethical or other reasons." A provider can do this
13 without any supporting evidence, without notifying a supervisor of the denial of service, and
14 without providing notice or alternative options and/or referrals to patients in need.

15 8. The Rule if implemented may thus impact the work and mission of the Board.

16 9. If, as a result of the Rule's requirements, patients file complaints against nurses
17 who deny care or fail to provide them with timely, accurate, and complete information, then the
18 Board will have to investigate such complaints.

19 10. Furthermore, the Board is responsible for enforcing California law through
20 disciplinary proceedings. Thus, the Board may face an increase in disciplinary matters for nurses
21 that fail to abide by the Nursing Practice Act, including standards of care.

22 11. Notably, the standards of competent performance that nurses must abide by
23 include acting as the patient's advocate which includes giving the patient the opportunity to make
24 informed decisions about healthcare. Cal. Code Regs. tit. 16, § 1443.5(6) (2019). Failing to act in
25 an emergency thereby jeopardizing a patient's health or life could also result in a charge of "gross
26 negligence." Cal. Code Regs. tit. 16, § 1442.

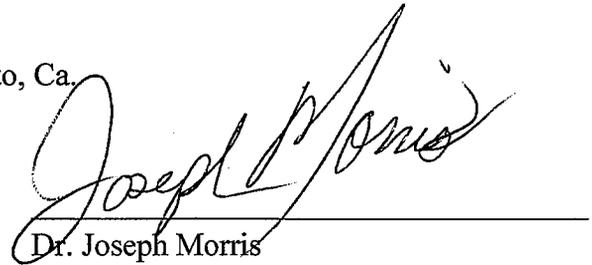
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I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on 09/05/2019 in Sacramento, Ca.



Dr. Joseph Morris
Executive Officer
California Board of Registered Nursing