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8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
9 **AT YAKIMA**

10 STATE OF WASHINGTON,
11
12 Plaintiff,

13 v.

14 ALEX M. AZAR II, in his official
15 capacity as Secretary of the United
16 States Department of Health and
17 Human Services; and UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN
SERVICES,
Defendants.

NO. 2:19-cv-00183-SAB

DECLARATION OF MAUREEN
BROOM IN SUPPORT OF STATE
OF WASHINGTON'S MOTION
FOR PRELIMINARY
INJUNCTION

NOTED FOR: July 17, 2019
With Oral Argument at 1:30 p.m.

18 I, Maureen Broom, pursuant to 28 U.S.C. § 1746, hereby declare as
19 follows:

- 20 1. I am over the age of 18, competent to testify as to the matters
21 herein, and make this declaration based on my own knowledge.
22 2. I am the Enterprise Finance Officer and Associate Vice President

1 of UW Medicine. In this role, I oversee Accounting, Finance, Cost Reporting,
2 Payroll, Financial Decision Support, Budget and Long Range Planning, Internal
3 Controls and Population Health Analytics. I have held this position since
4 March, 2016. I have worked in the Healthcare Administration Field for twenty
5 one years. Prior to the position I hold now, I served in a number of other
6 leadership roles within Finance and Accounting at UW Medicine. I have a
7 Bachelor's degree in Business and Accounting from the Foster School of
8 Business at the University of Washington.

9 3. I am familiar with the rule, Protecting Statutory Conscience Rights
10 in Health Care Delegations of Authority, published in the Federal Register on
11 May 21, 2019 (Final Rule).

12 4. UW Medicine has a mission to improve the health of the public by
13 providing a care experience for patients and their families that helps them
14 achieve their personal goals for wellness and disease management; an
15 educational environment for health professionals, students, and trainees that
16 prepares them for leadership in their professional careers; and a research
17 enterprise for scientists that enables them to advance medical knowledge and
18 clinical innovations with groundbreaking discoveries. This includes
19 collaborative support of healthcare providers and networks across the
20 Washington, Wyoming, Alaska, Montana and Idaho (WWAMI) region. The
21 Final Rule would place nearly all funding for these activities at risk.

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1 5. UW Medicine receives \$1.167 billion in federal funding from
2 Department of Health and Human Services and more than \$35 million in
3 federal funding from Department of Education. UW Medicine receives \$636
4 million in federal funding from the National Institute of Health and \$690,000
5 from the Department of Labor. All contracted insurance carriers require CMS
6 participation as a condition of providing patient care. UW Medicine consists of
7 eight organizations and multiple joint ventures. We have more than 2,200
8 physicians, 28,000 employees, and more than 4,600 students and trainees. UW
9 Medicine provides 1.64 million outpatients visits and 64,000 inpatient
10 admissions annually. Services range from emergency airlift transport, the only
11 Level 1 Trauma for the five state WWAMI region, unique regional transplant
12 services, comprehensive Burn ICU and inter-specialty treatment team, and
13 collaboration with community providers in rural areas across the WWAMI
14 region. There are multiple types of medical services that can only be received at
15 a UW Medicine facility within a five state region. Loss of this employment,
16 training, and medical care in the PNW region would have a catastrophic impact
17 on Seattle, Washington State, and the WWAMI region.

18 6. UW Medicine uses this money to fulfill the organization Mission
19 and Vision to improve the health of the public by providing a care experience
20 for patients and their families that helps them achieve their personal goals for
21 wellness and disease management; an educational environment for health
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1 professionals, students and trainees that prepares them for leadership in their
2 professional careers; and a research enterprise for scientists that enables them to
3 advance medical knowledge and clinical innovations with groundbreaking
4 discoveries.

5 7. I anticipate the Final Rule will increase costs for UW Medicine
6 and all related sub-recipients, and will likely have crippling impacts to the
7 economy, health care access, and medical training opportunities in Seattle, the
8 State of Washington, and the WWAMI region. In addition to serving
9 populations in the Greater Seattle Area, UW Medicine is also a hub of
10 collaboration for rural providers across Washington, Wyoming, Alaska,
11 Montana and Idaho. This allows patients to receive top level care in their local
12 communities. Providers can consult with top specialists at UW Medicine so
13 they can address complex medical needs and also reduce the overall cost and
14 disruption of care when patients are placed hundreds of miles from their support
15 system.

16 8. The rule will impose immediate and long term costs on UW
17 Medicine. This includes but is not necessarily limited to, the following
18 activities:

- 19 a. changes to UW Medicine webpages;
- 20 b. preparation and physical posting of notices at all UW Medicine
- 21 locations which include notices for both the public and for agency
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- 1 employees;
- 2 c. preparation and publication of revisions to UW Medicine,
- 3 applications, policy guidance, and other materials for use by
- 4 agency employees, sub-recipients, and contractors;
- 5 d. providing notice to and overseeing implementation by all UW
- 6 Medicine contractors, and various other sub-recipients of the
- 7 implicated federal funds;
- 8 e. translation services to ensure all language groups that make up 5%
- 9 or greater of the regional population are able to review this
- 10 notification in their primary language;
- 11 f. creating and distributing education to more than 30,000 employees.
- 12 g. creating a short term tracking mechanism for data collection &
- 13 maintenance process in time for July 22, 2019; and
- 14 h. building out technical tools and remediating downstream systems
- 15 in order to maintain records of all reported employee conscientious
- 16 objections within enterprise HR Systems.

17 9. As a preliminary estimate, UW Medicine projects these costs in the
18 first year will cost approximately \$8.2 million. These expenses include both the
19 initial set-up and ongoing operational monitoring. Initial costs are increased due
20 to the limited time from the Final Rule's effective date to the date of required
21 compliance. Ongoing costs will range from \$1–3 million annually to maintain
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1 records, training, infrastructure, investigations, and expanded accommodation
2 requirements in regard to moral obligations.

3 10. The Final Rule imposes significant ongoing record-keeping and
4 compliance costs. This includes the obligation to maintain any information
5 regarding discrimination on the basis of religious belief or moral conviction;
6 any complaints, statements, policies, or notices; procedures for accommodating
7 employees' or other protected individuals' religious beliefs or moral
8 convictions; and records of request for accommodation and the response to it.
9 Further, it is my understanding that a sub-recipient's violation of the Final Rule
10 similarly places all federal funds at risk.

11 11. UW Medicine has many "sub-recipients," which I understand as
12 defined as any person, organization, or any entity to whom there is a
13 pass-through of Federal financial assistance or funding through UW Medicine.
14 Those sub-recipients include providers, faculty, and research investigators.

15 12. In order to comply with the Final Rule's assurance/certification
16 and compliance processes, UW Medicine will need to develop and maintain a
17 comprehensive system for tracking and monitoring compliance at UW
18 Medicine as well as the compliance status of all sub-recipients and contractors
19 in the state. This system will require dedicated staff and contractor resources to
20 fulfill the many recordkeeping and compliance activities required by the Final
21 Rule including, but not limited to:

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- a. maintaining complete and accurate records of compliance with the with the Rule, including sub-recipients;
- b. tracking all accommodation requests and complaints across programs;
- c. facilitating an investigation of UW Medicine or any sub-recipient; implementing, or overseeing sub-recipient implementation of any corrective action required under the Rule; and
- d. providing ongoing oversight of and training to the many sub-recipients and contractors across the state.

13. The Final Rule provides that the Department of Health and Human Services will consider posting of notices of non-discrimination as defined by the rule as non-dispositive evidence of compliance with the Rule. It lists placement of notice on agency websites, in prominent and conspicuous physical locations, in personnel manuals, in employment applications, and in any student handbooks as “postings” the Department will consider.

14. As a preliminary estimate, UW Medicine projects annual recordkeeping, compliance, training, and administrative costs in the range of \$2 million to \$3 million. This includes HR personnel to monitor the program, coordinate annual updates to employee documentation of objections, investigating complaints raised to the University Office of Civil Rights, legal review and revision of policies & procedures, updates to signage websites, and

1 written communication, and employee education regarding their rights.
2 Additionally, smaller clinics may be more impacted by an employee with
3 specific objections and would be required to over staff clinical areas in order to
4 accommodate employee objections without moving them to a different clinic.
5 This would result in increased salary, wage, benefits expense for the clinic and
6 UW Medicine overall.

7 15. The Rule places at risk all federal funds UW Medicine receives
8 from the U.S. Department of Health, U.S. Department of Education, the U.S.
9 Department of Labor, and the National Institute of Health. The approximated
10 total amount of federal funds UW Medicine received in the 2018–19 State
11 Fiscal Year was approximately \$1.2 billion.

12 16. It is also my understanding that the Final Rule does not just apply
13 to health care professionals but to all personnel who “assist in the performance”
14 of furthering a procedure. It is my understanding that the rule defines assistance
15 broadly to include assisting with scheduling a procedure, transporting a patient
16 to the procedure, or preparing a room for that procedure. In the context of
17 services provided by UW Medicine this could include Environmental Services,
18 Admissions, scheduling, securing prior authorizations for insurance coverage,
19 transporting the patient for pre or post care, and even ensuring the patient is
20 fully informed about their medical options and risks. Thus UW Medicine would
21 need to accommodate, track, investigate, and manage a greater number of
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1 potential objections than historically received.

2 17. UW Medicine currently accommodates religious objections to
3 providing specific types of medical care. In the hospitals, there is a strong
4 redundancy infrastructure to ensure both employee needs and safe patient care.
5 However, in smaller clinics, last minute religious objections could significantly
6 disrupt patient care. At least thirty days' notice is required to change staffing
7 accommodations without impacting patient care.

8 18. UW Medicine manages Harborview Medical Center, the safety net
9 hospital in King County, Washington, and cares for underserved populations
10 who are unable to secure care in other settings. This includes birth control,
11 abortions, and care for victims of sexual violence, homeless, immigrant, and the
12 poor. If Harborview Medical Center is unable to provide these services,
13 healthcare access in the community and many critical services would be
14 significantly compromised.

15 19. The Final Rule appears to support overt discrimination against
16 patients in need of care. An employee will be able to object to providing care to
17 specific people or group of people, denying patients to equitable access to care
18 based on any of criteria such as lifestyle, gender identity, infectious diseases,
19 marital status, etc. This is directly contrary to both federal and state laws that
20 explicitly forbid discrimination. UW Medicine has clearly communicated to
21 employees and the community that we provide equitable care for all patient
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1 populations in a safe and respectful matter, regardless of gender, race, religion,
2 sexual identity, mental status, or immigration status. This is reinforced by a
3 strong governance structure around diversity and non-discrimination in the
4 workplace and provision of care. Any deviation from this standard of care
5 would both contradict our Mission and organizational culture, as well as open
6 up UW Medicine to significant risk of incurring lawsuits for discrimination.

7 20. Harborview Medical Center is a Level 1 Trauma Center that
8 services patients with life threatening injuries on a daily basis. This requires
9 careful navigation of end of life issues, including when to cease extreme
10 measures. The strong staffing redundancy in a hospital setting currently ensures
11 that staff members are not required to participate in care that does not meet the
12 paradigms of their religious beliefs. This includes administration of blood
13 products, abortions, end of life measures, etc. This rule would allow staff to go
14 against the specific wishes of a patient and their family written in an Advanced
15 Directive without full and complete communication regarding all available care
16 options. This is in direct conflict with laws regarding patient consent and would
17 open up UW Medicine to untenable legal risks from patient lawsuits when their
18 care is not what they consented to. UW Medicine's mission, vision, and written
19 policies do not support providing uninformed care to patients.

20 21. This Final Rule erodes the trust and teamwork in a clinical setting
21 that is critical to providing effective, safe, and compassionate care to patients
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1 during the most vulnerable times in life. This will create discord between care
2 givers and patients, and erode the populations trust in the healthcare community
3 when it is openly known that providers may be holding back vital information
4 regarding a patient's care.

5 I declare under penalty of perjury under the laws of the State of
6 Washington and the United States of America that the foregoing is true and
7 correct.

8 DATED this 24th day of June, 2019, at Seattle, Washington.

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11 MAUREEN BROOM
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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 24th day of June, 2019, at Seattle, Washington.

/s/ Paul Crisalli
PAUL CRISALLI, WSBA #40681
Assistant Attorney General