

Nos. 19- 4254(L), 20-31, 20-32, 20-41

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

STATE OF NEW YORK; CITY OF NEW YORK; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF HAWAII; STATE OF ILLINOIS; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF OREGON; COMMONWEALTH OF PENNSYLVANIA; STATE OF RHODE ISLAND; STATE OF VERMONT; COMMONWEALTH OF VIRGINIA; STATE OF WISCONSIN; CITY OF CHICAGO; AND COOK COUNTY, ILLINOIS,

Plaintiffs-Appellees,

(Caption continued on inside cover)

On Appeal from the United States District Court
for the Southern District of New York

JOINT APPENDIX VOLUME I OF X

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HEALTH ASSOCIATION; AND PUBLIC HEALTH SOLUTIONS, INC.

Consolidated-Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR, II, in
his official capacity as Secretary of the United States Department of Health and Human Service; AND
UNITED STATES OF AMERICA,

Defendants-Appellants,

DR. REGINA FROST AND CHRISTIAN MEDICAL AND DENTAL ASSOCIATIONS,

Intervenors-Defendants-Appellants,

ROGER T. SEVERINO, in his official capacity as Director, Office for Civil Rights, United States
Department of Health and Human Services; AND OFFICE FOR CIVIL RIGHTS, UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Consolidated-Defendants-Appellants.

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**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-04676-PAE**

State of New York et al v. United States Department of Health
and Human Services et al

Assigned to: Judge Paul A. Engelmayer

Related Cases: [1:19-cv-05433-PAE](#)

[1:19-cv-05435-PAE](#)

Cause: 05:702 Administrative Procedure Act

Date Filed: 05/21/2019

Date Terminated: 11/06/2019

Jury Demand: None

Nature of Suit: 899 Other Statutes:

Administrative Procedures Act/Review or

Appeal of Agency Decision

Jurisdiction: U.S. Government Defendant

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National LGBTQ Task Force

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Date Filed	#	Docket Text
05/21/2019	<u>1</u>	FILING ERROR – PDF ERROR – COMPLAINT against All Defendants. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16924971)Document filed by STATE OF NEW YORK.(Colangelo, Matthew) Modified on 5/21/2019 (jgo). (Entered: 05/21/2019)
05/21/2019	<u>2</u>	CIVIL COVER SHEET filed. (Colangelo, Matthew) (Entered: 05/21/2019)

05/21/2019	<u>3</u>	COMPLAINT against ALEX M. AZAR II, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, UNITED STATES OF AMERICA. Document filed by STATE OF MICHIGAN, STATE OF WISCONSIN, STATE OF HAWAII, COMMONWEALTH OF PENNSYLVANIA, CITY OF NEW YORK, CITY OF CHICAGO, STATE OF NEW YORK, STATE OF RHODE ISLAND, STATE OF OREGON, STATE OF NEVADA, COOK COUNTY, ILLINOIS, DISTRICT OF COLUMBIA, STATE OF COLORADO, STATE OF MARYLAND, STATE OF MINNESOTA, STATE OF NEW MEXICO, STATE OF NEW JERSEY, COMMONWEALTH OF VIRGINIA, STATE OF ILLINOIS, STATE OF CONNECTICUT, STATE OF VERMONT, COMMONWEALTH OF MASSACHUSETTS, STATE OF DELAWARE.(Colangelo, Matthew) (Entered: 05/21/2019)
05/21/2019	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, re: <u>3</u> Complaint,, Document filed by CITY OF CHICAGO, CITY OF NEW YORK, COMMONWEALTH OF MASSACHUSETTS, COMMONWEALTH OF PENNSYLVANIA, COMMONWEALTH OF VIRGINIA, COOK COUNTY, ILLINOIS, DISTRICT OF COLUMBIA, STATE OF COLORADO, STATE OF CONNECTICUT, STATE OF DELAWARE, STATE OF HAWAII, STATE OF ILLINOIS, STATE OF MARYLAND, STATE OF MICHIGAN, STATE OF MINNESOTA, STATE OF NEVADA, STATE OF NEW JERSEY, STATE OF NEW MEXICO, STATE OF NEW YORK, STATE OF OREGON, STATE OF RHODE ISLAND, STATE OF VERMONT, STATE OF WISCONSIN. (Colangelo, Matthew) (Entered: 05/21/2019)
05/21/2019	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to ALEX M. AZAR II, re: <u>3</u> Complaint,, Document filed by CITY OF CHICAGO, CITY OF NEW YORK, COMMONWEALTH OF MASSACHUSETTS, COMMONWEALTH OF PENNSYLVANIA, COMMONWEALTH OF VIRGINIA, COOK COUNTY, ILLINOIS, DISTRICT OF COLUMBIA, STATE OF COLORADO, STATE OF CONNECTICUT, STATE OF DELAWARE, STATE OF HAWAII, STATE OF ILLINOIS, STATE OF MARYLAND, STATE OF MICHIGAN, STATE OF MINNESOTA, STATE OF NEVADA, STATE OF NEW JERSEY, STATE OF NEW MEXICO, STATE OF NEW YORK, STATE OF OREGON, STATE OF RHODE ISLAND, STATE OF VERMONT, STATE OF WISCONSIN. (Colangelo, Matthew) (Entered: 05/21/2019)
05/21/2019	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to UNITED STATES OF AMERICA, re: <u>3</u> Complaint,, Document filed by CITY OF CHICAGO, CITY OF NEW YORK, COMMONWEALTH OF MASSACHUSETTS, COMMONWEALTH OF PENNSYLVANIA, COMMONWEALTH OF VIRGINIA, COOK COUNTY, ILLINOIS, DISTRICT OF COLUMBIA, STATE OF COLORADO, STATE OF CONNECTICUT, STATE OF DELAWARE, STATE OF HAWAII, STATE OF ILLINOIS, STATE OF MARYLAND, STATE OF MICHIGAN, STATE OF MINNESOTA, STATE OF NEVADA, STATE OF NEW JERSEY, STATE OF NEW MEXICO, STATE OF NEW YORK, STATE OF OREGON, STATE OF RHODE ISLAND, STATE OF VERMONT, STATE OF WISCONSIN. (Colangelo, Matthew) (Entered: 05/21/2019)
05/22/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Paul A. Engelmayer. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 05/22/2019)
05/22/2019		Magistrate Judge Stewart D. Aaron is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 05/22/2019)
05/22/2019		Case Designated ECF. (pne) (Entered: 05/22/2019)

05/22/2019	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to Alex M. Azar II. (pne) (Entered: 05/22/2019)
05/22/2019	<u>8</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of Health and Human Services. (pne) (Entered: 05/22/2019)
05/22/2019	<u>9</u>	ELECTRONIC SUMMONS ISSUED as to United States of America. (pne) (Entered: 05/22/2019)
05/22/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Matthew Colangelo. The party information for the following party/parties has been modified: STATE OF MICHIGAN, STATE OF WISCONSIN, STATE OF HAWAII, COMMONWEALTH OF PENNSYLVANIA, CITY OF NEW YORK, CITY OF CHICAGO, STATE OF NEW YORK, STATE OF RHODE ISLAND, STATE OF OREGON, STATE OF NEVADA, COOK COUNTY, ILLINOIS, DISTRICT OF COLUMBIA, STATE OF COLORADO, STATE OF MARYLAND, STATE OF MINNESOTA, STATE OF NEW MEXICO, STATE OF NEW JERSEY, COMMONWEALTH OF VIRGINIA, STATE OF ILLINOIS, STATE OF CONNECTICUT, STATE OF VERMONT, COMMONWEALTH OF MASSACHUSETTS, STATE OF DELAWARE, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, UNITED STATES OF AMERICA, ALEX M. AZAR II. The information for the party/parties has been modified for the following reason/reasons: party name was entered in all caps; party role was entered incorrectly; party text was omitted. (pne) (Entered: 05/22/2019)
05/28/2019	<u>10</u>	MOTION for Maura Murphy Osborne to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16964062. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Connecticut. (Attachments: # <u>1</u> Affidavit In Support of Motion, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit CT Cert of Good Standing, # <u>4</u> Exhibit MA Cert of Good Standing)(Murphy Osborne, Maura) (Entered: 05/28/2019)
05/28/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>10</u> MOTION for Maura Murphy Osborne to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16964062. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 05/28/2019)
05/28/2019	<u>11</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>10</u> Motion for Maura Murphy Osborne to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 5/28/2019) (anc) (Entered: 05/28/2019)
05/29/2019	<u>12</u>	MOTION for Scott Hiromi Ikeda to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16979909. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Minnesota. (Attachments: # <u>1</u> Affidavit of Scott H. Ikeda, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Ikeda, Scott) (Entered: 05/29/2019)
05/29/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>12</u> MOTION for Scott Hiromi Ikeda to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16979909. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 05/29/2019)
05/29/2019	<u>13</u>	MOTION for Jennifer Lee Weaver to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Colorado. (Attachments: # <u>1</u> Affidavit in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit 10th Cir Cert of Good Standing, # <u>4</u> Exhibit CO Supreme Court Cert of Good Standing, # <u>5</u> Exhibit USDC for the District of CO Cert of Good Standing)(Weaver, Jennifer) (Entered: 05/29/2019)
05/30/2019	<u>14</u>	ORDER granting <u>12</u> Motion for Scott H. Ikeda to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 5/30/2019) (anc) (Entered: 05/30/2019)
05/30/2019		Pro Hac Vice Fee Payment: for <u>13</u> MOTION for Jennifer Lee Weaver to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. Filing fee \$ 200.00, receipt number ANYSDC-16984322.(Weaver, Jennifer) (Entered: 05/30/2019)

		05/30/2019)
05/30/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>13</u> MOTION for Jennifer Lee Weaver to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 05/30/2019)
05/30/2019	<u>15</u>	NOTICE OF APPEARANCE by Ilona Kirshon on behalf of State of Delaware. (Kirshon, Ilona) (Entered: 05/30/2019)
05/30/2019	<u>16</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>13</u> Motion for Jennifer L. Weaver to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 5/30/2019) (anc) (Entered: 05/30/2019)
05/31/2019	<u>17</u>	MOTION for David J. Lyons to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16996775. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Delaware. (Attachments: # <u>1</u> Affidavit Support of Motion to Admit Counsel, # <u>2</u> Affidavit Certificate of Good Standing, # <u>3</u> Text of Proposed Order Order for Admission)(Lyons, David) (Entered: 05/31/2019)
05/31/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>17</u> MOTION for David J. Lyons to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16996775. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 05/31/2019)
06/01/2019	<u>18</u>	MOTION for Jill Theresa Nagamine to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17000070. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Hawaii. (Attachments: # <u>1</u> Affidavit Affidavit of Jill T. Nagamine in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Exhibit Certificate of Standing-Hawaii Supreme Court, # <u>3</u> Exhibit Certificate of Standing-California Supreme Court, # <u>4</u> Text of Proposed Order Order for Admission Pro Hac Vice)(Nagamine, Jill) (Entered: 06/01/2019)
06/03/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>18</u> MOTION for Jill Theresa Nagamine to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17000070. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 06/03/2019)
06/03/2019	<u>19</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>17</u> Motion for David J. Lyons to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/3/2019) (anc) (Entered: 06/03/2019)
06/03/2019	<u>20</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>18</u> Motion for Jill T. Nagamine to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/3/2019) (anc) (Entered: 06/03/2019)
06/05/2019	<u>21</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Brittany M. Jones to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17024586. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Commonwealth of Virginia. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Good Standing Certificate, # <u>3</u> Text of Proposed Order)(Jones, Brittany) Modified on 6/5/2019 (jc). (Entered: 06/05/2019)
06/05/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>21</u> MOTION for Brittany M. Jones to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17024586. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of Virginia. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Attorney Affidavit/Declaration – attach Proposed Order. (jc) (Entered: 06/05/2019)

06/05/2019	<u>22</u>	MOTION for Andrea J. Armitage to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17025648. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Hawaii. (Attachments: # <u>1</u> Affidavit Affidavit of Andrea J. Armitage, # <u>2</u> Exhibit Certificate of Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Armitage, Andrea) (Entered: 06/05/2019)
06/05/2019	<u>23</u>	MOTION for Brittany M. Jones to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Commonwealth of Virginia. (Attachments: # <u>1</u> Good standing certificate issued by Supreme Court of Virginia dated May 31, 2019, # <u>2</u> Affidavit of Attorney Brittany M. Jones, # <u>3</u> Text of Proposed Order)(Jones, Brittany) (Entered: 06/05/2019)
06/05/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>23</u> MOTION for Brittany M. Jones to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff., <u>22</u> MOTION for Andrea J. Armitage to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17025648. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (ma) (Entered: 06/05/2019)
06/06/2019	<u>24</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Maura FJ Whelan to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17030932. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Wisconsin. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Whelan, Maura) Modified on 6/6/2019 (jc). (Entered: 06/06/2019)
06/06/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>24</u> MOTION for Maura FJ Whelan to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17030932. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): Proposed Order is labeled as a motion. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Attorney Affidavit/Declaration – attach Proposed Order. (jc) (Entered: 06/06/2019)
06/06/2019	<u>25</u>	MOTION for Maura FJ Whelan to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Wisconsin. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Whelan, Maura) (Entered: 06/06/2019)
06/06/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>25</u> MOTION for Maura FJ Whelan to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/06/2019)
06/06/2019	<u>26</u>	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated June 6, 2019. Document filed by State of New York.(Colangelo, Matthew) (Entered: 06/06/2019)
06/07/2019	<u>27</u>	ORDER granting <u>26</u> Letter Motion for Leave to File Excess Pages. The Court grants plaintiffs' request to file an opening memorandum of up to 55 pages; defendants likewise may file a memorandum of law in opposition of up to 55 pages. Plaintiffs' reply, if any, may be no longer than 25 pages. In addition, in consideration of the July 22, 2019 effective date of the final rule at issue in this action, the Court sets the following dates and deadlines: 1. Plaintiffs' motion for a preliminary injunction shall be filed no later than June 14, 2019; 2. Defendants' opposition to such motion shall be filed no later than 14 days after plaintiffs' motion, or June 28, 2019, whichever is earlier; 3. Plaintiffs' reply, if any, shall be filed no later than 7 days after defendants' opposition, or July 5, 2019, whichever is earlier; 4. The Court will hear argument on the motion for a preliminary injunction on Friday, July 12, 2019, at 2:00 p.m. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/7/2019) (anc) (Entered: 06/07/2019)
06/07/2019		Set/Reset Deadlines: Motions due by 6/14/2019. Responses due by 6/28/2019. Replies due by 7/5/2019. Set/Reset Hearings: Oral Argument set for 7/12/2019 at 02:00 PM

		before Judge Paul A. Engelmayer. (anc) (Entered: 06/07/2019)
06/07/2019	<u>28</u>	NOTICE OF APPEARANCE by Cynthia C. Weaver on behalf of City of New York. (Weaver, Cynthia) (Entered: 06/07/2019)
06/07/2019	<u>29</u>	NOTICE OF APPEARANCE by Otis Comorau on behalf of City of New York. (Comorau, Otis) (Entered: 06/07/2019)
06/07/2019	<u>30</u>	MOTION for Diane K. Taira to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Hawaii. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Text of Proposed Order)(Taira, Diane) (Entered: 06/07/2019)
06/07/2019		Pro Hac Vice Fee \$200.00 Due: for <u>30</u> MOTION for Diane K. Taira to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. (ma) (Entered: 06/07/2019)
06/07/2019		Pro Hac Vice Fee Payment: for <u>30</u> MOTION for Diane K. Taira to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Filing fee \$ 200.00, receipt number ANYSDC-17043607.(Taira, Diane) (Entered: 06/07/2019)
06/10/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>30</u> MOTION for Diane K. Taira to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 06/10/2019)
06/10/2019	<u>31</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>22</u> Motion for Andrea J. Armitage to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/10/2019) (anc) (Entered: 06/10/2019)
06/10/2019	<u>32</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>25</u> Motion for Maura FJ Whelan to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/10/2019) (anc) (Entered: 06/10/2019)
06/10/2019	<u>33</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>23</u> Motion for Brittany M. Jones to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/10/2019) (anc) (Entered: 06/10/2019)
06/10/2019	<u>34</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>30</u> Motion for Diane K. Taira to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/10/2019) (anc) (Entered: 06/10/2019)
06/10/2019		***DELETED DOCUMENT. Deleted document number <u>35</u> OPINION & ORDER. The document was incorrectly filed in this case. (anc) (Entered: 06/10/2019)
06/11/2019	<u>35</u>	NOTICE OF APPEARANCE by Bradley Humphreys on behalf of Alex M. Azar II, United States Department of Health and Human Services, United States of America. (Humphreys, Bradley) (Entered: 06/11/2019)
06/11/2019	<u>36</u>	MOTION for Michael W. Field to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17056722. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Rhode Island. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Supplement Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Field, Michael) (Entered: 06/11/2019)
06/11/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>36</u> MOTION for Michael W. Field to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17056722. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 06/11/2019)
06/11/2019	<u>37</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>36</u> Motion for Michael W. Field to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/11/2019) (anc) (Entered: 06/11/2019)
06/13/2019	<u>38</u>	ORDER: The Court hereby sets the following schedule for any preliminary injunction motion that may be filed in the two related cases. Such motions and accompanying

		memoranda of law will be due 5 p.m. on Monday, June 17, 2019. (That deadline is three days after the deadline the Court has set for the plaintiffs in 19 Civ. 4676 to file such a motion, which deadline remains in place for the 19 Civ. 4676 plaintiffs.) The Government's opposition to any preliminary injunction motion remains due on June 28, 2019. A reply, if any, by plaintiffs in any of these three cases is—and with respect to 19 Civ. 4676, remains—due on July 5, 2019. The Court will hear argument as to any preliminary injunction motions together, on Friday, July 12, 2019 at 2:00 p.m. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/13/2019) (anc) (Entered: 06/13/2019)
06/13/2019	<u>39</u>	NOTICE OF APPEARANCE by Justin Alexander Deabler on behalf of State of New York. (Deabler, Justin) (Entered: 06/13/2019)
06/13/2019	<u>40</u>	NOTICE OF APPEARANCE by Amanda Marie Meyer on behalf of State of New York. (Meyer, Amanda) (Entered: 06/13/2019)
06/14/2019	<u>41</u>	MOTION for Preliminary Injunction . Document filed by State of New York.(Colangelo, Matthew) (Entered: 06/14/2019)
06/14/2019	<u>42</u>	MEMO ENDORSEMENT on UNOPPOSED MOTION FOR CONSOLIDATION, AND FOR LEAVE TO FILE JOINT MEMORANDUM OF LAW, IN EXCESS OF PAGE LIMIT, IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION with respect to [12 in case 19cv5433] [20 in case 19cv5435] Letter Motion to Consolidate Cases. ENDORSEMENT: The Court approves plaintiffs' request to file a joint memorandum of law in support of their motion for a preliminary injunction, and the request for extended page limits, upon the plaintiffs' representation that they will conform to the schedule set by the Court. Dkt. 16. The Court will address the motion to consolidate early next week. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/14/2019) (anc)**Pursuant to instructions from Chambers, Filed in cases 19cv5433, 19cv4676, and 19cv5435. Modified on 6/17/2019 (anc). (Entered: 06/14/2019)
06/14/2019	<u>43</u>	DECLARATION of Matthew Colangelo in Support re: <u>41</u> MOTION for Preliminary Injunction .. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 1 (Declaration of Sarah Adelman), # <u>2</u> Exhibit 2 (Declaration of Dr. Nicole Alexander-Scott), # <u>3</u> Exhibit 3 (Declaration of Charles Alfero), # <u>4</u> Exhibit 4 (Declaration of Laura M. Alfredo), # <u>5</u> Exhibit 5 (Declaration of Dr. Machelle Allen), # <u>6</u> Exhibit 6 (Declaration of Dr. John Andazola), # <u>7</u> Exhibit 7 (Declaration of Dr. Bruce S. Anderson), # <u>8</u> Exhibit 8 (Declaration of Sharon C. Boyle), # <u>9</u> Exhibit 9 (Declaration of Janet Brancifort), # <u>10</u> Exhibit 10 (Declaration of Deanna Charest), # <u>11</u> Exhibit 11 (Declaration of Sarah Clark), # <u>12</u> Exhibit 12 (Declaration of Lori A. Coyner), # <u>13</u> Exhibit 13 (Declaration of Thomas M. Daly), # <u>14</u> Exhibit 14 (Declaration of Rebecca S. Dineen), # <u>15</u> Exhibit 15 (Declaration of Dr. Shereef M. Elnahal), # <u>16</u> Exhibit 16 (Declaration of Katharine Eshghi), # <u>17</u> Exhibit 17 (Declaration of Dr. Ngozi O. Ezike), # <u>18</u> Exhibit 18 (Declaration of Dr. Terence R. Flotte), # <u>19</u> Exhibit 19 (Declaration of Anne Foley), # <u>20</u> Exhibit 20 (Declaration of Andrew C. Forsaith), # <u>21</u> Exhibit 21 (Declaration of Dr. Adena Greenbaum), # <u>22</u> Exhibit 22 (Declaration of Dr. Jerris R. Hedges), # <u>23</u> Exhibit 23 (Declaration of Susan Herbst), # <u>24</u> Exhibit 24 (Declaration of Dr. Heather Hirata), # <u>25</u> Exhibit 25 (Declaration of Dr. John G. Hunter), # <u>26</u> Exhibit 26 (Declaration of Kathyleen Kunkel), # <u>27</u> Exhibit 27 (Declaration of Linda A. Lacewell), # <u>28</u> Exhibit 28 (Declaration of Dr. Rachel L. Levine), # <u>29</u> Exhibit 29 (Declaration of Dr. Michael Lucchesi), # <u>30</u> Exhibit 30 (Declaration of Kathryn Macomber), # <u>31</u> Exhibit 31 (Declaration of Dr. James L. Madara), # <u>32</u> Exhibit 32 (Declaration of Dr. Sandra Martell), # <u>33</u> Exhibit 33 (Declaration of Teresa D. Miller), # <u>34</u> Exhibit 34 (Declaration of Dr. Andrew W. Nichols), # <u>35</u> Exhibit 35 (Declaration of Dr. M. Norman Oliver), # <u>36</u> Exhibit 36 (Declaration of Dr. David Prezant), # <u>37</u> Exhibit 37 (Declaration of Dr. Karyl T. Rattay), # <u>38</u> Exhibit 38 (Declaration of Dr. Linda Rosen), # <u>39</u> Exhibit 39 (Declaration of Dr. John Jay Shannon), # <u>40</u> Exhibit 40 (Declaration of Lisa Sherych), # <u>41</u> Exhibit 41 (Declaration of Dr. KyleeAnn Stevens), # <u>42</u> Exhibit 42 (Declaration of Kimberly Swartz), # <u>43</u> Exhibit 43 (Declaration of Dr. Craig S. Thomas), # <u>44</u> Exhibit 44 (Declaration of Wayne Turnage), # <u>45</u> Exhibit 45 (Declaration of Dr. Terry Vanden Hoek and Rhonda Perna), # <u>46</u> Exhibit 46 (Declaration of Fikirte Wagaw), # <u>47</u> Exhibit 47 (Declaration of Marie Zimmerman), # <u>48</u> Exhibit 48 (Declaration of Dr. Howard A. Zucker), # <u>49</u> Exhibit 49 (American Academy of Pediatrics Comment Letter), # <u>50</u> Exhibit 50 (American College of

		Obstetricians and Gynecologists Comment Letter), # <u>51</u> Exhibit 51 (American Medical Association Comment Letter), # <u>52</u> Exhibit 52 (American Nurses Association Comment Letter), # <u>53</u> Exhibit 53 (Attorneys General of New York et al. Comment Letter), # <u>54</u> Exhibit 54 (BlueCross BlueShield Association Comment Letter), # <u>55</u> Exhibit 55 (California Department of Insurance Comment Letter), # <u>56</u> Exhibit 56 (California Department of Justice Comment Letter), # <u>57</u> Exhibit 57 (Christian Medical Association Summary of Online Survey), # <u>58</u> Exhibit 58 (Institute for Policy Integrity Comment Letter), # <u>59</u> Exhibit 59 (Lambda Legal Defense and Education Fund Comment Letter), # <u>60</u> Exhibit 60 (Memorandum from the Attorney General for All Executive Departments and Agencies), # <u>61</u> Exhibit 61 (National Council of Jewish Women Comment Letter), # <u>62</u> Exhibit 62 (National Immigration Law Center Comment Letter), # <u>63</u> Exhibit 63 (National Women's Law Center Comment Letter), # <u>64</u> Exhibit 64 (New York City Commission on Human Rights et al. Comment Letter), # <u>65</u> Exhibit 65 (New York State Department of Financial Services Comment Letter), # <u>66</u> Exhibit 66 (Planned Parenthood Federation of America Comment Letter))(Colangelo, Matthew) (Entered: 06/14/2019)
06/14/2019	<u>44</u>	NOTICE of filing of corrected Exhibit 5 to the Declaration of Matthew Colangelo. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 5 (Corrected Declaration of Dr. Machelles Allen))(Colangelo, Matthew) (Entered: 06/14/2019)
06/14/2019	<u>45</u>	MEMORANDUM OF LAW in Support re: <u>41</u> MOTION for Preliminary Injunction . . Document filed by State of New York. (Colangelo, Matthew) (Entered: 06/14/2019)
06/17/2019	<u>46</u>	NOTICE OF APPEARANCE by Aimee Diane Thomson on behalf of Commonwealth of Pennsylvania. (Thomson, Aimee) (Entered: 06/17/2019)
06/18/2019	<u>47</u>	MOTION for Sarah Jeanne Gallo to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17104616. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Illinois. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order for Admission Pro Hac Vice)(Gallo, Sarah) (Entered: 06/18/2019)
06/18/2019	<u>48</u>	MOTION for Lauren Hancock Barski to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17104812. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Illinois. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Gallo, Sarah) (Entered: 06/18/2019)
06/18/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>48</u> MOTION for Lauren Hancock Barski to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17104812. Motion and supporting papers to be reviewed by Clerk's Office staff., <u>47</u> MOTION for Sarah Jeanne Gallo to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17104616. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 06/18/2019)
06/19/2019	<u>49</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>47</u> Motion for Sarah Jeanne Gallo to Appear Pro Hac Vice. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/19/2019) (kv) (Entered: 06/19/2019)
06/19/2019	<u>50</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>48</u> Motion for Lauren Barski to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/19/2019) (anc) (Entered: 06/20/2019)
06/21/2019	<u>51</u>	NOTICE OF APPEARANCE by Sarah Jeanne Gallo on behalf of State of Illinois. (Gallo, Sarah) (Entered: 06/21/2019)
06/21/2019	<u>52</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE <u>54</u> Notice to File Amicus Brief) – CONSENT MOTION to File Amicus Brief . Document filed by Institute for Policy Integrity. (Attachments: # <u>1</u> Proposed Amicus Brief)(Revesz, Richard) Modified on 6/24/2019 (db). (Entered: 06/21/2019)

06/21/2019	<u>53</u>	MOTION for Justin Gundlach to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17125430. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Institute for Policy Integrity. (Attachments: # <u>1</u> Affidavit Supporting affidavit, # <u>2</u> Certificate of good standing, # <u>3</u> Text of Proposed Order Proposed order)(Gundlach, Justin) (Entered: 06/21/2019)
06/24/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>53</u> MOTION for Justin Gundlach to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17125430. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 06/24/2019)
06/24/2019	<u>54</u>	NOTICE of filing of Corrected Proposed Amicus Brief re: <u>52</u> CONSENT MOTION to File Amicus Brief .. Document filed by Institute for Policy Integrity. (Revesz, Richard) (Entered: 06/24/2019)
06/24/2019	<u>55</u>	MOTION for Jack Lienke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17130665. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Institute for Policy Integrity. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Lienke, Jack) (Entered: 06/24/2019)
06/24/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>55</u> MOTION for Jack Lienke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17130665. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/24/2019)
06/25/2019	<u>56</u>	MOTION for Valerie Maria Nannery to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17136860. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by District of Columbia. (Attachments: # <u>1</u> Affidavit Affidavit of Valerie M. Nannery, # <u>2</u> Exhibit Certificates of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Nannery, Valerie) (Entered: 06/25/2019)
06/25/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>56</u> MOTION for Valerie Maria Nannery to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17136860. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 06/25/2019)
06/25/2019	<u>57</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Allyson Newton Ho to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17141396. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Affidavit Affidavit in Support of Motion, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Exhibit Certificate of Good Standing, # <u>4</u> Text of Proposed Order)(Ho, Allyson) Modified on 6/26/2019 (wb). (Entered: 06/25/2019)
06/25/2019	<u>58</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION to Intervene <i>as Defendants</i> . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Exhibit Memorandum of Law in Support of Motion to Intervene, # <u>2</u> Affidavit Declaration in Support of Motion to Intervene, # <u>3</u> Affidavit Declaration in Support of Motion to Intervene, # <u>4</u> Text of Proposed Order)(Ho, Allyson) Modified on 6/26/2019 (Idi). (Entered: 06/25/2019)
06/25/2019	<u>59</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Christian Medical and Dental Associations, Regina Renee Frost.(Ho, Allyson) (Entered: 06/25/2019)
06/25/2019	<u>60</u>	ANSWER to <u>3</u> Complaint,, Document filed by Christian Medical and Dental Associations, Regina Renee Frost.(Ho, Allyson) (Entered: 06/25/2019)
06/26/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>57</u> MOTION for Allyson Newton Ho to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17141396. Motion and supporting papers to be reviewed by Clerk's Office staff.. The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of Texas;. Re-file the motion as a Motion to Appear Pro Hac

		Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (wb) (Entered: 06/26/2019)
06/26/2019		***NOTICE TO ATTORNEY TO RE-FILE DOCUMENT – DEFICIENT DOCKET ENTRY ERROR. Notice to Attorney Allyson N. Ho to RE-FILE Document <u>58</u> MOTION to Intervene as Defendants. ERROR(S): Supporting documents must be filed separately, each receiving their own document number. Declaration in Support of Motion and Memorandum of Law in Support of Motion are both found under the event list Replies, Opposition and Supporting Documents. (ldi) (Entered: 06/26/2019)
06/26/2019	<u>61</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>56</u> Motion for Valerie Maria Nannery to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/25/2019) (mro) (Entered: 06/26/2019)
06/26/2019	<u>62</u>	NOTICE of intent to respond to motion to intervene. Document filed by State of New York. (Colangelo, Matthew) (Entered: 06/26/2019)
06/26/2019	<u>63</u>	MOTION for ALLYSON N. HO to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Declaration of Allyson N. Ho, # <u>2</u> Exhibit A – Certificate of Good Standing – Texas, # <u>3</u> Exhibit B – Certificate of Good Standing – District of Columbia, # <u>4</u> Text of Proposed Order)(Ho, Allyson) (Entered: 06/26/2019)
06/26/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>63</u> MOTION for ALLYSON N. HO to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/26/2019)
06/26/2019	<u>64</u>	MOTION to Intervene . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Text of Proposed Order)(Ho, Allyson) (Entered: 06/26/2019)
06/26/2019	<u>65</u>	MEMORANDUM OF LAW in Support re: <u>64</u> MOTION to Intervene . . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 06/26/2019)
06/26/2019	<u>66</u>	DECLARATION of REGINA RENEE FROST, M.D. in Support re: <u>64</u> MOTION to Intervene .. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 06/26/2019)
06/26/2019	<u>67</u>	DECLARATION of DAVID STEVENS, M.D., M.A. in Support re: <u>64</u> MOTION to Intervene .. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 06/26/2019)
06/26/2019	<u>68</u>	NOTICE OF APPEARANCE by Lauren Barski on behalf of State of Illinois. (Barski, Lauren) (Entered: 06/26/2019)
06/26/2019	<u>69</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>63</u> Motion for Allyson N. Ho to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/26/2019) (mro) (Entered: 06/26/2019)
06/26/2019	<u>70</u>	ORDER granting (12) Motion to Consolidate Cases in case 1:19-cv-05433-PAE; granting (20) Motion to Consolidate Cases in case 1:19-cv-05435-PAE. The Court grants the motions to consolidate cases 19 Civ. 5433 and 19 Civ. 5435 with 19 Civ. 4676. 19 Civ. 4676 shall serve as the lead case, and counsel are directed to file all filings on the docket of that case. The Clerk of Court is respectfully requested to grant the motions pending at 19 Civ. 5433, Dkt. 12, and 19 Civ. 5435, Dkt. 20. (Signed by Judge Paul A. Engelmayer on 6/26/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	<u>71</u>	ORDER FOR ADMISSION PRO HAC VICE granting (55) Motion for Jack Lienke to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)

06/26/2019	<u>72</u>	ORDER FOR ADMISSION PRO HAC VICE granting (53) Motion for Justin Gundlach to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	<u>73</u>	ORDER: The Court has received a motion to intervene, Dkt. 64, from proposed intervenors Dr. Regina Frost and Christina Medical and Dental Associations (together, the "Proposed Intervenors"), a memorandum of law in support, Dkt. 65 ("Mem."), and declarations in support from Drs. Regina Frost, Dkt. 66, and David Stevens, Dkt. 67. Plaintiffs have indicated their intent to respond within the time allowed by Local Civil Rule 6.1(b), which would require a response by July 9, 2019. Dkt. 62; as further set forth herein. The Court will therefore allow briefing on the motion to intervene under Local Civil Rule 6.1(b), with plaintiffs' response due July 9, 2019, and the Proposed Intervenors' reply, if any, due July 16, 2019. The Court will thereafter rule on the motion to intervene. The Court, however, is interested in receiving the views of the Proposed Intervenors regarding the preliminary injunction. The Court accordingly will permit the Proposed Intervenors to file a brief as amicus curiae in support of defendants' opposition to plaintiffs' motion for a preliminary injunction. That brief is due June 28, 2019, the same day that defendants' opposition motion is due. (Brief due by 6/28/2019., Responses due by 7/9/2019, Replies due by 7/16/2019.) (Signed by Judge Paul A. Engelmayer on 6/26/2019) (mro) (Entered: 06/26/2019)
06/26/2019	<u>74</u>	NOTICE OF APPEARANCE by Shannon Rose Selden on behalf of the American College of Obstetricians and Gynecologists, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Osteopathic Obstetricians and Gynecologists,, the American Society for Reproductive Medicine, the National Association of Nurse Practitioners in Womens Health, the Society for Maternal-Fetal Medicine, the American College of Nurse-Midwives, the North American Society for Pediatric and Adolescent Gynecology, the American Muslim Health Professionals. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	<u>75</u>	NOTICE OF APPEARANCE by Anna Augusta Moody on behalf of, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Moody, Anna) (Entered: 06/26/2019)
06/26/2019	<u>76</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE <u>77</u> Motion) – MOTION for Leave to File Amicus Brief of <i>Leading Medical Organizations</i> . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # <u>1</u> Appendix Motion, # <u>2</u> Exhibit Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) Modified on 6/27/2019 (db). (Entered: 06/26/2019)
06/26/2019	<u>77</u>	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE,

		1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	<u>78</u>	MEMORANDUM OF LAW in Support re: (37 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	<u>79</u>	LETTER MOTION to Continue <i>the Deadline to Respond to Plaintiffs' Motions for Preliminary Injunction and to Set a Summary Judgment Briefing Schedule; or, in the Alternative, for Enlargement of Time to File Defendants' Opposition to Plaintiffs' Motions for Preliminary Injunctions</i> addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 6/26/2019. Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America.(Humphreys, Bradley) (Entered: 06/26/2019)
06/27/2019	<u>80</u>	LETTER RESPONSE in Opposition to Motion addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated June 27, 2019 re: <u>79</u> LETTER MOTION to Continue <i>the Deadline to Respond to Plaintiffs' Motions for Preliminary Injunction and to Set a Summary Judgment Briefing Schedule; or, in the Alternative, for Enlargement of Time to File Defendants' Opposition to Plain . Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Colangelo, Matthew) (Entered: 06/27/2019)</i>
06/27/2019	<u>81</u>	NOTICE of supplemental authority. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 1)(Colangelo, Matthew) (Entered: 06/27/2019)
06/27/2019	<u>82</u>	ORDER denying (79) Motion to Continue in case 1:19-cv-04676-PAE. The Court denies defendants' request in its entirety. Unless and until defendants either (1) supply conclusive evidence that the effective date of the Final Rule has been officially postponed; or (2) consent to a Court order that would enjoin defendants from enforcing, applying, or taking any action to implement the Final Rule until resolution of the preliminary injunction motions, the existing briefing and argument schedule remains in effect. For avoidance of doubt, defendants' opposition to plaintiffs' motions for a preliminary injunction remain due tomorrow, June 28, 2019. The Court will construe a failure to file opposition submissions on this date as signifying that defendants do not oppose plaintiffs' application for preliminary relief. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)
06/27/2019	<u>83</u>	LETTER MOTION for Extension of Time to File Response/Reply as to <u>82</u> Order on Motion to Continue,,,,, <u>41</u> MOTION for Preliminary Injunction ., <u>27</u> Order on Motion for Leave to File Excess Pages,,,,, addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 6/27/2019. Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America.(Humphreys, Bradley) (Entered: 06/27/2019)
06/27/2019	<u>84</u>	ORDER denying (83) Letter Motion for Extension of Time to File Response/Reply in case 1:19-cv-04676-PAE. Denied. The Court set this schedule over a month ago on June 13, 2019. See Dkt. 38. Plaintiffs' reply is due July 5, 2019. See id. Extending defendants' time to respond at this late juncture would require plaintiffs to spend the entirety of the week of the July 4 holiday drafting a reply brief, without the benefit of a weekend. The Court carefully considered the schedule it set on June 13, 2019 and declines to modify it at this late stage. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)

06/28/2019	<u>85</u>	ORDER: The Court late yesterday denied, by memo endorsement, a letter motion in which defendants sought to extend today's deadline to file an opposition to plaintiffs' motions for a preliminary injunction until July 1, 2019. Dkt. 84. That ruling stands and the deadline for defendants' opposition to plaintiffs' motions for a preliminary injunction remains today. The Court, however, wishes to correct a factual error in yesterday's memo endorsement. The Court erroneously recited the date of the Order in which it set a briefing schedule on the preliminary injunction motion. That Order issued on June 7, 2019, Dkt. 27, and gave defendants two weeks, i.e., until June 28, 2019, to respond to plaintiffs' motions for a preliminary injunction, which under the Order was due, and which was timely filed, on June 14, 2019, Dkt. 41. The Court is mindful of counsels' understandable desire for additional time to brief the significant issues raised by the pending motions and shares all counsels' view that the process of reliable adjudication benefits from a measured briefing process. The Court is further mindful that counsel for the U.S. Department of Health and Human Services ("HHS") earlier this week sought additional time based on a representation by counsel that HHS will delay enforcement of the HHS rule at issue until November 22, 2019. Dkt. 79. The Court denied that request because HHS had not postponed the rule's effective date, Dkt. 82, and, without such a postponement, plaintiffs viably claimed a risk of harm, see Dkt. 80. For avoidance of doubt, the Court clarifies that, in the event of an official postponement of the effective date of the rule to November 22, 2019, the Court would suspend today's deadline for an opposition brief, set a new and more protracted schedule for submission of the remaining briefs on plaintiffs' preliminary injunction motions, and thereafter entertain applications to litigate this case instead, as defendants have proposed, via cross-motions for summary judgment. Absent an official postponement of the effective date, however, the present briefing schedule stands. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Entered: 06/28/2019)
06/28/2019	<u>86</u>	MEMO ENDORSEMENT granting in part (77) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting in part (32) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting in part (37) Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: The Court grants the proposed amici curiae leave to submit the proposed brief and accompanying declarations and exhibits and accepts them for consideration. The Court reserves judgment on whether to permit counsel for the proposed amici curiae to present oral argument on the plaintiffs' motions for a preliminary injunction. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ne) (Entered: 06/28/2019)
06/28/2019	<u>87</u>	JOINT LETTER MOTION for Leave to File Joint Stipulation <i>and Requesting Entry of Stipulated Order</i> addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 6/28/2019. Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Exhibit Stipulated Request for Order to Postpone Rule's Effective Date; to Suspend Defendants' Deadline to Respond to Plaintiffs' Preliminary Injunction Motions; and to Vacate the Current Briefing Schedule)(Humphreys, Bradley) (Entered: 06/28/2019)
06/28/2019	<u>88</u>	MOTION for Leave to File Over-length Amicus Brief . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Exhibit Proposed over-length Amicus Brief, # <u>2</u> Exhibit Proposed Declaration of Dr. David Stevens in Support of Opposition to Motion for Preliminary Injunction, # <u>3</u> Exhibit Proposed Declaration of Dr. Regina Frost in Support of Opposition to Motion for Preliminary Injunction)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)
06/28/2019	<u>89</u>	MEMORANDUM OF LAW in Support re: (43 in 1:19-cv-05435-PAE) MOTION for Leave to File Over-length Amicus Brief . . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)

07/01/2019	<u>90</u>	<p>STIPULATED REQUEST FOR AN ORDER TO POSTPONE RULE'S EFFECTIVE DATE; TO SUSPEND DEFENDANTS' DEADLINE TO RESPOND TO PLAINTIFFS' PRELIMINARY INJUNCTION MOTIONS; AND TO VACATE THE CURRENT BRIEFING SCHEDULE AND HEARING DATE [5 U.S.C. § 705].</p> <p>Subject to the Court's approval, the parties through their undersigned counsel of record HEREBY STIPULATE as follows: 1. At present, Defendants' opposition to Plaintiffs' motions for a preliminary injunction is due on June 28, 2019, Plaintiffs' reply is due on July 5, 2019, and a hearing is scheduled on July 12, 2019. 2. The U.S. Department of Health and Human Services ("HHS") agrees to postpone the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23, 170 (May 21, 2019) ("Final Rule"), until November 22, 2019. HHS stipulates to this postponement because it is the most efficient way to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiffs are "likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest." See <i>Winter v. NRDC</i>, 555 U.S. 7, 20 (2008). 3. Plaintiffs maintain that—for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants' motion to continue the deadline to respond to Plaintiffs' motions—Plaintiffs would suffer various irreparable injuries were the Final Rule's effective date not postponed. 4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019. 5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants' opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs' preliminary injunction motions. 6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule's new November 22, 2019 effective date. PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. See 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits. Motions terminated: <u>87</u> JOINT LETTER MOTION for Leave to File Joint Stipulation and Requesting Entry of Stipulated Order addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 6/28/2019. Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. The following deadline(s) was terminated: Brief Deadline. (Signed by Judge Paul A. Engelmayer on 6/28/2019) (rjm) (Entered: 07/01/2019)</p>
07/01/2019	<u>91</u>	<p>ORDER. The Court has today issued the agreed-upon Order proposed by the parties at Dkt. 87-1. The Court's Order postpones the effective date of the United States Department of Health and Human Services' ("HHS") rule at issue in this litigation ("Final Rule") until November 22, 2019. The Order further vacates the preliminary injunction briefing schedule set forth in the Court's June 7, 2019, Dkt. 27, and June 13, 2019, Dkt. 38, Orders. In light of the above, it is no longer necessary for the conference scheduled for Friday, July 12, 2019 to serve as a hearing on plaintiffs' preliminary injunction motions. The Court wishes, however, promptly to put in place a schedule in this matter. The Court directs counsel for all parties in the consolidated cases comprising this litigation forthwith to meet and confer with the goals of (1) proposing a briefing schedule on plaintiffs' preliminary injunction motions, and (2) exploring whether a viable schedule can be agreed to that would permit the legality of HHS's Final Rule to be resolved instead on motions or cross-motions for summary judgment and, if so, proposing such a schedule. In considering a suitable schedule for any contemplated motion, the Court expects counsel to be mindful of the Court's interest in having sufficient time, following the completion of briefing, to hold oral argument and to consider and thoughtfully resolve the important and complex questions presented. The Court directs counsel to submit a joint letter, due at 12 noon on Wednesday, July 10, 2019, setting forth the parties' joint proposals—or, if agreement is not reached, the parties' alternative proposals—as to such schedules. If the Court determines that further consultation would assist it in setting a schedule, the Court will use the conference currently scheduled for Friday, July 12, 2019, at 2:00 p.m., to take up such questions with counsel. The Court accordingly asks lead counsel to remain</p>

		available to attend a conference at that date and time, in courtroom 1305 of the Thurgood Marshall United States Courthouse, at 40 Centre Street. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/1/2019) Filed In Associated Cases: 1:19-cv-04676 PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 07/01/2019)
07/01/2019	<u>92</u>	MOTION for Nicholas R. Reaves to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17172335. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Affidavit In Support of Motion, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit DC Cert of Good Standing, # <u>4</u> Exhibit MD Cert of Good Standing)(Reaves, Nicholas) (Entered: 07/01/2019)
07/01/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>92</u> MOTION for Nicholas R. Reaves to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17172335. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/01/2019)
07/01/2019	<u>93</u>	MOTION for Daniel H. Blomberg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17174797. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Affidavit In Support of Motion, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit DC Cert of Good Standing, # <u>4</u> Exhibit KS Cert of Good Standing, # <u>5</u> Exhibit SC Cert of Good Standing)(Blomberg, Daniel) (Entered: 07/01/2019)
07/01/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>93</u> MOTION for Daniel H. Blomberg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17174797. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/01/2019)
07/01/2019	<u>94</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>92</u> Motion for Nicholas R. Reaves to Appear Pro Hac Vice. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/1/2019) (kv) (Entered: 07/01/2019)
07/02/2019	<u>95</u>	ORDER. The Court yesterday adjourned the briefing schedule it had set for preliminary injunction motions in light of the parties' consent to an Order postponing the effective date of HHS's Final Rule until November 22, 2019. Dkt. 90. The Court will soon receive the parties' input as to the nature of the motions that will henceforth be made and the schedule for briefing them. In light of this development, the Court adjourns the deadlines it had set for submission of amicus briefs, which deadlines had been tied to the preliminary injunction schedule. The Court expects that the schedule the parties will propose will include dates for the submission of amicus briefs. For avoidance of doubt, to the extent that an amicus has submitted a brief in this case, such filing will not preclude that amicus from filing a new (superseding) brief on the schedule to be set. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (rjm) (Entered: 07/02/2019)
07/02/2019	<u>96</u>	MOTION for Prathima Yeddanapudi to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17181250. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Cook County, Illinois. (Attachments: # <u>1</u> Affidavit Affidavit of compliance, # <u>2</u> Supplement Letter of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Yeddanapudi, Prathima) (Entered: 07/02/2019)
07/02/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>96</u> MOTION for Prathima Yeddanapudi to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17181250. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/02/2019)

07/02/2019	<u>97</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>93</u> Motion for Daniel H. Blomberg to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/2/2019) (ks) (Entered: 07/02/2019)
07/02/2019	<u>98</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>96</u> Motion for Prathima Yeddanapudi to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/2/2019) (ks) (Entered: 07/02/2019)
07/02/2019	<u>99</u>	MOTION for Adam Grogg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17183248. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit NY certificate of good standing, # <u>4</u> Exhibit DC certificate of good standing)(Grogg, Adam) (Entered: 07/02/2019)
07/03/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>99</u> MOTION for Adam Grogg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17183248. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/03/2019)
07/03/2019	<u>100</u>	MOTION for Kurt G. Calia to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17189224. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Affidavit of Kurt G. Calia, # <u>2</u> Text of Proposed Order, # <u>3</u> CA Certificate of Good Standing, # <u>4</u> DC Certificate of Good Standing)(Calia, Kurt) (Entered: 07/03/2019)
07/03/2019	<u>101</u>	ORDER FOR ADMISSION PRO HAC VICE: granting <u>99</u> Motion for Adam Grogg to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/03/2019) (ama) (Entered: 07/03/2019)
07/03/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>100</u> MOTION for Kurt G. Calia to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17189224. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/03/2019)
07/03/2019	<u>102</u>	NOTICE OF APPEARANCE by Rebecca Kopplin on behalf of Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Kopplin, Rebecca) (Entered: 07/03/2019)
07/08/2019	<u>103</u>	ORDER FOR ADMISSION PRO HAC VICE: granting (100) Motion for Kurt G. Calia to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 7/08/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (ama) (Entered: 07/08/2019)
07/08/2019	<u>104</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Elleanor H. Chin to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17203033. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Oregon. (Attachments: # <u>1</u> Affidavit Affidavit of Elleanor ISO Motion for Admission to Appear PHV, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order Order for Admission PHV)(Chin, Elleanor) Modified on 7/8/2019 (wb). (Entered: 07/08/2019)
07/08/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>104</u> MOTION for Elleanor H. Chin to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17203033. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of Oregon;. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (wb) (Entered: 07/08/2019)
07/08/2019	<u>105</u>	NOTICE OF APPEARANCE by Benjamin Thomas Takemoto on behalf of Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of

		Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America, Alex M. Azar II, Office for Civil Rights, Roger Severino, Alex M. Azar, II, Roger Severino, U.S. Department of Health and Human Services. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Takemoto, Benjamin) (Entered: 07/08/2019)
07/09/2019	<u>106</u>	NOTICE OF APPEARANCE by Michelle Iris Banker on behalf of Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Banker, Michelle) (Entered: 07/09/2019)
07/09/2019	<u>107</u>	NOTICE OF APPEARANCE by Heidi Parry Stern on behalf of State of Nevada. (Stern, Heidi) (Entered: 07/09/2019)
07/09/2019	<u>108</u>	NOTICE OF APPEARANCE by Hana Bajramovic on behalf of Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Bajramovic, Hana) (Entered: 07/09/2019)
07/09/2019	<u>109</u>	MEMORANDUM OF LAW in Opposition re: <u>64</u> MOTION to Intervene . . Document filed by State of New York. (Meyer, Amanda) (Entered: 07/09/2019)
07/10/2019	<u>110</u>	JOINT LETTER addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated July 10, 2019 re: scheduling, submitted on behalf of all parties with permission. Document filed by State of New York.(Colangelo, Matthew) (Entered: 07/10/2019)
07/10/2019	<u>111</u>	NOTICE OF APPEARANCE by Lisa M. Landau on behalf of State of New York. (Landau, Lisa) (Entered: 07/10/2019)
07/11/2019	<u>112</u>	ORDER: The Court has received the parties' joint letter outlining potential briefing and argument schedules and raising the question whether the motion to be litigated is properly one for a preliminary injunction or for summary judgment based on the administrative record. The Court thanks counsel for a thoughtful and informative letter. The Court's judgment is that it would benefit, in deciding on the proper course, from a conference with counsel. The Court accordingly will utilize the conference scheduled for tomorrow, July 12, 2019, at 2:00 p.m., for that purpose. For avoidance of doubt, the Court will not use tomorrow's conference to take up merits issues. The Court does expect, however, that counsel come prepared knowledgeably to discuss the nature of the issues to be litigated; the scale and nature of the administrative record; the relationship and interplay between this case and apparently parallel litigation in the Northern District of California; whether there is logic to litigating contemporaneously a motion for a preliminary injunction alongside a motion for summary judgment; and the arguments for and against various proposed schedules. The Court expects to resolve these questions at or shortly following tomorrow's hearing. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(rj) (Entered: 07/11/2019)
07/11/2019	<u>113</u>	MOTION for Jeffrey Paul Dunlap to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17227466. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Maryland. (Attachments: # <u>1</u> Affidavit Affidavit, # <u>2</u> Exhibit Certificates of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Dunlap, Jeffrey) (Entered: 07/11/2019)
07/11/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>113</u> MOTION for Jeffrey Paul Dunlap to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17227466. Motion and supporting papers to be reviewed by Clerk's Office staff. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/11/2019)
07/11/2019	<u>114</u>	LETTER MOTION for Conference <i>request for telephonic access</i> addressed to Judge Paul A. Engelmayer from Amanda Meyer dated July 11, 2019. Document filed by State of New York.(Meyer, Amanda) (Entered: 07/11/2019)
07/11/2019	<u>115</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>113</u> Motion for Jeffrey Paul Dunlap to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/11/2019) (jwh) (Entered: 07/11/2019)

07/11/2019	<u>116</u>	ORDER granting (114) Letter Motion for Conference in case 1:19-cv-04676-PAE: Granted. The Governmental Plaintiffs are directed to provide the Court, via email, with a conference number and a list of auditing participants by 12:00 p.m. tomorrow. The auditing participants should be on the line 5 minutes in advance of the conference time, at 1:55 p.m. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 07/11/2019)
07/12/2019	<u>117</u>	MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Affidavit Declaration in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Exhibit CA Certificate of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (50 in 1:19-cv-05433-PAE, 117 in 1:19-cv-04676-PAE, 54 in 1:19-cv-05435-PAE) MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/12/2019	<u>118</u>	MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # <u>1</u> Affidavit Declaration in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Exhibit NY Certificate of Good Standing, # <u>3</u> Exhibit FL Certificate of Good Standing, # <u>4</u> Exhibit DC Certificate of Good Standing, # <u>5</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Hilborn, Jason) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (118 in 1:19-cv-04676-PAE, 55 in 1:19-cv-05435-PAE, 51 in 1:19-cv-05433-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/15/2019	<u>119</u>	MOTION for Jonathan T. Burke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17243829. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Commonwealth of Massachusetts. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit)(Burke, Jonathan) (Entered: 07/15/2019)
07/15/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>119</u> MOTION for Jonathan T. Burke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17243829. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/15/2019)
07/15/2019	<u>120</u>	MOTION for Jessica Megan Scheller to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17245192. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Cook County, Illinois. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Supplement, # <u>3</u> Text of Proposed Order)(Scheller, Jessica) (Entered: 07/15/2019)
07/15/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>120</u> MOTION for Jessica Megan Scheller to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17245192. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/15/2019)
07/16/2019	<u>121</u>	ORDER terminating (88) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. The Court accordingly sets the following schedule: July 22,

		<p>2019: Defendants produce the administrative record ("A.R.") to plaintiffs and file a certified list of the contents of the A.R. with the Court. August 14, 2019: Defendants file their motion for summary judgment and their opposition to plaintiffs' motions for a preliminary injunction. Defendants are to file a single brief addressing these subjects. August 21, 2019: Amicus briefs supporting defendants are to be filed. September 5, 2019: Plaintiffs file their oppositions to defendants' summary judgment motion, their cross-motions for summary judgment, and their replies in support of their motions for a preliminary injunction. Plaintiffs are to file single briefs addressing these subjects. September 12, 2019: Amicus briefs supporting plaintiffs are to be filed. September 19, 2019: Defendants file their reply in support of the motion for summary judgment and their opposition to plaintiffs' motions for summary judgment. Defendants are to file a single brief addressing these subjects. October 3, 2019: Plaintiffs file their reply briefs in support of their motions for summary judgment. October 18, 2019: Oral argument will be held, beginning at 9:30 a.m., at the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, N.Y. 10007. The courtroom at which argument will be held is to be determined. As to the mechanics of briefing, although the Court expects that the plaintiffs will coordinate amongst themselves to avoid unnecessary duplication of briefing, the Court does not direct that plaintiffs file a single consolidated brief but will allow two separate briefs, one each from the government plaintiffs (19 Civ. 4676) and the provider plaintiffs (19 Civ. 5433 and 19 Civ. 5435). The Court sets the following page limits for each party's submissions. Defendants' opening brief (due August 14) is limited to 80 pages. Plaintiffs' briefs (due September 5) are limited to 50 pages each. Defendants' brief (due September 19) is limited to 50 pages. Plaintiffs' reply briefs (due October 3) are limited to 30 pages each. All amicus briefs are limited to 25 pages. The Court is conscious that there is a pending motion to intervene in this case, see Dkts. 64, 109, that will become fully briefed today. The Court will address the proposed intervenor's participation in the schedule, if necessary, upon resolution of that motion. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (anc) Modified on 7/17/2019 (anc). (Entered: 07/16/2019)</p>
07/16/2019		<p>Set/Reset Deadlines: Cross Motions due by 9/5/2019. Motions due by 8/14/2019. Responses due by 9/19/2019. Replies due by 10/3/2019. Set/Reset Hearings: Oral Argument set for 10/18/2019 at 09:30 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(anc) (Entered: 07/16/2019)</p>
07/16/2019	<u>122</u>	<p>ORDER FOR ADMISSION PRO HAC VICE granting <u>120</u> Motion for Jessica Megan Scheller to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/15/2019(as per Chambers)) (mro) Modified on 7/17/2019 (mro). (Entered: 07/16/2019)</p>
07/16/2019	<u>123</u>	<p>ORDER FOR ADMISSION PRO HAC VICE granting (118) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (51) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (55) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 7/15/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 07/16/2019)</p>
07/16/2019	<u>124</u>	<p>ORDER FOR ADMISSION PROHACVICE on re: (118 in 1:19-cv-04676-PAE, 51 in 1:19-cv-05433-PAE, 55 in 1:19-cv-05435-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. filed by Regina Renee Frost, Christian Medical and Dental Associations. The motion of Jason H. Hilborn, for admission to practice Pro Hae Vice in the above captioned action is granted. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/15/2019) (kv) Modified on 9/29/2019 (kv). (Entered: 07/16/2019)</p>

07/16/2019	<u>125</u>	ORDER ADMITTING PRO HAC VICE granting <u>119</u> Motion for Jonathan T. Burke to Appear Pro Hac Vice. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above-captioned case in the United States District Court for the Southern District of New York. All attorney appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/15/2019) (kv) (Entered: 07/16/2019)
07/16/2019	<u>126</u>	AFFIDAVIT OF SERVICE. All Defendants. Service was made by Mail. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit Ex. 1, # <u>2</u> Exhibit Ex. 2, # <u>3</u> Exhibit Ex. 3, # <u>4</u> Exhibit Ex. 4, # <u>5</u> Exhibit Ex. 5)(Meyer, Amanda) (Entered: 07/16/2019)
07/16/2019	<u>127</u>	REPLY MEMORANDUM OF LAW in Support re: <u>64</u> MOTION to Intervene . . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 07/16/2019)
07/16/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Initial Pretrial Conference held on 7/16/2019. Matthew Colangelo, Diana Salgado & Alexa Kolbi-Molinas present for Plaintiffs. Benjamin Takemoto present for Defendants. Court reporter present. (ajs) (Entered: 07/17/2019)
07/18/2019	<u>128</u>	MOTION for Elleanor H. Chin to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Oregon. (Attachments: # <u>1</u> Affidavit Affidavit of Elleanor Chin in support of Motion to Appear Pro Hac Vice, # <u>2</u> Certificate of Good Standing from Oregon Supreme Court, # <u>3</u> Proposed Order for Admission Pro Hac Vice)(Chin, Elleanor) (Entered: 07/18/2019)
07/18/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>128</u> MOTION for Elleanor H. Chin to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 07/18/2019)
07/19/2019	<u>129</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>128</u> Motion for Elleanor H. Chin to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/19/2019) (ne) (Entered: 07/19/2019)
07/19/2019	<u>130</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION to Authorize Release of Information in the Administrative Record . Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order)(Humphreys, Bradley) Modified on 9/23/2019 (db). (Entered: 07/19/2019)
07/19/2019	<u>131</u>	ORDER granting (130) Motion to Authorize in case 1:19-cv-04676-PAE. Defendants' motion for entry of order is GRANTED. Defendants are authorized to release the information described in Defendants' motion that may be covered by the Privacy Act, 5 U.S.C. § 552a, without obtaining the prior written consent of the individuals to whom such records or information pertain. IT IS SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rro) (Entered: 07/19/2019)
07/22/2019	<u>132</u>	NOTICE of Production of Administrative Record. Document filed by Alex M. Azar II, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Humphreys, Bradley) (Entered: 07/22/2019)
07/29/2019	<u>133</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 7/12/2019 before Judge Paul A. Engelmayer. Court Reporter/Transcriber: Paula Speer, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/19/2019. Redacted Transcript Deadline set for 8/29/2019. Release of Transcript Restriction set for 10/28/2019.(McGuirk, Kelly) (Entered: 07/29/2019)

07/29/2019	<u>134</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 7/12/19 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 07/29/2019)
07/30/2019	<u>135</u>	MOTION for Toni Lynn Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Michigan. (Attachments: # <u>1</u> Affidavit Affidavit of Toni Harris, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Harris, Toni) (Entered: 07/30/2019)
07/30/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>135</u> MOTION for Toni Lynn Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 07/30/2019)
07/30/2019	<u>136</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>135</u> Motion for Toni Lynn Harris to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/30/2019) (jwh) (Entered: 07/30/2019)
07/31/2019	<u>137</u>	MOTION for Fadwa A. Hammoud to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by State of Michigan. (Attachments: # <u>1</u> Affidavit Affidavit of Fadwa Hammoud, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order)(Hammoud, Fadwa) (Entered: 07/31/2019)
07/31/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>137</u> MOTION for Fadwa A. Hammoud to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/31/2019)
07/31/2019	<u>138</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>117</u> MOTION for Robert E. Dunn to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/31/2019) (jca) (Entered: 07/31/2019)
07/31/2019	<u>139</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>137</u> MOTION for Fadwa A. Hammoud to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/31/2019) (jca) (Entered: 07/31/2019)
08/01/2019	<u>140</u>	NOTICE OF APPEARANCE by Toni L. Harris on behalf of State of Michigan. (Harris, Toni) (Entered: 08/01/2019)
08/01/2019	<u>141</u>	NOTICE OF APPEARANCE by Fadwa A. Hammoud on behalf of State of Michigan. (Hammoud, Fadwa) (Entered: 08/01/2019)
08/02/2019	<u>142</u>	OPINION & ORDER re: (64 in 1:19-cv-04676-PAE) MOTION to Intervene: For the reasons reviewed above, the Court denies CMDA and Dr. Frost's motion for intervention of right but grants their motion for permissive intervention. The Clerk of Court is respectfully requested to terminate the motion pending at Dkt. 64 and to add Dr. Regina Frost and the Christian Medical and Dental Association to the caption of this case as defendants. The Court authorizes CMDA and Dr. Frost to file a single consolidated brief, not to exceed 30 pages, in opposition to plaintiffs' motions for a preliminary injunction by August 14, 2019. They are also at liberty, within that single brief and that page limit, to move for summary judgment. In the event that CMDA and Dr. Frost do so move, their reply in support of the motion for summary judgment, not to exceed 15 pages, is due September 19, 2019. The Court will permit CMDA and Dr. Frost's counsel to participate in argument on October 18, 2019. (Regina Frost and Christian Medical and Dental Association added.) (Signed by Judge Paul A. Engelmayer on 8/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/02/2019)
08/12/2019	<u>143</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Adam Grogg to Withdraw as Attorney . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Grogg, Adam)

		Modified on 10/8/2019 (db). (Entered: 08/12/2019)
08/13/2019	<u>144</u>	MOTION for Elizabeth Deutsch to Withdraw as Attorney . Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Amiri, Brigitte) (Entered: 08/13/2019)
08/13/2019	<u>145</u>	ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS granting (143) Motion to Withdraw as Attorney; granting (58) Motion to Withdraw as Attorney; granting (66) Motion to Withdraw as Attorney: Adam Grogg seeks leave to withdraw as counsel for plaintiffs Planned Parenthood Federation of America, Inc., and Planned Parenthood of Northern New England, Inc., in No. 19-cv-5433. The Court concludes that the motion be granted. (Attorney Adam Grogg terminated) (Signed by Judge Paul A. Engelmayer on 8/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/13/2019)
08/14/2019	<u>146</u>	ORDER GRANTING MOTION FOR WITHDRAWAL OF ATTORNEY granting (144) Motion to Withdraw as Attorney. in case 1:19-cv-04676-PAE. It is hereby ORDERED that: 1. Ms. Deutsch's appearance as counsel in this case is withdrawn. 2. The Clerk of the Court shall update case records accordingly. So ORDERED. (Signed by Judge Paul A. Engelmayer on 8/14/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 08/14/2019)
08/14/2019	<u>147</u>	MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment</i> . Document filed by Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. Responses due by 9/5/2019 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(Humphreys, Bradley) (Entered: 08/14/2019)
08/14/2019	<u>148</u>	MEMORANDUM OF LAW in Support re: <u>147</u> MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment. and in Opposition to Plaintiffs' Motion for Preliminary Injunction</i> . Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Humphreys, Bradley) (Entered: 08/14/2019)
08/14/2019	<u>149</u>	MOTION for Summary Judgment . Document filed by Christian Medical and Dental Associations, Regina Renee Frost.(Ho, Allyson) (Entered: 08/14/2019)
08/14/2019	<u>150</u>	MEMORANDUM OF LAW in Support re: <u>149</u> MOTION for Summary Judgment . – <i>Memorandum of Law in Support of Motion for Summary Judgment, and in Opposition to Plaintiffs' Motions for Preliminary Injunction</i> . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 08/14/2019)
08/14/2019	<u>151</u>	DECLARATION of David Stevens, M.D., M.A. in Support re: <u>149</u> MOTION for Summary Judgment .. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 08/14/2019)
08/14/2019	<u>152</u>	DECLARATION of Regina Renee Frost, M.D. in Support re: <u>149</u> MOTION for Summary Judgment .. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 08/14/2019)
08/14/2019	<u>153</u>	DECLARATION of Erin Norman in Support re: <u>149</u> MOTION for Summary Judgment .. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 08/14/2019)
08/14/2019	<u>154</u>	RULE 56.1 STATEMENT. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Ho, Allyson) (Entered: 08/14/2019)
08/15/2019	<u>155</u>	NOTICE OF APPEARANCE by Marie Soueid on behalf of State of New Jersey. (Soueid, Marie) (Entered: 08/15/2019)
08/15/2019	<u>156</u>	MOTION for Kristen Paige Miller to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17436870. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u>

		Affidavit, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(Miller, Kristen) (Entered: 08/15/2019)
08/15/2019	<u>157</u>	LETTER MOTION to Compel defendants to complete the administrative record addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated August 15, 2019. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6)(Colangelo, Matthew) (Entered: 08/15/2019)
08/16/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>156</u> MOTION for Kristen Paige Miller to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17436870. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 08/16/2019)
08/16/2019	<u>158</u>	ORDER with respect to (157) Letter Motion to Compel in case 1:19-cv-04676-PAE. The Court has received plaintiffs' letter dated 8/15/2019, indicating that the administrative record, which the Court ordered to be produced on 7/22/2019, has yet to be produced in complete form. The Court has nor previously been aware of this circumstance, and defendants have not sought leave of Court to extend the 7/22/2019 deadline. The Court directs defendants to respond in writing by 5 p.m. today, 8/16/2019, addressing whether the complete administrative record has not been produced, the Court directs that it be produced by 5 p.m. on Monday, 8/19/2019, and counsel for defendants by that date and time file a sworn certification on the docket of this case representing that the administrative record has been filed in complete form. The Court hereby schedules a conference for Wednesday, 8/21/2019, at 11 a.m., which will be held in the event that defendants have not certified, by 5 p.m. on 8/19/2019, that complete administrative record has been produced. The purpose of the conference would be to determine whether sanctions, including contempt sanctions, are appropriate, for the unexcused failure to comply with the aspect of the scheduling order in this case setting a deadline for production of the administrative record, and to determine whether any modifications to the briefing schedule are necessary. (Signed by Judge Paul A. Engelmayer on 8/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (tro) (Entered: 08/16/2019)
08/16/2019		Set/Reset Deadlines as to (157 in 1:19-cv-04676-PAE) LETTER MOTION to Compel defendants to complete the administrative record addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated August 15, 2019.. Responses due by 8/16/2019 Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)
08/16/2019		Set/Reset Hearings: Status Conference set for 8/21/2019 at 11:00 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)
08/16/2019	<u>159</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>156</u> Motion for Kristen Paige Miller to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 8/16/2019) (jwh) (Entered: 08/16/2019)
08/16/2019	<u>160</u>	LETTER RESPONSE to Motion addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 8/16/2019 re: <u>157</u> LETTER MOTION to Compel defendants to complete the administrative record addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated August 15, 2019. . Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Humphreys, Bradley) (Entered: 08/16/2019)
08/19/2019	<u>161</u>	NOTICE of of Production of Supplement to Administrative Record re: <u>158</u> Order on Motion to Compel,,,,,,. Document filed by Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Affidavit, # <u>3</u> Exhibit)(Humphreys, Bradley) (Entered: 08/19/2019)

08/19/2019	<u>162</u>	ORDER re: (161 in 1:19-cv-04676-PAE) Notice: In light of the Government's certification that it has produced the full administrative record to the Plaintiffs, Dkt. 161, the conference scheduled for August 21, 2019 is adjourned. (Signed by Judge Paul A. Engelmayer on 8/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/20/2019)
08/20/2019	<u>163</u>	NOTICE OF APPEARANCE by Eleanor Laurel Pullin Spottswood on behalf of State of Vermont. (Spottswood, Eleanor) (Entered: 08/20/2019)
08/21/2019	<u>164</u>	MOTION for Jay Alan Sekulow to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17465731. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Center for Law and Justice. (Attachments: # <u>1</u> Affidavit, # <u>2</u> certificate, # <u>3</u> certificate, # <u>4</u> Text of Proposed Order)(Sekulow, Jay) (Entered: 08/21/2019)
08/21/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>164</u> MOTION for Jay Alan Sekulow to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17465731. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 08/21/2019)
08/21/2019	<u>165</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>164</u> MOTION for Jay Alan Sekulow to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 8/21/2019) (jca) (Entered: 08/21/2019)
08/21/2019	<u>166</u>	NOTICE OF APPEARANCE by Jay Alan Sekulow on behalf of American Center for Law and Justice. (Sekulow, Jay) (Entered: 08/21/2019)
08/21/2019	<u>167</u>	MOTION for David M. Zions to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17468013. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Affidavit of David M. Zions, # <u>2</u> Certificate of Good Standing, # <u>3</u> Proposed Order)(Zions, David) (Entered: 08/21/2019)
08/21/2019	<u>168</u>	BRIEF <i>Amicus Curiae</i> . Document filed by American Center for Law and Justice.(Sekulow, Jay) (Entered: 08/21/2019)
08/21/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>167</u> MOTION for David M. Zions to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17468013. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 08/21/2019)
08/21/2019	<u>169</u>	MOTION for Denise Mayo Harle to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17469700. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # <u>1</u> Affidavit Affidavit of Denise Harle in Support of PHV Motion, # <u>2</u> Exhibit FL Certificate of Good Standing, # <u>3</u> Exhibit GA Certificate of Good Standing, # <u>4</u> Text of Proposed Order Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	<u>170</u>	NOTICE OF APPEARANCE by Denise Harle on behalf of American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	<u>171</u>	MOTION for Leave to File Amicus Brief <i>in Support of Defendants' Motion for Summary Judgment</i> . Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # <u>1</u> Proposed Amicus Brief, # <u>2</u> Text of Proposed Order Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)

08/21/2019	<u>172</u>	ORDER FOR ADMISSION PRO HAC VICE granting (167) Motion for David M. Zions to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. The motion of David M. Zions for admission to practice pro hac vice in the above captioned action is granted. IT IS HEREBY ORDERED that Applicant is admitted to practice pro hac vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 8/21/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (yv) (Entered: 08/22/2019)
08/22/2019	<u>173</u>	ORDER GRANTING UNOPPOSED MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF DEFENDANTS granting (171) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (67) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (75) Motion for Leave to File Document in case 1:19-cv-05435-PAE: Having considered the papers and pleadings on file, the Court GRANTS the Motion and ORDERS that the amicus curiae brief submitted by Alliance Defending Freedom be filed. (Signed by Judge Paul A. Engelmayer on 8/22/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)
08/22/2019	<u>174</u>	ORDER FOR ADMISSION PRO HAC VICE granting (169) in case 1:19-cv-04676-PAE; granting (65) in case 1:19-cv-05433-PAE; granting (73) in case 1:19-cv-05435-PAE Motion for Denise Mayo Harle to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 8/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)
08/30/2019	<u>175</u>	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated 8/30/2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 08/30/2019)
09/03/2019	<u>176</u>	LETTER MOTION for Leave to File request for permission to forgo Local Civil Rule 56.1 statements (<i>filed on behalf of all Plaintiffs with permission</i>) addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated September 3, 2019. Document filed by State of New York.(Colangelo, Matthew) (Entered: 09/03/2019)
09/03/2019	<u>177</u>	ORDER granting (175) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (71) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (78) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 9/3/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (ne) (Entered: 09/04/2019)
09/03/2019	<u>178</u>	ORDER granting (176) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. Granted. So Ordered. (Signed by Judge Paul A. Engelmayer on 9/3/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/04/2019)
09/05/2019	<u>179</u>	MOTION for Summary Judgment . Document filed by State of New York.(Colangelo, Matthew) (Entered: 09/05/2019)
09/05/2019	<u>180</u>	DECLARATION of Matthew Colangelo in Support re: <u>179</u> MOTION for Summary Judgment .. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 67, # <u>2</u> Exhibit 68, # <u>3</u> Exhibit 69, # <u>4</u> Exhibit 70, # <u>5</u> Exhibit 71, # <u>6</u> Exhibit 72, # <u>7</u> Exhibit 73, # <u>8</u> Exhibit 74, # <u>9</u> Exhibit 75, # <u>10</u> Exhibit 76, # <u>11</u> Exhibit 77, # <u>12</u> Exhibit 78, # <u>13</u> Exhibit 79, # <u>14</u> Exhibit 80, # <u>15</u> Exhibit 81, # <u>16</u> Exhibit 82, # <u>17</u> Exhibit 83, # <u>18</u> Exhibit 84, # <u>19</u> Exhibit 85, # <u>20</u> Exhibit 86, # <u>21</u> Exhibit 87, # <u>22</u> Exhibit 88, # <u>23</u> Exhibit 89, # <u>24</u> Exhibit 90, # <u>25</u> Exhibit 91, # <u>26</u> Exhibit 92, # <u>27</u> Exhibit 93, # <u>28</u> Exhibit 94, # <u>29</u> Exhibit 95, # <u>30</u> Exhibit 96, # <u>31</u> Exhibit 97, # <u>32</u> Exhibit 98, # <u>33</u> Exhibit 99, # <u>34</u> Exhibit 100, # <u>35</u> Exhibit 101, # <u>36</u> Exhibit 102, # <u>37</u> Exhibit 103, # <u>38</u> Exhibit 104, # <u>39</u> Exhibit 105, # <u>40</u> Exhibit 106, # <u>41</u> Exhibit 107, # <u>42</u> Exhibit 108, # <u>43</u> Exhibit 109, # <u>44</u> Exhibit 110, # <u>45</u> Exhibit 111, # <u>46</u> Exhibit 112, # <u>47</u> Exhibit 113, # <u>48</u> Exhibit 114, # <u>49</u> Exhibit 115, # <u>50</u> Exhibit 116, # <u>51</u> Exhibit 117, # <u>52</u> Exhibit 118, # <u>53</u> Exhibit 119, # <u>54</u> Exhibit 120, # <u>55</u> Exhibit 121, # <u>56</u> Exhibit 122, # <u>57</u> Exhibit 123, # <u>58</u> Exhibit 124, # <u>59</u> Exhibit 125, # <u>60</u> Exhibit 126, # <u>61</u>

		Exhibit 127, # <u>62</u> Exhibit 128, # <u>63</u> Exhibit 129, # <u>64</u> Exhibit 130, # <u>65</u> Exhibit 131, # <u>66</u> Exhibit 132, # <u>67</u> Exhibit 133, # <u>68</u> Exhibit 134, # <u>69</u> Exhibit 135, # <u>70</u> Exhibit 135-A, # <u>71</u> Exhibit 135-B, # <u>72</u> Exhibit 135-C, # <u>73</u> Exhibit 135-D, # <u>74</u> Exhibit 135-E, # <u>75</u> Exhibit 135-F, # <u>76</u> Exhibit 135-G, # <u>77</u> Exhibit 135-H, # <u>78</u> Exhibit 136)(Colangelo, Matthew) (Entered: 09/05/2019)
09/05/2019	<u>181</u>	COUNTER STATEMENT TO <u>154</u> Rule 56.1 Statement. Document filed by State of New York. (Colangelo, Matthew) (Entered: 09/05/2019)
09/05/2019	<u>182</u>	MEMORANDUM OF LAW in Support re: <u>179</u> MOTION for Summary Judgment . , <i>in Opposition to Defendants' Motion to Dismiss or for Summary Judgment, and Reply in Support of Plaintiffs' Motion for Preliminary Injunction.</i> Document filed by State of New York. (Deabler, Justin) (Entered: 09/05/2019)
09/05/2019	<u>183</u>	MOTION for Summary Judgment . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	<u>184</u>	MEMORANDUM OF LAW in Support re: <u>183</u> MOTION for Summary Judgment . , <i>in Opposition to Defendants' Motion for Summary Judgment, and in Further Support of Plaintiffs' Motion for Preliminary Injunction.</i> Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	<u>185</u>	DECLARATION of Kimberly Custer (Second) in Support re: <u>183</u> MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	<u>186</u>	DECLARATION of Meagan Gallagher (Second) in Support re: <u>183</u> MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	<u>187</u>	DECLARATION of Clare M. Coleman (Second) in Support re: <u>183</u> MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	<u>188</u>	DECLARATION of Lisa David (Second) in Support re: <u>183</u> MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/06/2019	<u>189</u>	MOTION for Julie Wilensky to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17556811. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Center for Lesbian Rights. (Attachments: # <u>1</u> Affidavit of Julie Wilensky, # <u>2</u> Exhibit CA Certificate of Good Standing, # <u>3</u> Exhibit NY Certificate of Good Standing, # <u>4</u> Exhibit CT Certificate of Good Standing, # <u>5</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/06/2019)
09/09/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>189</u> MOTION for Julie Wilensky to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17556811. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/09/2019)
09/09/2019	<u>190</u>	ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE granting (189) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (80) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (87) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 9/9/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/09/2019)

09/10/2019	<u>191</u>	NOTICE OF APPEARANCE by Christopher Bates on behalf of Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America. (Bates, Christopher) (Entered: 09/10/2019)
09/10/2019	<u>192</u>	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Robert E. Dunn dated September 10, 2019. Document filed by Christian Medical and Dental Associations, Regina Renee Frost, Christian Medical and Dental Association, Regina Frost.Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 09/10/2019)
09/11/2019	<u>193</u>	ORDER granting (192) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (82) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (89) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. (Signed by Judge Paul A. Engelmayer on 9/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 09/11/2019)
09/12/2019	<u>194</u>	MOTION for Leave to File Brief of Amici Curiae of <i>NCLR et al.</i> Document filed by National Center for Lesbian Rights. (Attachments: # <u>1</u> Brief of NCLR et al. as Amici Curiae)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/12/2019)
09/12/2019	<u>195</u>	MOTION for Leave to File Amicus Curiae Brief . Document filed by Scholars of the LGBT Population. (Attachments: # <u>1</u> Exhibit Amicus Curiae Brief, # <u>2</u> Appendix, # <u>3</u> Text of Proposed Order)(Ukpai, Nneka) (Entered: 09/12/2019)
09/12/2019	<u>196</u>	NOTICE OF APPEARANCE by Stephanie Schuster on behalf of The National LGBT Cancer Network, Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	<u>197</u>	CONSENT MOTION to File Amicus Brief . Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Brief in Support of Plaintiff's Motion For Summary Judgment)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	<u>198</u>	MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591569. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A - Affidavit in Support of Motion, # <u>2</u> Exhibit B - Certificates of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) (Entered: 09/12/2019)
09/12/2019	<u>199</u>	MEMO ENDORSEMENT granting (194) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (84) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (91) Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/12/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/12/2019)
09/12/2019	<u>200</u>	MOTION for Susan Baker Manning to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591611. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A - Affidavit in Support of Motion, # <u>2</u> Exhibit B - Certificates of Good Standing, # <u>3</u> Text of Proposed Order)Filed In

		Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) (Entered: 09/12/2019)
09/12/2019	<u>201</u>	MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591637. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A – Affidavit in Support of Motion, # <u>2</u> Exhibit B – Certificate of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) (Entered: 09/12/2019)
09/12/2019	<u>202</u>	CONSENT MOTION to File Amicus Brief . Document filed by Institute for Policy Integrity. (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief)(Revesz, Richard) (Entered: 09/12/2019)
09/12/2019	<u>203</u>	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health. (Attachments: # <u>1</u> Exhibit 1 – Proposed Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	<u>204</u>	MEMORANDUM OF LAW in Support re: (98 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	<u>205</u>	NOTICE OF APPEARANCE by Peter M. Skinner on behalf of City of Columbus. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	<u>206</u>	MOTION for Leave to File AMICUS CURIAE BRIEF . Document filed by City of Columbus. (Attachments: # <u>1</u> BRIEF OF AMICI CURIAE LOCAL GOVERNMENTS, # <u>2</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	<u>207</u>	LETTER MOTION for Oral Argument / <i>Letter Requesting Oral Argument</i> addressed to Judge Paul A. Engelmayer from Shannon Rose Selden dated September 12, 2019. Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health.Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/13/2019	<u>208</u>	MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard

		Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A – Affidavit in Support of Motion, # <u>2</u> Exhibit B – Certificate of Good Standing, # <u>3</u> Text of Proposed Order) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) (Entered: 09/13/2019)
09/13/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>208</u> MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/13/2019)
09/13/2019	<u>209</u>	LETTER addressed to Judge Paul A. Engelmayer from Shannon R. Selden dated September 13, 2019 re: withdrawal of oral argument request (Dkt. 207). Document filed by, the American Society for Reproductive Medicine, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health, The American Medical Association. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/13/2019)
09/13/2019	<u>210</u>	MEMO ENDORSEMENT granting (202) Motion to File Amicus Brief in case 1:19-cv-04676-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>211</u>	ORDER granting (206) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (94) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (101) Motion for Leave to File Document in case 1:19-cv-05435-PAE: On September 12, 2019, fifteen amici curiae local governments moved for leave to file a brief in support of Plaintiffs' motion for summary judgment in these actions. Having considered the papers and pleadings on file, the Court GRANTS the motion and ORDERS that the brief be filed. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>212</u>	MEMO ENDORSEMENT granting (203) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (91) Letter Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (98) Letter Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>213</u>	MEMO ENDORSEMENT granting (197) Motion to File Amicus Brief in case 1:19-cv-04676-PAE; granting (86) Motion to File Amicus Brief in case 1:19-cv-05433-PAE; granting (93) Motion to File Amicus Brief in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. The amici are granted leave to file the brief, and the Court will consider the proposed brief. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/16/2019	<u>214</u>	ORDER FOR ADMISSION PRO HAC VICE granting (208) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (96) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (103) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/16/2019)
09/16/2019	<u>215</u>	ORDER terminating (207) Letter Motion for Oral Argument in case 1:19-cv-04676-PAE; terminating (95) Letter Motion for Oral Argument in case 1:19-cv-05433-PAE; terminating (102) Letter Motion for Oral Argument in case 1:19-cv-05435-PAE. The Court appreciates this letter and respectfully requests the Clerk of the Court to terminate the motion pending at Dkt. 207. (Signed by Judge Paul

		A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (cf) (Entered: 09/16/2019)
09/16/2019	<u>216</u>	NOTICE OF APPEARANCE by Vinita Andrapalliyal on behalf of Alex M. Azar II, United States Department of Health and Human Services, United States of America. (Andrapalliyal, Vinita) (Entered: 09/16/2019)
09/17/2019	<u>217</u>	MOTION for Susan Baker Manning to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A – Affidavit in Support of Motion, # <u>2</u> Exhibit B – Certificates of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) (Entered: 09/17/2019)
09/18/2019	<u>218</u>	MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A – Affidavit in Support of Motion, # <u>2</u> Exhibit B – Certificates of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) (Entered: 09/18/2019)
09/18/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>217</u> MOTION for Susan Baker Manning to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff., <u>218</u> MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/18/2019)
09/18/2019	<u>219</u>	MOTION for Zachary R. Glubiak to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17621559. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Commonwealth of Virginia. (Attachments: # <u>1</u> Affidavit Affidavit of Movant, Zachary R. Glubiak, # <u>2</u> Text of Proposed Order Proposed Order, # <u>3</u> Exhibit Certificate of Good Standing from Virginia dated Sept. 13, 2019)(Glubiak, Zachary) (Entered: 09/18/2019)
09/18/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>219</u> MOTION for Zachary R. Glubiak to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17621559. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/18/2019)
09/19/2019	<u>220</u>	ORDER FOR ADMISSION PRO HAC VICE granting (198) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting (218) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (87) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting (105) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (112) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Geraldine E. Edens, for admission to practice Pro Hae Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)
09/19/2019	<u>221</u>	ORDER FOR ADMISSION PRO HAC VICE granting (217) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (89) Motion for Susan Baker Manning to Appear Pro Hac Vice; granting (104) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (111) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Susan Baker Manning, for admission to practice

		Pro Hac Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)
09/19/2019	<u>222</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>219</u> Motion for Zachary R. Glubiak to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 9/19/2019) (jwh) (Entered: 09/19/2019)
09/19/2019	<u>223</u>	REPLY MEMORANDUM OF LAW in Support re: <u>149</u> MOTION for Summary Judgment . <i>MEMORANDUM OF LAW in Opposition re: <u>179</u> CROSS MOTION for Summary Judgment.</i> Document filed by Christian Medical and Dental Association, Christian Medical and Dental Associations, Regina Renee Frost, Regina Frost. (Ho, Allyson) (Entered: 09/19/2019)
09/19/2019	<u>224</u>	MEMORANDUM OF LAW in Opposition re: <u>183</u> MOTION for Summary Judgment ., <u>179</u> MOTION for Summary Judgment ., <i>Reply in Support of Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment.</i> Document filed by Alex M. Azar II, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14)(Andrapalliyal, Vinita) (Entered: 09/19/2019)
09/20/2019	<u>225</u>	MOTION for Brittany M. Jones to Withdraw as Attorney . Document filed by Commonwealth of Virginia. (Attachments: # <u>1</u> Text of Proposed Order)(Jones, Brittany) (Entered: 09/20/2019)
09/20/2019	<u>226</u>	NOTICE of of Filing of Exhibit 15 re: <u>224</u> Memorandum of Law in Opposition to Motion,,. Document filed by Alex M. Azar II, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Exhibit 15)(Andrapalliyal, Vinita) (Entered: 09/20/2019)
09/23/2019	<u>227</u>	ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFF COMMONWEALTH OF VIRGINIA granting <u>225</u> Motion to Withdraw as Attorney. Brittany M. Jones seeks leave to withdraw as counsel for plaintiff Commonwealth of Virginia. The Court concludes that the motion be granted. Attorney Brittany Marie Jones terminated. (Signed by Judge Paul A. Engelmayer on 9/23/2019) (mro) (Entered: 09/23/2019)
09/24/2019	<u>228</u>	NOTICE OF APPEARANCE by Benjamin Daniel Battles on behalf of State of Vermont. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Battles, Benjamin) (Entered: 09/24/2019)
10/03/2019	<u>229</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Robin Thurston to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17708366. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit)(Thurston, Robin) Modified on 10/3/2019 (aea). (Entered: 10/03/2019)
10/03/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>229</u> MOTION for Robin Thurston to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17708366. Motion and supporting papers to be reviewed by Clerk's Office staff. The filing is deficient for the following reason(s): expired Certificate of Good Standing from District of Columbia Bar;. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order. (aea) Modified on 10/3/2019 (aea). (Entered: 10/03/2019)
10/03/2019	<u>230</u>	MOTION for Robin Thurston to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17709870. Motion and supporting papers to be reviewed by

		Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order, # <u>3</u> Affidavit)(Thurston, Robin) (Entered: 10/03/2019)
10/03/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>230</u> MOTION for Robin Thurston to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17709870. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (aea) (Entered: 10/03/2019)
10/03/2019	<u>231</u>	REPLY AFFIDAVIT of Matthew Colangelo in Support re: <u>179</u> MOTION for Summary Judgment .. Document filed by State of New York. (Attachments: # <u>1</u> Exhibit 137, # <u>2</u> Exhibit 138, # <u>3</u> Exhibit 139)(Colangelo, Matthew) (Entered: 10/03/2019)
10/03/2019	<u>232</u>	REPLY MEMORANDUM OF LAW in Support re: <u>41</u> MOTION for Preliminary Injunction ., <u>179</u> MOTION for Summary Judgment . . Document filed by State of New York. (Meyer, Amanda) (Entered: 10/03/2019)
10/03/2019	<u>233</u>	REPLY MEMORANDUM OF LAW in Support re: (74 in 1:19-cv-05433-PAE) MOTION for Summary Judgment ., (81 in 1:19-cv-05435-PAE) MOTION for Summary Judgment ., (183 in 1:19-cv-04676-PAE) MOTION for Summary Judgment . . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 10/03/2019)
10/04/2019	<u>234</u>	ORDER FOR ADMISSION PRO HAC VICE granting (230) Motion for Robin Thurston to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 10/4/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (jwh) (Entered: 10/04/2019)
10/10/2019	<u>235</u>	NOTICE OF APPEARANCE by Kathleen Konopka on behalf of District of Columbia. (Konopka, Kathleen) (Entered: 10/10/2019)
10/10/2019	<u>236</u>	MOTION for Valerie Maria Nannery to Withdraw as Attorney . Document filed by District of Columbia. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of Proposed Order)(Nannery, Valerie) (Entered: 10/10/2019)
10/11/2019	<u>237</u>	ORDER TERMINATING APPEARANCE OF VALERIE M. NANNERY granting <u>236</u> MOTION for Valerie Maria Nannery to Withdraw as Attorney. IT IS HEREBY ORDERED THAT the appearance of Valerie M. Nannery in this matter is terminated; IT IS FURTHER ORDERED THAT the Clerk of Court shall remove Ms. Nannery from the docket sheet in this matter. IT IS SO ORDERED. Attorney Valerie M. Nannery terminated. (Signed by Judge Paul A. Engelmayer on 10/11/2019) (jca) (Entered: 10/11/2019)
10/14/2019	<u>238</u>	LETTER addressed to Judge Paul A. Engelmayer from David M. Zionts dated October 14, 2019 re: Presentation of Arguments at Hearing on October 18, 2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Zionts, David) (Entered: 10/14/2019)
10/15/2019	<u>239</u>	ORDER: Argument in the above-captioned cases is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. The argument will be held in courtroom 506. The Court has allocated three hours for argument. The Court anticipates that plaintiffs will argue first and will have 75 minutes among them. The Court has received plaintiffs' counsel's letter identifying the allocation of topics among counsel. Dkt. 238. The Court appreciates this notice. The Court expects plaintiffs' counsel to carefully manage time to assure that sufficient time remains to address the important subjects to be covered by the third and fourth presenters, and as further set forth in this Order. So ordered. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 506, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer). (Signed by Judge Paul A. Engelmayer on 10/15/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 10/15/2019)

10/16/2019	<u>240</u>	ORDER: Argument in the above-captioned cases will now be held in courtroom 318. The venue has changed in order to enable the Court to use courtroom 506 as an overflow room in the event attendance exceeds capacity. Argument is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 318, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer.) (Signed by Judge Paul A. Engelmayer on 10/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/17/2019)
10/18/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Oral Argument held on 10/18/2019. Court reporter present. (ajs) (Entered: 10/18/2019)
10/21/2019	<u>241</u>	ORDER: The Court has noted that only portions of the administrative record have been filed on the docket. To assure completeness, defendants are to file a copy of the full administrative record on the docket by Friday, October 25, 2019. (Signed by Judge Paul A. Engelmayer on 10/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/21/2019)
10/24/2019	<u>242</u>	MOTION for Justin Deabler to Withdraw as Attorney . Document filed by State of New York. (Attachments: # <u>1</u> Affidavit in support of motion to withdraw, # <u>2</u> Text of Proposed Order in support of motion to withdraw)(Deabler, Justin) (Entered: 10/24/2019)
10/24/2019	<u>243</u>	LETTER MOTION for Leave to File Administrative Record <i>On Electronic Media Via Overnight Courier</i> addressed to Judge Paul A. Engelmayer from Bradley P. Humphreys dated 10/24/2019. Document filed by Alex M. Azar II, Regina Frost, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America.(Humphreys, Bradley) (Entered: 10/24/2019)
10/25/2019	<u>244</u>	ORDER TERMINATING APPEARANCE OF JUSTIN DEABLER granting <u>242</u> Motion to Withdraw as Attorney. IT IS HEREBY ORDERED THAT the appearance of Justin Deabler in this matter is terminated; IT IS FURTHER ORDERED THAT the Clerk of Court shall remove Mr. Deabler from the docket sheet in this matter. IT IS SO ORDERED. Attorney Justin Alexander Deabler terminated. (Signed by Judge Paul A. Engelmayer on 10/25/2019) (kv) (Entered: 10/25/2019)
10/25/2019	<u>245</u>	ORDER granting (243) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE: Granted. (Signed by Judge Paul A. Engelmayer on 10/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 10/25/2019)
10/25/2019	<u>246</u>	NOTICE of Filing of Administrative Record. Document filed by Alex M. Azar II, Roger Severino, United States Department of Health and Human Services, United States of America. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(Humphreys, Bradley) (Entered: 10/25/2019)
10/29/2019	<u>247</u>	NOTICE OF CHANGE OF ADDRESS by Kathleen Konopka on behalf of District of Columbia. New Address: DC OAG, 441 4th Street NW, Suite 630 S, Washington, DC, USA 20001, (202) 724-6610. (Konopka, Kathleen) (Entered: 10/29/2019)
11/06/2019	<u>248</u>	OPINION AND ORDER: For the foregoing reasons, the Court grants plaintiffs' motions for summary judgment; denies HHS's motions both to dismiss and for summary judgment; and denies as moot plaintiffs' motion for preliminary relief. The Court accordingly vacates HHS's 2019 Rule in its entirety. A separate order will issue shortly terminating these and all other outstanding motions. The Clerk of Court is respectfully directed thereafter to close these cases. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Main Document 248 replaced on 11/6/2019) (mro). (Entered: 11/06/2019)
11/06/2019	<u>249</u>	ORDER denying as moot (41) Motion for Preliminary Injunction; denying (147) Motion to Dismiss; denying (149) Motion for Summary Judgment; granting (179) Motion for Summary Judgment; granting (183) Motion for Summary Judgment; granting (195) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE; denying as moot (38) Letter Motion for Leave to File Document; denying (61) Motion to Dismiss; granting (74) Motion for Summary Judgment; granting (90) Motion to Appear Pro Hac Vice; denying as moot (19)

		<p>Motion for Preliminary Injunction in case 1:19-cv-05433-PAE; denying as moot (43) Letter Motion for Leave to File Document; granting (52) Motion to Appear Pro Hac Vice; denying (69) Motion to Dismiss; granting (81) Motion for Summary Judgment; denying as moot (25) Motion for Preliminary Injunction in case 1:19-cv-05435-PAE. Consistent with today's accompanying opinion and order, the Court hereby issues the following orders: In 19 Civ. 4676: The Court grants plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. In 19 Civ. 5433: The Court grants plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 61; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. In 19 Civ 5435: The Court grants plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 69; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52. The Court respectfully directs the Clerk of the Court to terminate the foregoing pending motions and close this case. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) Transmission to Orders and Judgments Clerk for processing. (Entered: 11/06/2019)</p>
11/06/2019	<u>250</u>	<p>CLERK'S JUDGMENT re: (123 in 1:19-cv-05435-PAE, 117 in 1:19-cv-05433, 249 in 1:19-cv-04676-PAE, Order on Motion for Preliminary Injunction, Order on Motion to Dismiss, Order on Motion for Summary Judgment, Order on Motion for Leave to File Document, Order on Motion to Appear Pro Hac Vice,. in favor of City of Chicago, City of New York, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, Cook County, Illinois, District of Columbia, National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc., Public Health Solutions, Inc., State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maryland, State of Michigan, State of Minnesota, State of Nevada, State of New Jersey, State of New Mexico, State of New York, State of Oregon, State of Rhode Island, State of Vermont, State of Wisconsin against Christian Medical and Dental Association, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, U.S. Department of Health and Human Services, United States Department of Health And Human Services, United States Department of Health and Human Services, United States of America, Alex M. Azar, II, Alex M. Azar II, Regina Frost, Roger Severino. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated November 6, 2019, and consistent with today's accompanying Opinion and Order, the Court hereby issues the following orders: in 19 Civ. 4676: The Court grants Plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. in 19 Civ. 5433: The Court grants Plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 61; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. in 19 Civ. 5435: The Court grants Plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 69; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52; accordingly, these cases are closed. (Signed by Clerk of Court Ruby Krajick on 11/06/2019) (Attachments: # <u>1</u> Notice of Right to Appeal)Filed In</p>

		Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(dt) (Entered: 11/06/2019)
11/06/2019		Terminate Transcript Deadlines (dt) (Entered: 11/06/2019)
12/04/2019	<u>251</u>	LETTER MOTION for Extension of Time <i>to File Bill of Costs</i> addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated December 4, 2019. Document filed by National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Public Health Solutions, Inc., State of New York. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 12/04/2019)
12/06/2019	<u>252</u>	ORDER: granting (251) Letter Motion for Extension of Time in case 1:19-cv-04676-PAE; granting (119) Letter Motion for Extension of Time in case 1:19-cv-05433-PAE; granting (125) Letter Motion for Extension of Time in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 12/05/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ama) (Entered: 12/06/2019)
12/18/2019	<u>253</u>	FILING ERROR – NO ORDER/JUDGMENT SELECTED FOR APPEAL – NOTICE OF APPEAL. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) Modified on 12/18/2019 (nd). (Entered: 12/18/2019)
12/18/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT APPEAL. Notice to attorney Ho, Allyson to RE-FILE Document No. (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal,. The filing is deficient for the following reason(s): the order/judgment being appealed was not selected;. Re-file the appeal using the event type Corrected Notice of Appeal found under the event list Appeal Documents – attach the correct signed PDF – select the correct named filer/filers – select the correct order/judgment being appealed. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)
12/18/2019	<u>254</u>	CORRECTED NOTICE OF APPEAL re: (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal, (250 in 1:19-cv-04676-PAE) Clerk's Judgment, (248 in 1:19-cv-04676-PAE) Memorandum & Opinion,, (249 in 1:19-cv-04676-PAE, 249 in 1:19-cv-04676-PAE) Order on Motion for Preliminary Injunction, Order on Motion for Leave to File Document, , Order on Motion to Appear Pro Hac Vice, Order on Motion to Dismiss, Order on Motion for Summary Judgment . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) Modified on 12/18/2019 (nd). (Entered: 12/18/2019)
12/18/2019		Appeal Fee Due: for (122 in 1:19-cv-05433-PAE, 128 in 1:19-cv-05435-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal.\$505.00 Appeal fee due by 1/2/2020. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)
12/18/2019		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: (122 in 1:19-cv-05433-PAE, 128 in 1:19-cv-05435-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)
12/18/2019		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for (128 in 1:19-cv-05435-PAE, 122 in 1:19-cv-05433-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal filed by Regina Renee Frost, Christian Medical and Dental Associations were transmitted to the U.S. Court of

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-05433-PAE**

Planned Parenthood Federation of America, Inc. et al v. Azar II et al
Assigned to: Judge Paul A. Engelmayer
Lead case: [1:19-cv-04676-PAE](#)
Member case: ([View Member Case](#))
Related Case: [1:19-cv-04676-PAE](#)
Cause: 05:702 Administrative Procedure Act

Date Filed: 06/11/2019
Date Terminated: 11/06/2019
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review
or Appeal of Agency Decision
Jurisdiction: U.S. Government
Defendant

Plaintiff

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Date Filed	#	Docket Text
06/11/2019	<u>1</u>	COMPLAINT against Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. (Filing Fee \$ 400.00, Receipt Number ANYSDC-17057442) Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>2</u>	CIVIL COVER SHEET filed. (Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>3</u>	STATEMENT OF RELATEDNESS re: that this action be filed as related to 19-cv-4676. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Alex M. Azar II, re: <u>1</u> Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Health and Human Services, re: <u>1</u> Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Roger Severino, re: <u>1</u> Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 06/11/2019)
06/11/2019	<u>8</u>	FILING ERROR - DEFICIENT PLEADING - SUMMONS REQUEST As To - REQUEST FOR ISSUANCE OF SUMMONS as to Office for Civil Rights, United States Department of Health and Human Services, re: <u>1</u> Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) Modified on 6/12/2019 (jgo). (Entered: 06/11/2019)
06/12/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Unassigned. (jgo) (Entered: 06/12/2019)

06/12/2019		Case Designated ECF. (jgo) (Entered: 06/12/2019)
06/12/2019		CASE REFERRED TO Judge Paul A. Engelmayer as possibly related to 19-cv-4676. (jgo) (Entered: 06/12/2019)
06/12/2019	9	ELECTRONIC SUMMONS ISSUED as to Alex M. Azar II. (jgo) (Entered: 06/12/2019)
06/12/2019	10	ELECTRONIC SUMMONS ISSUED as to Roger Severino. (jgo) (Main Document 10 replaced on 6/13/2019) (jgo). (Main Document 10 replaced on 6/13/2019) (jgo). (Entered: 06/12/2019)
06/12/2019	11	ELECTRONIC SUMMONS ISSUED as to United States Department of Health And Human Services. (jgo) (Main Document 11 replaced on 6/13/2019) (jgo). (Entered: 06/12/2019)
06/12/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Sarah Mac Dougall to RE-FILE Document No. 8 Request for Issuance of Summons., The filing is deficient for the following reason(s): party name on 'as to' docket entry text and the PDF 'To' section does not exactly match initial pleading caption;. Re-file the document using the event type Request for Issuance of Summons found under the event list Service of Process - select the correct filer/filers - and attach the correct summons form PDF. (jgo) (Entered: 06/12/2019)
06/12/2019	12	MOTION to Consolidate Cases 1:19-cv-04676 and 1:19-cv-05433 . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/12/2019)
06/12/2019	13	REQUEST FOR ISSUANCE OF SUMMONS as to Office for Civil Rights, United States Department of Health and Human Services, re: 1 Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 06/12/2019)
06/13/2019	14	ORDER: The Court hereby sets the following schedule for any preliminary injunction motion that may be filed in the two related cases. Such motions and accompanying memoranda of law will be due 5 p.m. on Monday, June 17, 2019. (That deadline is three days after the deadline the Court has set for the plaintiffs in 19 Civ. 4676 to file such a motion, which deadline remains in place for the 19 Civ. 4676 plaintiffs.) The Government's opposition to any preliminary injunction motion remains due on June 28, 2019. A reply, if any, by plaintiffs in any of these three cases is-and with respect to 19 Civ. 4676, remains-due on July 5, 2019. The Court will hear argument as to any preliminary injunction motions together, on Friday, July 12, 2019 at 2:00 p.m. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/13/2019) (anc) (Entered: 06/13/2019)
06/13/2019		Set/Reset Deadlines: Motions due by 6/17/2019. Responses due by 6/28/2019. Replies due by 7/5/2019. Set/Reset Hearings: Oral Argument set for 7/12/2019 at 02:00 PM before Judge Paul A. Engelmayer. (anc) (Entered: 06/13/2019)

06/13/2019	15	ELECTRONIC SUMMONS ISSUED as to Office for Civil Rights. (dnh) (Entered: 06/13/2019)
06/13/2019		CASE ACCEPTED AS RELATED. Create association to 1:19-cv-04676-PAE. Notice of Assignment to follow. (bcu) (Entered: 06/13/2019)
06/13/2019		NOTICE OF CASE REASSIGNMENT to Judge Paul A. Engelmayer. Judge Unassigned is no longer assigned to the case. (bcu) (Entered: 06/13/2019)
06/13/2019		Magistrate Judge Stewart D. Aaron is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (bcu) (Entered: 06/13/2019)
06/14/2019	16	LETTER addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated June 14, 2019 re: Plaintiffs' Intent to Move for Preliminary Injunction. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/14/2019)
06/14/2019	17	MEMO ENDORSEMENT on UNOPPOSED MOTION FOR CONSOLIDATION, AND FOR LEAVE TO FILE JOINT MEMORANDUM OF LAW, IN EXCESS OF PAGE LIMIT, IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION with respect to [12 in case 19cv5433] [20 in case 19cv5435] Letter Motion to Consolidate Cases. ENDORSEMENT: The Court approves plaintiffs' request to file a joint memorandum of law in support of their motion for a preliminary injunction, and the request for extended page limits, upon the plaintiffs' representation that they will conform to the schedule set by the Court. Dkt. 16. The Court will address the motion to consolidate early next week. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/14/2019) (anc)**Pursuant to instructions from Chambers, Filed in cases 19cv5433, 19cv4676, and 19cv5435. Modified on 6/17/2019 (anc). (Entered: 06/14/2019)
06/17/2019	18	NOTICE OF APPEARANCE by Bradley Humphreys on behalf of Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. (Humphreys, Bradley) (Entered: 06/17/2019)
06/17/2019	19	MOTION for Preliminary Injunction . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 06/17/2019)
06/17/2019	20	JOINT MEMORANDUM OF LAW in Support re: 19 MOTION for Preliminary Injunction . . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 06/17/2019)
06/17/2019	21	DECLARATION of Sarah Mac Dougall in Support re: 19 MOTION for Preliminary Injunction .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # 1 Exhibit A - Statutory Definitions, # 2 Exhibit B - Custer Declaration, # 3 Exhibit C - Gallagher Declaration, # 4 Exhibit D - Coleman

		Declaration, # 5 Exhibit E - David Declaration, # 6 Exhibit F - Chasen Declaration)(Mac Dougall, Sarah) (Entered: 06/17/2019)
06/21/2019	22	FILING ERROR - DEFICIENT DOCKET ENTRY (SEE 23 Notice to File Amicus Brief) - MOTION to File Amicus Brief . Document filed by Institute for Policy Integrity. (Attachments: # 1 Proposed Amicus Brief)(Revesz, Richard) Modified on 6/24/2019 (db). (Entered: 06/21/2019)
06/24/2019	23	NOTICE of filing of Corrected Proposed Amicus Brief re: 22 MOTION to File Amicus Brief .. Document filed by Institute for Policy Integrity. (Revesz, Richard) (Entered: 06/24/2019)
06/24/2019	24	MOTION for Diana Salgado to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # 1 Affidavit Affidavit in Support, # 2 Text of Proposed Order Proposed Order, # 3 DC Certificate of Good Standing, # 4 NY Certificate of Good Standing)(Salgado, Diana) (Entered: 06/24/2019)
06/24/2019		Pro Hac Vice Fee Due: for 24 MOTION for Diana Salgado to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. . (jc) (Entered: 06/24/2019)
06/24/2019		Pro Hac Vice Fee Payment: for 24 MOTION for Diana Salgado to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Filing fee \$ 200.00, receipt number ANYSDC-17131658.(Salgado, Diana) (Entered: 06/24/2019)
06/26/2019		CONSOLIDATED MEMBER CASE: Create association to 1:19-cv-04676-PAE. (mro) (Entered: 06/26/2019)
06/26/2019	25	ORDER granting (12) Motion to Consolidate Cases in case 1:19-cv-05433-PAE; granting (20) Motion to Consolidate Cases in case 1:19-cv-05435-PAE. The Court grants the motions to consolidate cases 19 Civ. 5433 and 19 Civ. 5435 with 19 Civ. 4676. 19 Civ. 4676 shall serve as the lead case, and counsel are directed to file all filings on the docket of that case. The Clerk of Court is respectfully requested to grant the motions pending at 19 Civ. 5433, Dkt. 12, and 19 Civ. 5435, Dkt. 20. (Signed by Judge Paul A. Engelmayer on 6/26/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	26	ORDER FOR ADMISSION PRO HAC VICE granting (55) Motion for Jack Lienke to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	27	ORDER FOR ADMISSION PRO HAC VICE granting (53) Motion for Justin Gundlach to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)

06/26/2019		>>> NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>24</u> MOTION for Diana Salgado to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 06/26/2019)
06/26/2019	<u>28</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>24</u> Motion for Diana Salgado to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 6/26/2019) (rro) (Entered: 06/26/2019)
06/26/2019	<u>29</u>	NOTICE OF APPEARANCE by Shannon Rose Selden on behalf of the American College of Obstetricians and Gynecologists, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Osteopathic Obstetricians and Gynecologists,, the American Society for Reproductive Medicine, the National Association of Nurse Practitioners in Womens Health, the Society for Maternal-Fetal Medicine, the American College of Nurse-Midwives, the North American Society for Pediatric and Adolescent Gynecology, the American Muslim Health Professionals. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	<u>30</u>	NOTICE OF APPEARANCE by Anna Augusta Moody on behalf of, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Moody, Anna) (Entered: 06/26/2019)
06/26/2019	<u>31</u>	<u>FILING ERROR - DEFICIENT DOCKET ENTRY (SEE <u>77</u> Motion) -</u> MOTION for Leave to File Amicus Brief <i>of Leading Medical Organizations</i> . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # <u>1</u> Appendix Motion, # <u>2</u> Exhibit Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) Modified on 6/27/2019 (db). (Entered: 06/26/2019)
06/26/2019	<u>32</u>	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency

		Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # 1 Exhibit Proposed Amicus Brief) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	33	MEMORANDUM OF LAW in Support re: (37 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/27/2019	34	ORDER denying (79) Motion to Continue in case 1:19-cv-04676-PAE. The Court denies defendants' request in its entirety. Unless and until defendants either (1) supply conclusive evidence that the effective date of the Final Rule has been officially postponed; or (2) consent to a Court order that would enjoin defendants from enforcing, applying, or taking any action to implement the Final Rule until resolution of the preliminary injunction motions, the existing briefing and argument schedule remains in effect. For avoidance of doubt, defendants' opposition to plaintiffs' motions for a preliminary injunction remain due tomorrow, June 28, 2019. The Court will construe a failure to file opposition submissions on this date as signifying that defendants do not oppose plaintiffs' application for preliminary relief. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)
06/27/2019	35	ORDER denying (83) Letter Motion for Extension of Time to File Response/Reply in case 1:19-cv-04676-PAE. Denied. The Court set this schedule over a month ago on June 13, 2019. See Dkt. 38. Plaintiffs' reply is due July 5, 2019. See id. Extending defendants' time to respond at this late juncture would require plaintiffs to spend the entirety of the week of the July 4 holiday drafting a reply brief, without the benefit of a weekend. The Court carefully considered the schedule it set on June 13, 2019 and declines to modify it at this late stage. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)
06/28/2019	36	ORDER: The Court late yesterday denied, by memo endorsement, a letter motion in which defendants sought to extend today's deadline to file an opposition to plaintiffs' motions for a preliminary injunction until July 1, 2019. Dkt. 84. That ruling stands and the deadline for defendants' opposition to

		<p>plaintiffs' motions for a preliminary injunction remains today. The Court, however, wishes to correct a factual error in yesterday's memo endorsement. The Court erroneously recited the date of the Order in which it set a briefing schedule on the preliminary injunction motion. That Order issued on June 7, 2019, Dkt. 27, and gave defendants two weeks, i.e., until June 28, 2019, to respond to plaintiffs' motions for a preliminary injunction, which under the Order was due, and which was timely filed, on June 14, 2019, Dkt. 41. The Court is mindful of counsels' understandable desire for additional time to brief the significant issues raised by the pending motions and shares all counsels' view that the process of reliable adjudication benefits from a measured briefing process. The Court is further mindful that counsel for the U.S. Department of Health and Human Services ("HHS") earlier this week sought additional time based on a representation by counsel that HHS will delay enforcement of the HHS rule at issue until November 22, 2019. Dkt. 79. The Court denied that request because HHS had not postponed the rule's effective date, Dkt. 82, and, without such a postponement, plaintiffs viably claimed a risk of harm, see Dkt. 80. For avoidance of doubt, the Court clarifies that, in the event of an official postponement of the effective date of the rule to November 22, 2019, the Court would suspend today's deadline for an opposition brief, set a new and more protracted schedule for submission of the remaining briefs on plaintiffs' preliminary injunction motions, and thereafter entertain applications to litigate this case instead, as defendants have proposed, via cross-motions for summary judgment. Absent an official postponement of the effective date, however, the present briefing schedule stands. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Entered: 06/28/2019)</p>
06/28/2019	37	<p>MEMO ENDORSEMENT granting in part (77) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting in part (32) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting in part (37) Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: The Court grants the proposed amici curiae leave to submit the proposed brief and accompanying declarations and exhibits and accepts them for consideration. The Court reserves judgment on whether to permit counsel for the proposed amici curiae to present oral argument on the plaintiffs' motions for a preliminary injunction. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ne) (Entered: 06/28/2019)</p>
06/28/2019	38	<p>MOTION for Leave to File Over-length Amicus Brief . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # 1 Exhibit Proposed over-length Amicus Brief, # 2 Exhibit Proposed Declaration of Dr. David Stevens in Support of Opposition to Motion for Preliminary Injunction, # 3 Exhibit Proposed Declaration of Dr. Regina Frost in Support of Opposition to Motion for Preliminary Injunction)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)</p>
06/28/2019	39	<p>MEMORANDUM OF LAW in Support re: (43 in 1:19-cv-05435-PAE) MOTION for Leave to File Over-length Amicus Brief . . Document filed by</p>

		Christian Medical and Dental Associations, Regina Renee Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)
07/01/2019	40	STIPULATED REQUEST FOR AN ORDER TO POSTPONE RULE'S EFFECTIVE DATE; TO SUSPEND DEFENDANTS' DEADLINE TO RESPOND TO PLAINTIFFS' PRELIMINARY INJUNCTION MOTIONS; AND TO VACATE THE CURRENT BRIEFING SCHEDULE AND HEARING DATE [5 U.S.C. § 705]. Subject to the Court's approval, the parties through their undersigned counsel of record HEREBY STIPULATE as follows: 1. At present, Defendants' opposition to Plaintiffs' motions for a preliminary injunction is due on June 28, 2019, Plaintiffs' reply is due on July 5, 2019, and a hearing is scheduled on July 12, 2019. 2. The U.S. Department of Health and Human Services ("HHS") agrees to postpone the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23, 170 (May 21, 2019) ("Final Rule"), until November 22, 2019. HHS stipulates to this postponement because it is the most efficient way to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiffs are "likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest." See Winter v. NRDC, 555 U.S. 7, 20 (2008). 3. Plaintiffs maintain that-for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants' motion to continue the deadline to respond to Plaintiffs' motions-Plaintiffs would suffer various irreparable injuries were the Final Rule's effective date not postponed. 4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019. 5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants' opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs' preliminary injunction motions. 6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule's new November 22, 2019 effective date. PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. See 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits. The following deadline(s) was terminated: Reply Deadline. Response Deadline. (Signed by Judge Paul A. Engelmayer on 6/28/2019) (rjm) (Entered: 07/01/2019)
07/01/2019	41	ORDER. The Court has today issued the agreed-upon Order proposed by the parties at Dkt. 87-1. The Court's Order postpones the effective date of the United States Department of Health and Human Services' ("HHS") rule at issue in this litigation ("Final Rule") until November 22, 2019. The Order further vacates the preliminary injunction briefing schedule set forth in the Court's June 7, 2019, Dkt. 27, and June 13, 2019, Dkt. 38, Orders. In light of the

		<p>above, it is no longer necessary for the conference scheduled for Friday, July 12, 2019 to serve as a hearing on plaintiffs' preliminary injunction motions. The Court wishes, however, promptly to put in place a schedule in this matter. The Court directs counsel for all parties in the consolidated cases comprising this litigation forthwith to meet and confer with the goals of (1) proposing a briefing schedule on plaintiffs' preliminary injunction motions, and (2) exploring whether a viable schedule can be agreed to that would permit the legality of HHS's Final Rule to be resolved instead on motions or cross-motions for summary judgment and, if so, proposing such a schedule. In considering a suitable schedule for any contemplated motion, the Court expects counsel to be mindful of the Court's interest in having sufficient time, following the completion of briefing, to hold oral argument and to consider and thoughtfully resolve the important and complex questions presented. The Court directs counsel to submit a joint letter, due at 12 noon on Wednesday, July 10, 2019, setting forth the parties' joint proposals-or, if agreement is not reached, the parties' alternative proposals-as to such schedules. If the Court determines that further consultation would assist it in setting a schedule, the Court will use the conference currently scheduled for Friday, July 12, 2019, at 2:00 p.m., to take up such questions with counsel. The Court accordingly asks lead counsel to remain available to attend a conference at that date and time, in courtroom 1305 of the Thurgood Marshall United States Courthouse, at 40 Centre Street. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/1/2019) Filed In Associated Cases: 1:19-cv-04676 PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 07/01/2019)</p>
07/01/2019	42	<p>REQUEST FOR ISSUANCE OF AMENDED SUMMONS as to Alex M. Azar II, United States Department of Health and Human Services, Roger Severino, Office For Civil Rights, re: 1 Complaint,. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 07/01/2019)</p>
07/02/2019	43	<p>ORDER. The Court yesterday adjourned the briefing schedule it had set for preliminary injunction motions in light of the parties' consent to an Order postponing the effective date of HHS's Final Rule until November 22, 2019. Dkt. 90. The Court will soon receive the parties' input as to the nature of the motions that will henceforth be made and the schedule for briefing them. In light of this development, the Court adjourns the deadlines it had set for submission of amicus briefs, which deadlines had been tied to the preliminary injunction schedule. The Court expects that the schedule the parties will propose will include dates for the submission of amicus briefs. For avoidance of doubt, to the extent that an amicus has submitted a brief in this case, such filing will not preclude that amicus from filing a new (superseding) brief on the schedule to be set. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (rjm) (Entered: 07/02/2019)</p>
07/02/2019	44	<p>ELECTRONIC AMENDED SUMMONS ISSUED as to Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. (dnh) (Entered: 07/02/2019)</p>
07/08/2019	45	

		ORDER FOR ADMISSION PRO HAC VICE: granting (100) Motion for Kurt G. Calia to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 7/08/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (ama) (Entered: 07/08/2019)
07/08/2019	46	NOTICE OF APPEARANCE by Benjamin Thomas Takemoto on behalf of Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America, Alex M. Azar II, Office for Civil Rights, Roger Severino, Alex M. Azar, II, Roger Severino, U.S. Department of Health and Human Services. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (Takemoto, Benjamin) (Entered: 07/08/2019)
07/09/2019	47	NOTICE OF APPEARANCE by Hana Bajramovic on behalf of Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Bajramovic, Hana) (Entered: 07/09/2019)
07/11/2019	48	ORDER: The Court has received the parties' joint letter outlining potential briefing and argument schedules and raising the question whether the motion to be litigated is properly one for a preliminary injunction or for summary judgment based on the administrative record. The Court thanks counsel for a thoughtful and informative letter. The Court's judgment is that it would benefit, in deciding on the proper course, from a conference with counsel. The Court accordingly will utilize the conference scheduled for tomorrow, July 12, 2019, at 2:00 p.m., for that purpose. For avoidance of doubt, the Court will not use tomorrow's conference to take up merits issues. The Court does expect, however, that counsel come prepared knowledgeably to discuss the nature of the issues to be litigated; the scale and nature of the administrative record; the relationship and interplay between this case and apparently parallel litigation in the Northern District of California; whether there is logic to litigating contemporaneously a motion for a preliminary injunction alongside a motion for summary judgment; and the arguments for and against various proposed schedules. The Court expects to resolve these questions at or shortly following tomorrow's hearing. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(rj) (Entered: 07/11/2019)
07/11/2019	49	ORDER granting (114) Letter Motion for Conference in case 1:19-cv-04676-PAE: Granted. The Governmental Plaintiffs are directed to provide the Court, via email, with a conference number and a list of auditing participants by 12:00 p.m. tomorrow. The auditing participants should be on the line 5 minutes in advance of the conference time, at 1:55 p.m. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 07/11/2019)
07/12/2019	50	MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # 1 Affidavit

		Declaration in Support of Motion for Admission Pro Hac Vice, # 2 Exhibit CA Certificate of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (50 in 1:19-cv-05433-PAE, 117 in 1:19-cv-04676-PAE, 54 in 1:19-cv-05435-PAE) MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/12/2019	51	MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # 1 Affidavit Declaration in Support of Motion for Admission Pro Hac Vice, # 2 Exhibit NY Certificate of Good Standing, # 3 Exhibit FL Certificate of Good Standing, # 4 Exhibit DC Certificate of Good Standing, # 5 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Hilborn, Jason) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (118 in 1:19-cv-04676-PAE, 55 in 1:19-cv-05435-PAE, 51 in 1:19-cv-05433-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/16/2019	52	ORDER terminating (88) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. The Court accordingly sets the following schedule: July 22, 2019: Defendants produce the administrative record ("A.R.") to plaintiffs and file a certified list of the contents of the A.R. with the Court. August 14, 2019: Defendants file their motion for summary judgment and their opposition to plaintiffs' motions for a preliminary injunction. Defendants are to file a single brief addressing these subjects. August 21, 2019: Amicus briefs supporting defendants are to be filed. September 5, 2019: Plaintiffs file their oppositions to defendants' summary judgment motion, their cross-motions for summary judgment, and their replies in support of their motions for a preliminary injunction. Plaintiffs are to file single briefs addressing these subjects. September 12, 2019: Amicus briefs supporting plaintiffs are to be filed. September 19, 2019: Defendants file their reply in support of the motion for summary judgment and their opposition to plaintiffs' motions for summary judgment. Defendants are to file a single brief addressing these subjects. October 3, 2019: Plaintiffs file their reply briefs in support of their motions for summary judgment. October 18, 2019: Oral argument will be held, beginning at 9:30 a.m., at the Thurgood Marshall United States Courthouse, 40 Centre

		Street, New York, N.Y. 10007. The courtroom at which argument will be held is to be determined. As to the mechanics of briefing, although the Court expects that the plaintiffs will coordinate amongst themselves to avoid unnecessary duplication of briefing, the Court does not direct that plaintiffs file a single consolidated brief but will allow two separate briefs, one each from the government plaintiffs (19 Civ. 4676) and the provider plaintiffs (19 Civ. 5433 and 19 Civ. 5435). The Court sets the following page limits for each party's submissions. Defendants' opening brief (due August 14) is limited to 80 pages. Plaintiffs' briefs (due September 5) are limited to 50 pages each. Defendants' brief (due September 19) is limited to 50 pages. Plaintiffs' reply briefs (due October 3) are limited to 30 pages each. All amicus briefs are limited to 25 pages. The Court is conscious that there is a pending motion to intervene in this case, see Dkts. 64, 109, that will become fully briefed today. The Court will address the proposed intervenor's participation in the schedule, if necessary, upon resolution of that motion. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (anc) Modified on 7/17/2019 (anc). (Entered: 07/16/2019)
07/16/2019		Set/Reset Deadlines: Cross Motions due by 9/5/2019. Motions due by 8/14/2019. Responses due by 9/19/2019. Replies due by 10/3/2019. Set/Reset Hearings: Oral Argument set for 10/18/2019 at 09:30 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(anc) (Entered: 07/16/2019)
07/16/2019	53	ORDER FOR ADMISSION PRO HAC VICE granting (118) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (51) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (55) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 7/15/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 07/16/2019)
07/16/2019	54	ORDER FOR ADMISSION PROHACVICE on re: (118 in 1:19-cv-04676-PAE, 51 in 1:19-cv-05433-PAE, 55 in 1:19-cv-05435-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. filed by Regina Renee Frost, Christian Medical and Dental Associations. The motion of Jason H. Hilborn, for admission to practice Pro Hae Vice in the above captioned action is granted. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/15/2019) (kv) Modified on 9/29/2019 (kv). (Entered: 07/16/2019)
07/16/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Initial Pretrial Conference held on 7/16/2019. Matthew Colangelo, Diana Salgado & Alexa Kolbi-Molinas present for Plaintiffs. Benjamin Takemoto present for Defendants. Court reporter present. (ajs) (Entered: 07/17/2019)

07/19/2019	55	ORDER granting (130) Motion to Authorize in case 1:19-cv-04676-PAE. Defendants' motion for entry of order is GRANTED. Defendants are authorized to release the information described in Defendants' motion that may be covered by the Privacy Act, 5 U.S.C. § 552a, without obtaining the prior written consent of the individuals to whom such records or information pertain. IT IS SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rro) (Entered: 07/19/2019)
07/31/2019	56	ORDER FOR ADMISSION PRO HAC VICE granting 50 MOTION for Robert E. Dunn to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/31/2019) (jca) (Entered: 07/31/2019)
08/02/2019	57	OPINION & ORDER re: (64 in 1:19-cv-04676-PAE) MOTION to Intervene: For the reasons reviewed above, the Court denies CMDA and Dr. Frost's motion for intervention of right but grants their motion for permissive intervention. The Clerk of Court is respectfully requested to terminate the motion pending at Dkt. 64 and to add Dr. Regina Frost and the Christian Medical and Dental Association to the caption of this case as defendants. The Court authorizes CMDA and Dr. Frost to file a single consolidated brief, not to exceed 30 pages, in opposition to plaintiffs' motions for a preliminary injunction by August 14, 2019. They are also at liberty, within that single brief and that page limit, to move for summary judgment. In the event that CMDA and Dr. Frost do so move, their reply in support of the motion for summary judgment, not to exceed 15 pages, is due September 19, 2019. The Court will permit CMDA and Dr. Frost's counsel to participate in argument on October 18, 2019. (Regina Frost and Christian Medical and Dental Association added.) (Signed by Judge Paul A. Engelmayer on 8/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/02/2019)
08/12/2019	58	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Adam Grogg to Withdraw as Attorney . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # 1 Affidavit, # 2 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Grogg, Adam) Modified on 10/8/2019 (db). (Entered: 08/12/2019)
08/13/2019	59	ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS granting (143) Motion to Withdraw as Attorney; granting (58) Motion to Withdraw as Attorney; granting (66) Motion to Withdraw as Attorney: Adam Grogg seeks leave to withdraw as counsel for plaintiffs Planned Parenthood Federation of America, Inc., and Planned Parenthood of Northern New England, Inc., in No. 19-cv-5433. The Court concludes that the motion be granted. (Attorney Adam Grogg terminated) (Signed by Judge Paul A. Engelmayer on 8/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/13/2019)
08/14/2019	60	ORDER GRANTING MOTION FOR WITHDRAWAL OF ATTORNEY granting (144) Motion to Withdraw as Attorney. in case 1:19-cv-04676-PAE. It is hereby ORDERED that: 1. Ms. Deutsch's appearance as counsel in this case

		is withdrawn. 2. The Clerk of the Court shall update case records accordingly. So ORDERED. (Signed by Judge Paul A. Engelmayer on 8/14/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 08/14/2019)
08/14/2019	61	MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment</i> . Document filed by Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. Responses due by 9/4/2019 (Attachments: # 1 Exhibit, # 2 Text of Proposed Order)(Humphreys, Bradley) (Entered: 08/14/2019)
08/14/2019	62	MEMORANDUM OF LAW in Support re: 61 MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment. and in Opposition to Plaintiffs' Motion for Preliminary Injunction</i> . Document filed by Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. (Humphreys, Bradley) (Entered: 08/14/2019)
08/16/2019	63	ORDER with respect to (157) Letter Motion to Compel in case 1:19-cv-04676-PAE. The Court has received plaintiffs' letter dated 8/15/2019, indicating that the administrative record, which the Court ordered to be produced on 7/22/2019, has yet to be produced in complete form. The Court has nor previously been aware of this circumstance, and defendants have not sought leave of Court to extend the 7/22/2019 deadline. The Court directs defendants to respond in writing by 5 p.m. today, 8/16/2019, addressing whether the complete administrative record has not been produced, the Court directs that it be produced by 5 p.m. on Monday, 8/19/2019, and counsel for defendants by that date and time file a sworn certification on the docket of this case representing that the administrative record has been filed in complete form. The Court hereby schedules a conference for Wednesday, 8/21/2019, at 11 a.m., which will be held in the event that defendants have not certified, by 5 p.m. on 8/19/2019, that complete administrative record has been produced. The purpose of the conference would be to determine whether sanctions, including contempt sanctions, are appropriate, for the unexcused failure to comply with the aspect of the scheduling order in this case setting a deadline for production of the administrative record, and to determine whether any modifications to the briefing schedule are necessary. (Signed by Judge Paul A. Engelmayer on 8/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (tro) (Entered: 08/16/2019)
08/16/2019		Set/Reset Deadlines as to (157 in 1:19-cv-04676-PAE) LETTER MOTION to Compel defendants to complete the administrative record addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated August 15, 2019.. Responses due by 8/16/2019 Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)
08/16/2019		Set/Reset Hearings: Status Conference set for 8/21/2019 at 11:00 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)
08/19/2019	64	ORDER re: (161 in 1:19-cv-04676-PAE) Notice: In light of the Government's certification that it has produced the full administrative record to the Plaintiffs,

		Dkt. 161, the conference scheduled for August 21, 2019 is adjourned. (Signed by Judge Paul A. Engelmayer on 8/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/20/2019)
08/21/2019	65	MOTION for Denise Mayo Harle to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17469700. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # 1 Affidavit Affidavit of Denise Harle in Support of PHV Motion, # 2 Exhibit FL Certificate of Good Standing, # 3 Exhibit GA Certificate of Good Standing, # 4 Text of Proposed Order Proposed Order) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	66	NOTICE OF APPEARANCE by Denise Harle on behalf of American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	67	MOTION for Leave to File Amicus Brief <i>in Support of Defendants' Motion for Summary Judgment</i> . Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # 1 Proposed Amicus Brief, # 2 Text of Proposed Order Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	68	ORDER FOR ADMISSION PRO HAC VICE granting (167) Motion for David M. Zions to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. The motion of David M. Zions for admission to practice pro hac vice in the above captioned action is granted. IT IS HEREBY ORDERED that Applicant is admitted to practice pro hac vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 8/21/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (yv) (Entered: 08/22/2019)
08/22/2019	69	ORDER GRANTING UNOPPOSED MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF DEFENDANTS granting (171) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (67) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (75) Motion for Leave to File Document in case 1:19-cv-05435-PAE: Having considered the papers and pleadings on file, the Court GRANTS the Motion and ORDERS that the amicus curiae brief submitted by Alliance Defending Freedom be filed. (Signed by Judge Paul A. Engelmayer on 8/22/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)

08/22/2019	70	ORDER FOR ADMISSION PRO HAC VICE granting (169) in case 1:19-cv-04676-PAE; granting (65) in case 1:19-cv-05433-PAE; granting (73) in case 1:19-cv-05435-PAE Motion for Denise Mayo Harle to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 8/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)
08/30/2019	71	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated 8/30/2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 08/30/2019)
09/03/2019	72	ORDER granting (175) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (71) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (78) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 9/3/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (ne) (Entered: 09/04/2019)
09/03/2019	73	ORDER granting (176) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. Granted. So Ordered. (Signed by Judge Paul A. Engelmayer on 9/3/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/04/2019)
09/05/2019	74	MOTION for Summary Judgment . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	75	MEMORANDUM OF LAW in Support re: 74 MOTION for Summary Judgment . <i>in Opposition to Defendants' Motion for Summary Judgment, and in Further Support of Plaintiffs' Motion for Preliminary Injunction.</i> Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	76	DECLARATION of Kimberly Custer (Second) in Support re: 74 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	77	DECLARATION of Meagan Gallagher (Second) in Support re: 74 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	78	DECLARATION of Clare M. Coleman (Second) in Support re: 74 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	79	

		DECLARATION of Lisa David (Second) in Support re: 74 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/06/2019	80	MOTION for Julie Wilensky to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17556811. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Center for Lesbian Rights. (Attachments: # 1 Affidavit of Julie Wilensky, # 2 Exhibit CA Certificate of Good Standing, # 3 Exhibit NY Certificate of Good Standing, # 4 Exhibit CT Certificate of Good Standing, # 5 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/06/2019)
09/09/2019	81	ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE granting (189) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (80) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (87) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 9/9/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/09/2019)
09/10/2019	82	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Robert E. Dunn dated September 10, 2019. Document filed by Christian Medical and Dental Associations, Regina Renee Frost, Christian Medical and Dental Association, Regina Frost.Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 09/10/2019)
09/11/2019	83	ORDER granting (192) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (82) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (89) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. (Signed by Judge Paul A. Engelmayer on 9/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 09/11/2019)
09/12/2019	84	MOTION for Leave to File Brief of Amici Curiae of <i>NCLR et al.</i> Document filed by National Center for Lesbian Rights. (Attachments: # 1 Brief of NCLR et al. as Amici Curiae)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/12/2019)
09/12/2019	85	NOTICE OF APPEARANCE by Stephanie Schuster on behalf of The National LGBT Cancer Network, Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	86	CONSENT MOTION to File Amicus Brief . Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1

		Brief in Support of Plaintiff's Motion For Summary Judgment)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	87	MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591569. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) (Entered: 09/12/2019)
09/12/2019	88	MEMO ENDORSEMENT granting (194) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (84) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (91) Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/12/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/12/2019)
09/12/2019	89	MOTION for Susan Baker Manning to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591611. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) (Entered: 09/12/2019)
09/12/2019	90	MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591637. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificate of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) (Entered: 09/12/2019)
09/12/2019	91	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North

		American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health. (Attachments: # 1 Exhibit 1 - Proposed Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	92	MEMORANDUM OF LAW in Support re: (98 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	93	NOTICE OF APPEARANCE by Peter M. Skinner on behalf of City of Columbus. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	94	MOTION for Leave to File AMICUS CURIAE BRIEF . Document filed by City of Columbus. (Attachments: # 1 BRIEF OF AMICI CURIAE LOCAL GOVERNMENTS, # 2 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	95	LETTER MOTION for Oral Argument / <i>Letter Requesting Oral Argument</i> addressed to Judge Paul A. Engelmayer from Shannon Rose Selden dated September 12, 2019. Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health.Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/13/2019	96	MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificate of Good Standing, # 3 Text of Proposed Order)Filed In Associated

		Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) (Entered: 09/13/2019)
09/13/2019	97	LETTER addressed to Judge Paul A. Engelmayer from Shannon R. Selden dated September 13, 2019 re: withdrawal of oral argument request (Dkt. 207). Document filed by, the American Society for Reproductive Medicine, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health, The American Medical Association. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/13/2019)
09/13/2019	98	MEMO ENDORSEMENT granting (202) Motion to File Amicus Brief in case 1:19-cv-04676-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	99	ORDER granting (206) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (94) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (101) Motion for Leave to File Document in case 1:19-cv-05435-PAE: On September 12, 2019, fifteen amici curiae local governments moved for leave to file a brief in support of Plaintiffs' motion for summary judgment in these actions. Having considered the papers and pleadings on file, the Court GRANTS the motion and ORDERS that the brief be filed. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	100	MEMO ENDORSEMENT granting (203) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (91) Letter Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (98) Letter Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	101	MEMO ENDORSEMENT granting (197) Motion to File Amicus Brief in case 1:19-cv-04676-PAE; granting (86) Motion to File Amicus Brief in case 1:19-cv-05433-PAE; granting (93) Motion to File Amicus Brief in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. The amici are granted leave to file the brief, and the Court will consider the proposed brief. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/16/2019	102	ORDER FOR ADMISSION PRO HAC VICE granting (208) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting

		(96) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (103) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/16/2019)
09/16/2019	103	ORDER terminating (207) Letter Motion for Oral Argument in case 1:19-cv-04676-PAE; terminating (95) Letter Motion for Oral Argument in case 1:19-cv-05433-PAE; terminating (102) Letter Motion for Oral Argument in case 1:19-cv-05435-PAE. The Court appreciates this letter and respectfully requests the Clerk of the Court to terminate the motion pending at Dkt. 207. (Signed by Judge Paul A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (cf) (Entered: 09/16/2019)
09/17/2019	104	MOTION for Susan Baker Manning to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) (Entered: 09/17/2019)
09/18/2019	105	MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) (Entered: 09/18/2019)
09/19/2019	106	ORDER FOR ADMISSION PRO HAC VICE granting (198) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting (218) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (87) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting (105) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (112) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Geraldine E. Edens, for admission to practice Pro Hae Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)

09/19/2019	107	ORDER FOR ADMISSION PRO HAC VICE granting (217) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (89) Motion for Susan Baker Manning to Appear Pro Hac Vice; granting (104) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (111) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Susan Baker Manning, for admission to practice Pro Hac Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)
09/24/2019	108	NOTICE OF APPEARANCE by Benjamin Daniel Battles on behalf of State of Vermont. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Battles, Benjamin) (Entered: 09/24/2019)
10/03/2019	109	REPLY MEMORANDUM OF LAW in Support re: (74 in 1:19-cv-05433-PAE) MOTION for Summary Judgment ., (81 in 1:19-cv-05435-PAE) MOTION for Summary Judgment ., (183 in 1:19-cv-04676-PAE) MOTION for Summary Judgment . . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 10/03/2019)
10/04/2019	110	ORDER FOR ADMISSION PRO HAC VICE granting (230) Motion for Robin Thurston to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 10/4/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE (jwh) (Entered: 10/04/2019)
10/14/2019	111	LETTER addressed to Judge Paul A. Engelmayer from David M. Zionts dated October 14, 2019 re: Presentation of Arguments at Hearing on October 18, 2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Zionts, David) (Entered: 10/14/2019)
10/15/2019	112	ORDER: Argument in the above-captioned cases is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. The argument will be held in courtroom 506. The Court has allocated three hours for argument. The Court anticipates that plaintiffs will argue first and will have 75 minutes among them. The Court has received plaintiffs' counsel's letter identifying the allocation of topics among counsel. Dkt. 238. The Court appreciates this notice. The Court expects plaintiffs' counsel to carefully manage time to assure that sufficient time remains to address the important subjects to be covered by the third and fourth presenters, and as further set forth in this Order. So ordered. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 506, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer). (Signed by Judge Paul A. Engelmayer on 10/15/2019) Filed In Associated

		Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 10/15/2019)
10/16/2019	113	ORDER: Argument in the above-captioned cases will now be held in courtroom 318. The venue has changed in order to enable the Court to use courtroom 506 as an overflow room in the event attendance exceeds capacity. Argument is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 318, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer.) (Signed by Judge Paul A. Engelmayer on 10/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/17/2019)
10/18/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Oral Argument held on 10/18/2019. Court reporter present. (ajs) (Entered: 10/18/2019)
10/21/2019	114	ORDER: The Court has noted that only portions of the administrative record have been filed on the docket. To assure completeness, defendants are to file a copy of the full administrative record on the docket by Friday, October 25, 2019. (Signed by Judge Paul A. Engelmayer on 10/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/21/2019)
10/25/2019	115	ORDER granting (243) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE: Granted. (Signed by Judge Paul A. Engelmayer on 10/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 10/25/2019)
11/06/2019	116	OPINION AND ORDER: For the foregoing reasons, the Court grants plaintiffs' motions for summary judgment; denies HHS's motions both to dismiss and for summary judgment; and denies as moot plaintiffs' motion for preliminary relief. The Court accordingly vacates HHS's 2019 Rule in its entirety. A separate order will issue shortly terminating these and all other outstanding motions. The Clerk of Court is respectfully directed thereafter to close these cases. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Main Document 116 replaced on 11/6/2019) (mro). (Entered: 11/06/2019)
11/06/2019	117	ORDER denying as moot (41) Motion for Preliminary Injunction; denying (147) Motion to Dismiss; denying (149) Motion for Summary Judgment; granting (179) Motion for Summary Judgment; granting (183) Motion for Summary Judgment; granting (195) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE; denying as moot (38) Letter Motion for Leave to File Document; denying (61) Motion to Dismiss; granting (74) Motion for Summary Judgment; granting (90) Motion to Appear Pro Hac Vice; denying as moot (19) Motion for Preliminary Injunction in case 1:19-cv-05433-PAE; denying as moot (43) Letter Motion for Leave to File Document; granting (52) Motion to Appear Pro Hac Vice; denying (69) Motion to Dismiss; granting (81) Motion for Summary Judgment; denying as moot (25) Motion for

Preliminary Injunction in case 1:19-cv-05435-PAE. Consistent with today's accompanying opinion and order, the Court hereby issues the following orders: In 19 Civ. 4676: The Court grants plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. In 19 Civ. 5433: The Court grants plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 61; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. In 19 Civ 5435: The Court grants plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 69; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52. The Court respectfully directs the Clerk of the Court to terminate the foregoing pending motions and close this case. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) Transmission to Orders and Judgments Clerk for processing. (Entered: 11/06/2019)

11/06/2019

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CLERK'S JUDGMENT re: (123 in 1:19-cv-05435-PAE, 117 in 1:19-cv-05433, 249 in 1:19-cv-04676-PAE, Order on Motion for Preliminary Injunction, Order on Motion to Dismiss, Order on Motion for Summary Judgment, Order on Motion for Leave to File Document, Order on Motion to Appear Pro Hac Vice,. in favor of City of Chicago, City of New York, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, Cook County, Illinois, District of Columbia, National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc., Public Health Solutions, Inc., State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maryland, State of Michigan, State of Minnesota, State of Nevada, State of New Jersey, State of New Mexico, State of New York, State of Oregon, State of Rhode Island, State of Vermont, State of Wisconsin against Christian Medical and Dental Association, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, U.S. Department of Health and Human Services, United States Department of Health And Human Services, United States Department of Health and Human Services, United States of America, Alex M. Azar, II, Alex M. Azar II, Regina Frost, Roger Severino. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated November 6, 2019, and consistent with today's accompanying Opinion and Order, the Court hereby issues the following orders: in 19 Civ. 4676: The Court grants Plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc

		<p>pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. in 19 Civ. 5433: The Court grants Plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 61; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. in 19 Civ. 5435: The Court grants Plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 69; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52; accordingly, these cases are closed. (Signed by Clerk of Court Ruby Krajick on 11/06/2019) (Attachments: # 1 Notice of Right to Appeal) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(dt) (Entered: 11/06/2019)</p>
12/04/2019	119	<p>LETTER MOTION for Extension of Time <i>to File Bill of Costs</i> addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated December 4, 2019. Document filed by National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Public Health Solutions, Inc., State of New York. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 12/04/2019)</p>
12/06/2019	120	<p>ORDER: granting (251) Letter Motion for Extension of Time in case 1:19-cv-04676-PAE; granting (119) Letter Motion for Extension of Time in case 1:19-cv-05433-PAE; granting (125) Letter Motion for Extension of Time in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 12/05/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ama) (Entered: 12/06/2019)</p>
12/18/2019	121	<p>FILING ERROR - NO ORDER/JUDGMENT SELECTED FOR APPEAL - NOTICE OF APPEAL. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) Modified on 12/18/2019 (nd). (Entered: 12/18/2019)</p>
12/18/2019		<p>***NOTICE TO ATTORNEY REGARDING DEFICIENT APPEAL. Notice to attorney Ho, Allyson to RE-FILE Document No. (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal,.. The filing is deficient for the following reason(s): the order/judgment being appealed was not selected;. Re-file the appeal using the event type Corrected Notice of Appeal found under the event list Appeal Documents - attach the correct signed PDF - select the correct named filer/filers - select the correct order/judgment being appealed. Filed</p>

	Rights, Roger Severino, United States Department of Health And Human Services. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Humphreys, Bradley) (Entered: 01/03/2020)
01/03/2020	Appeal Fee Not Required for 123 Notice of Appeal filed by Alex M. Azar II, Office for Civil Rights, Roger Severino, United States Department of Health And Human Services. Appeal filed by U.S. Government. (nd) (Entered: 01/03/2020)
01/03/2020	Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 123 Notice of Appeal,, (nd) (Entered: 01/03/2020)
01/03/2020	Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 123 Notice of Appeal,, filed by Alex M. Azar II, Roger Severino, Office for Civil Rights, United States Department of Health And Human Services were transmitted to the U.S. Court of Appeals. (nd) (Entered: 01/03/2020)

PACER Service Center			
Transaction Receipt			
01/16/2020 13:26:04			
PACER Login:	loervold	Client Code:	
Description:	Docket Report	Search Criteria:	1:19-cv-05433-PAE
Billable Pages:	30	Cost:	3.00

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-05435-PAE**

National Family Planning and Reproductive Health
Association et al v. Azar et al
Assigned to: Judge Paul A. Engelmayer
Lead case: [1:19-cv-04676-PAE](#)
Member case: [\(View Member Case\)](#)
Related Case: [1:19-cv-04676-PAE](#)
Cause: 05:702 Administrative Procedure Act

Date Filed: 06/11/2019
Date Terminated: 11/06/2019
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review
or Appeal of Agency Decision
Jurisdiction: Federal Question

Plaintiff

**National Family Planning and
Reproductive Health Association**

represented by **Brigitte Adrienne Amiri**

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Plaintiff

Public Health Solutions, Inc.

represented by **Brigitte Adrienne Amiri**
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V.

Defendant

Alex M. Azar, II
*in his official capacity as Secretary of
the U.S. Department of Health and
Human Services*

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Defendant

**U.S. Department of Health and
Human Services**

represented by **Benjamin Thomas Takemoto**
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ATTORNEY TO BE NOTICED

Bradley Humphreys
(See above for address)

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant

Roger Severino
*in his official capacity as Director of
the Office for Civil Rights of the U.S.
Department of Health and Human
Services*

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Bradley Humphreys
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Defendant

**Office for Civil Rights of the U.S.
Department of Health and Human
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Bradley Humphreys
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Defendant

Dr. Regina Frost

Defendant

**Christian Medical and Dental
Association**

Interested Party

**Planned Parenthood Federation of
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Interested Party

**Planned Parenthood of Northern
New England, Inc.**

represented by **Sarah Mac Dougall**
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V.

Amicus

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Amicus

**the American College of
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Amicus

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Date Filed	#	Docket Text
06/11/2019	<u>1</u>	COMPLAINT against Alex M. Azar, II, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, U.S. Department of Health and Human Services. (Filing Fee \$ 400.00, Receipt Number ANYSDC-17057562)Document filed by Public Health Solutions, Inc.,

		National Family Planning and Reproductive Health Association. (Attachments: # 1 Exhibit A - Final Rule)(Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	2	CIVIL COVER SHEET filed. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	3	RELATED CASE AFFIRMATION of Alexa Kolbi-Molinas re: that this action be filed as related to 19-cv-4676. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	4	REQUEST FOR ISSUANCE OF SUMMONS as to Alex M. Azar II, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	5	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Department of Health and Human Services, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	6	REQUEST FOR ISSUANCE OF SUMMONS as to Roger Severino, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	7	REQUEST FOR ISSUANCE OF SUMMONS as to Office for Civil Rights of the U.S. Department of Health and Human Services, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	8	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Department of Health and Human Services, c/o Attorney General of the United States, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	9	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Department of Health and Human Services, c/o U.S. Attorney's Office, Southern District of New York, re: 1 Complaint,. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	10	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Kolbi-Molinas, Alexa) (Entered: 06/11/2019)
06/11/2019	11	NOTICE OF APPEARANCE by Christopher T Dunn on behalf of National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Dunn, Christopher) (Entered: 06/11/2019)
06/11/2019	12	

		NOTICE OF APPEARANCE by Erin Beth Harrist on behalf of National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Harrist, Erin) (Entered: 06/11/2019)
06/12/2019	13	NOTICE OF APPEARANCE by Brigitte Adrienne Amiri on behalf of National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Amiri, Brigitte) (Entered: 06/12/2019)
06/12/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Alexa Rebecca Kolbi-Molinas. The party information for the following party/parties has been modified: Alex M. Azar, II; Roger Severino. The information for the party/parties has been modified for the following reason/reasons: party text was omitted;. (jgo) (Entered: 06/12/2019)
06/12/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Unassigned. (jgo) (Entered: 06/12/2019)
06/12/2019		Case Designated ECF. (jgo) (Entered: 06/12/2019)
06/12/2019		CASE REFERRED TO Judge Paul A. Engelmayer as possibly related to 19-cv-4676. (jgo) (Entered: 06/12/2019)
06/12/2019	14	ELECTRONIC SUMMONS ISSUED as to Alex M. Azar, II. (jgo) (Entered: 06/12/2019)
06/12/2019	15	ELECTRONIC SUMMONS ISSUED as to Office for Civil Rights of the U.S. Department of Health and Human Services. (jgo) (Entered: 06/12/2019)
06/12/2019	16	ELECTRONIC SUMMONS ISSUED as to Roger Severino. (jgo) (Entered: 06/12/2019)
06/12/2019	17	ELECTRONIC SUMMONS ISSUED as to U.S. Department of Health and Human Services. (jgo) (Entered: 06/12/2019)
06/12/2019	18	ELECTRONIC SUMMONS ISSUED as to U.S. Department of Health and Human Services. (jgo) (Entered: 06/12/2019)
06/12/2019	19	ELECTRONIC SUMMONS ISSUED as to U.S. Department of Health and Human Services. (jgo) (Entered: 06/12/2019)
06/12/2019	20	MOTION to Consolidate Cases 1:19-cv-04676 . Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Kolbi-Molinas, Alexa) (Entered: 06/12/2019)
06/13/2019	21	ORDER: The Court hereby sets the following schedule for any preliminary injunction motion that may be filed in the two related cases. Such motions and accompanying memoranda of law will be due 5 p.m. on Monday, June 17, 2019. (That deadline is three days after the deadline the Court has set for the plaintiffs in 19 Civ. 4676 to file such a motion, which deadline remains in place for the 19 Civ. 4676 plaintiffs.) The Government's opposition to any preliminary injunction motion remains due on June 28, 2019. A reply, if any, by plaintiffs in any of these three cases is-and with respect to 19 Civ. 4676, remains-due on July 5, 2019. The Court will hear argument as to any

		preliminary injunction motions together, on Friday, July 12, 2019 at 2:00 p.m. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/13/2019) (anc) (Entered: 06/13/2019)
06/13/2019		Set/Reset Deadlines: Motions due by 6/17/2019. Responses due by 6/28/2019. Replies due by 7/5/2019. Set/Reset Hearings: Oral Argument set for 7/12/2019 at 02:00 PM before Judge Paul A. Engelmayer. (anc) (Entered: 06/13/2019)
06/13/2019		CASE ACCEPTED AS RELATED. Create association to 1:19-cv-04676-PAE. Notice of Assignment to follow. (bcu) (Entered: 06/13/2019)
06/13/2019		NOTICE OF CASE REASSIGNMENT to Judge Paul A. Engelmayer. Judge Unassigned is no longer assigned to the case. (bcu) (Entered: 06/13/2019)
06/13/2019		Magistrate Judge Stewart D. Aaron is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (bcu) (Entered: 06/13/2019)
06/14/2019	22	LETTER addressed to Judge Paul A. Engelmayer from Alexa Kolbi-Molinas dated 6/14/19 re: Intent to Move for Preliminary Injunction. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Kolbi-Molinas, Alexa) (Entered: 06/14/2019)
06/14/2019	23	MEMO ENDORSEMENT on UNOPPOSED MOTION FOR CONSOLIDATION, AND FOR LEAVE TO FILE JOINT MEMORANDUM OF LAW, IN EXCESS OF PAGE LIMIT, IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION with respect to [12 in case 19cv5433] [20 in case 19cv5435] Letter Motion to Consolidate Cases. ENDORSEMENT: The Court approves plaintiffs' request to file a joint memorandum of law in support of their motion for a preliminary injunction, and the request for extended page limits, upon the plaintiffs' representation that they will conform to the schedule set by the Court. Dkt. 16. The Court will address the motion to consolidate early next week. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/14/2019) (anc)**Pursuant to instructions from Chambers, Filed in cases 19cv5433, 19cv4676, and 19cv5435. Modified on 6/17/2019 (anc). (Entered: 06/14/2019)
06/17/2019	24	NOTICE OF APPEARANCE by Bradley Humphreys on behalf of Alex M. Azar, II, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, U.S. Department of Health and Human Services. (Humphreys, Bradley) (Entered: 06/17/2019)
06/17/2019	25	MOTION for Preliminary Injunction . Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/17/2019)
06/17/2019	26	JOINT MEMORANDUM OF LAW in Support re: 25 MOTION for Preliminary Injunction . . Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kolbi-Molinas, Alexa) (Entered: 06/17/2019)

06/17/2019	27	DECLARATION of Sarah Mac Dougall in Support re: 25 MOTION for Preliminary Injunction .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # 1 Exhibit A - Statutory Definitions, # 2 Exhibit B - Custer Declaration, # 3 Exhibit C - Gallagher Declaration, # 4 Exhibit D- Coleman Declaration, # 5 Exhibit E - David Declaration, # 6 Exhibit F - Chasen Declaration)(Mac Dougall, Sarah) (Entered: 06/17/2019)
06/19/2019	28	NOTICE OF APPEARANCE by Lindsey Kaley on behalf of National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Kaley, Lindsey) (Entered: 06/19/2019)
06/21/2019	29	FILING ERROR - DEFICIENT DOCKET ENTRY (SEE 30 Notice to File Amicus Brief) - CONSENT MOTION to File Amicus Brief . Document filed by Institute for Policy Integrity. (Attachments: # 1 Proposed Amicus Brief) (Revesz, Richard) Modified on 6/24/2019 (db). (Entered: 06/21/2019)
06/24/2019	30	NOTICE of filing of Corrected Proposed Amicus Brief re: 29 CONSENT MOTION to File Amicus Brief .. Document filed by Institute for Policy Integrity. (Revesz, Richard) (Entered: 06/24/2019)
06/26/2019		CONSOLIDATED MEMBER CASE: Create association to 1:19-cv-04676-PAE. (mro) (Entered: 06/26/2019)
06/26/2019	31	ORDER granting (12) Motion to Consolidate Cases in case 1:19-cv-05433-PAE; granting (20) Motion to Consolidate Cases in case 1:19-cv-05435-PAE. The Court grants the motions to consolidate cases 19 Civ. 5433 and 19 Civ. 5435 with 19 Civ. 4676. 19 Civ. 4676 shall serve as the lead case, and counsel are directed to file all filings on the docket of that case. The Clerk of Court is respectfully requested to grant the motions pending at 19 Civ. 5433, Dkt. 12, and 19 Civ. 5435, Dkt. 20. (Signed by Judge Paul A. Engelmayer on 6/26/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	32	ORDER FOR ADMISSION PRO HAC VICE granting (55) Motion for Jack Lienke to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	33	ORDER FOR ADMISSION PRO HAC VICE granting (53) Motion for Justin Gundlach to Appear Pro Hac Vice in case 1:19-cv-04676-PAE. (Signed by Judge Paul A. Engelmayer on 6/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 06/26/2019)
06/26/2019	34	NOTICE OF APPEARANCE by Shannon Rose Selden on behalf of the American College of Obstetricians and Gynecologists, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Osteopathic Obstetricians and Gynecologists,, the American Society for Reproductive Medicine, the National Association of Nurse Practitioners in Womens Health, the Society for Maternal-Fetal Medicine, the American College of Nurse-Midwives, the North

		American Society for Pediatric and Adolescent Gynecology, the American Muslim Health Professionals. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	35	NOTICE OF APPEARANCE by Anna Augusta Moody on behalf of, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Moody, Anna) (Entered: 06/26/2019)
06/26/2019	36	FILING ERROR - DEFICIENT DOCKET ENTRY (SEE 77 Motion) - MOTION for Leave to File Amicus Brief of <i>Leading Medical Organizations</i>. Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # 1 Appendix Motion, # 2 Exhibit Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) Modified on 6/27/2019 (db). (Entered: 06/26/2019)
06/26/2019	37	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. (Attachments: # 1 Exhibit Proposed Amicus Brief) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/26/2019	38	MEMORANDUM OF LAW in Support re: (37 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North

		American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 06/26/2019)
06/27/2019	39	ORDER denying (79) Motion to Continue in case 1:19-cv-04676-PAE. The Court denies defendants' request in its entirety. Unless and until defendants either (1) supply conclusive evidence that the effective date of the Final Rule has been officially postponed; or (2) consent to a Court order that would enjoin defendants from enforcing, applying, or taking any action to implement the Final Rule until resolution of the preliminary injunction motions, the existing briefing and argument schedule remains in effect. For avoidance of doubt, defendants' opposition to plaintiffs' motions for a preliminary injunction remain due tomorrow, June 28, 2019. The Court will construe a failure to file opposition submissions on this date as signifying that defendants do not oppose plaintiffs' application for preliminary relief. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)
06/27/2019	40	ORDER denying (83) Letter Motion for Extension of Time to File Response/Reply in case 1:19-cv-04676-PAE. Denied. The Court set this schedule over a month ago on June 13, 2019. See Dkt. 38. Plaintiffs' reply is due July 5, 2019. See id. Extending defendants' time to respond at this late juncture would require plaintiffs to spend the entirety of the week of the July 4 holiday drafting a reply brief, without the benefit of a weekend. The Court carefully considered the schedule it set on June 13, 2019 and declines to modify it at this late stage. SO ORDERED.. (Signed by Judge Paul A. Engelmayer on 6/27/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ks) (Entered: 06/27/2019)
06/28/2019	41	ORDER: The Court late yesterday denied, by memo endorsement, a letter motion in which defendants sought to extend today's deadline to file an opposition to plaintiffs' motions for a preliminary injunction until July 1, 2019. Dkt. 84. That ruling stands and the deadline for defendants' opposition to plaintiffs' motions for a preliminary injunction remains today. The Court, however, wishes to correct a factual error in yesterday's memo endorsement. The Court erroneously recited the date of the Order in which it set a briefing schedule on the preliminary injunction motion. That Order issued on June 7, 2019, Dkt. 27, and gave defendants two weeks, i.e., until June 28, 2019, to respond to plaintiffs' motions for a preliminary injunction, which under the Order was due, and which was timely filed, on June 14, 2019, Dkt. 41. The Court is mindful of counsels' understandable desire for additional time to brief the significant issues raised by the pending motions and shares all counsels' view that the process of reliable adjudication benefits from a measured briefing process. The Court is further mindful that counsel for the U.S. Department of Health and Human Services ("HHS") earlier this week sought additional time based on a representation by counsel that HHS will delay enforcement of the HHS rule at issue until November 22, 2019. Dkt. 79. The Court denied that request because HHS had not postponed the rule's effective date, Dkt. 82, and, without such a postponement, plaintiffs viably claimed a risk of harm, see Dkt.

		80. For avoidance of doubt, the Court clarifies that, in the event of an official postponement of the effective date of the rule to November 22, 2019, the Court would suspend today's deadline for an opposition brief, set a new and more protracted schedule for submission of the remaining briefs on plaintiffs' preliminary injunction motions, and thereafter entertain applications to litigate this case instead, as defendants have proposed, via cross-motions for summary judgment. Absent an official postponement of the effective date, however, the present briefing schedule stands. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Entered: 06/28/2019)
06/28/2019	42	MEMO ENDORSEMENT granting in part (77) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting in part (32) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting in part (37) Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: The Court grants the proposed amici curiae leave to submit the proposed brief and accompanying declarations and exhibits and accepts them for consideration. The Court reserves judgment on whether to permit counsel for the proposed amici curiae to present oral argument on the plaintiffs' motions for a preliminary injunction. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 6/28/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ne) (Entered: 06/28/2019)
06/28/2019	43	MOTION for Leave to File Over-length Amicus Brief . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # 1 Exhibit Proposed over-length Amicus Brief, # 2 Exhibit Proposed Declaration of Dr. David Stevens in Support of Opposition to Motion for Preliminary Injunction, # 3 Exhibit Proposed Declaration of Dr. Regina Frost in Support of Opposition to Motion for Preliminary Injunction)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)
06/28/2019	44	MEMORANDUM OF LAW in Support re: (43 in 1:19-cv-05435-PAE) MOTION for Leave to File Over-length Amicus Brief . . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 06/28/2019)
07/01/2019	45	STIPULATED REQUEST FOR AN ORDER TO POSTPONE RULE'S EFFECTIVE DATE; TO SUSPEND DEFENDANTS' DEADLINE TO RESPOND TO PLAINTIFFS' PRELIMINARY INJUNCTION MOTIONS; AND TO VACATE THE CURRENT BRIEFING SCHEDULE AND HEARING DATE [5 U.S.C. § 705]. Subject to the Court's approval, the parties through their undersigned counsel of record HEREBY STIPULATE as follows: 1. At present, Defendants' opposition to Plaintiffs' motions for a preliminary injunction is due on June 28, 2019, Plaintiffs' reply is due on July 5, 2019, and a hearing is scheduled on July 12, 2019. 2. The U.S. Department of Health and Human Services ("HHS") agrees to postpone the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23, 170 (May 21, 2019) ("Final Rule"), until November 22, 2019. HHS stipulates to this postponement because it is the

most efficient way to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiffs are "likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest." See *Winter v. NRDC*, 555 U.S. 7, 20 (2008). 3. Plaintiffs maintain that-for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants' motion to continue the deadline to respond to Plaintiffs' motions-Plaintiffs would suffer various irreparable injuries were the Final Rule's effective date not postponed. 4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019. 5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants' opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs' preliminary injunction motions. 6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule's new November 22, 2019 effective date. PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. See 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits. The following deadline(s) was terminated: Reply Deadline. Response Deadline. (Signed by Judge Paul A. Engelmayer on 6/28/2019) (rjm) (Entered: 07/01/2019)

07/01/2019

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ORDER. The Court has today issued the agreed-upon Order proposed by the parties at Dkt. 87-1. The Court's Order postpones the effective date of the United States Department of Health and Human Services' ("HHS") rule at issue in this litigation ("Final Rule") until November 22, 2019. The Order further vacates the preliminary injunction briefing schedule set forth in the Court's June 7, 2019, Dkt. 27, and June 13, 2019, Dkt. 38, Orders. In light of the above, it is no longer necessary for the conference scheduled for Friday, July 12, 2019 to serve as a hearing on plaintiffs' preliminary injunction motions. The Court wishes, however, promptly to put in place a schedule in this matter. The Court directs counsel for all parties in the consolidated cases comprising this litigation forthwith to meet and confer with the goals of (1) proposing a briefing schedule on plaintiffs' preliminary injunction motions, and (2) exploring whether a viable schedule can be agreed to that would permit the legality of HHS's Final Rule to be resolved instead on motions or cross-motions for summary judgment and, if so, proposing such a schedule. In considering a suitable schedule for any contemplated motion, the Court expects counsel to be mindful of the Court's interest in having sufficient time, following the completion of briefing, to hold oral argument and to consider and thoughtfully resolve the important and complex questions presented. The Court directs counsel to submit a joint letter, due at 12 noon on Wednesday, July 10, 2019, setting forth the parties' joint proposals-or, if agreement is not reached, the parties' alternative proposals-as to such schedules. If the Court determines

		that further consultation would assist it in setting a schedule, the Court will use the conference currently scheduled for Friday, July 12, 2019, at 2:00 p.m., to take up such questions with counsel. The Court accordingly asks lead counsel to remain available to attend a conference at that date and time, in courtroom 1305 of the Thurgood Marshall United States Courthouse, at 40 Centre Street. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/1/2019) Filed In Associated Cases: 1:19-cv-04676 PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 07/01/2019)
07/02/2019	47	ORDER. The Court yesterday adjourned the briefing schedule it had set for preliminary injunction motions in light of the parties' consent to an Order postponing the effective date of HHS's Final Rule until November 22, 2019. Dkt. 90. The Court will soon receive the parties' input as to the nature of the motions that will henceforth be made and the schedule for briefing them. In light of this development, the Court adjourns the deadlines it had set for submission of amicus briefs, which deadlines had been tied to the preliminary injunction schedule. The Court expects that the schedule the parties will propose will include dates for the submission of amicus briefs. For avoidance of doubt, to the extent that an amicus has submitted a brief in this case, such filing will not preclude that amicus from filing a new (superseding) brief on the schedule to be set. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (rjm) (Entered: 07/02/2019)
07/08/2019	48	NOTICE OF APPEARANCE by Benjamin Thomas Takemoto on behalf of Alex M. Azar II, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, United States Department of Health and Human Services, United States of America, Alex M. Azar II, Office for Civil Rights, Roger Severino, Alex M. Azar, II, Roger Severino, U.S. Department of Health and Human Services. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (Takemoto, Benjamin) (Entered: 07/08/2019)
07/09/2019	49	NOTICE OF APPEARANCE by Hana Bajramovic on behalf of Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Bajramovic, Hana) (Entered: 07/09/2019)
07/11/2019	50	ORDER: The Court has received the parties' joint letter outlining potential briefing and argument schedules and raising the question whether the motion to be litigated is properly one for a preliminary injunction or for summary judgment based on the administrative record. The Court thanks counsel for a thoughtful and informative letter. The Court's judgment is that it would benefit, in deciding on the proper course, from a conference with counsel. The Court accordingly will utilize the conference scheduled for tomorrow, July 12, 2019, at 2:00 p.m., for that purpose. For avoidance of doubt, the Court will not use tomorrow's conference to take up merits issues. The Court does expect, however, that counsel come prepared knowledgeably to discuss the nature of the issues to be litigated; the scale and nature of the administrative record; the relationship and interplay between this case and apparently parallel litigation in the Northern District of California; whether there is logic to litigating

		contemporaneously a motion for a preliminary injunction alongside a motion for summary judgment; and the arguments for and against various proposed schedules. The Court expects to resolve these questions at or shortly following tomorrow's hearing. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(rj) (Entered: 07/11/2019)
07/11/2019	51	ORDER granting (114) Letter Motion for Conference in case 1:19-cv-04676-PAE: Granted. The Governmental Plaintiffs are directed to provide the Court, via email, with a conference number and a list of auditing participants by 12:00 p.m. tomorrow. The auditing participants should be on the line 5 minutes in advance of the conference time, at 1:55 p.m. (Signed by Judge Paul A. Engelmayer on 7/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 07/11/2019)
07/12/2019	52	MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Gill, Elizabeth) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE re: Document No. 52 MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of California; the filing fee was not paid;. Re-file the motion as a Motion to Appear Pro Hac Vice - attach the correct signed PDF - select the correct named filer/filers - attach valid Certificates of Good Standing issued within the past 30 days - attach Proposed Order. Pay the filing fee using the event Pro Hac Vice Fee Payment found under the event list Other Documents. (wb) (Entered: 07/12/2019)
07/12/2019	53	MOTION for Daniel Mach to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17234887. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc.. (Attachments: # 1 Affidavit Affidavit of Daniel Mach in Support of Motion to Admit Pro Hac Vice, # 2 Text of Proposed Order Proposed Order for Admission Pro Hac Vice, # 3 District of Columbia Certificate of Good Standing, # 4 New York Certificate of Good Standing)(Mach, Daniel) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. 53 MOTION for Daniel Mach to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17234887. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/12/2019)
07/12/2019	54	MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and

		Dental Associations, Regina Renee Frost. (Attachments: # 1 Affidavit Declaration in Support of Motion for Admission Pro Hac Vice, # 2 Exhibit CA Certificate of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (50 in 1:19-cv-05433-PAE, 117 in 1:19-cv-04676-PAE, 54 in 1:19-cv-05435-PAE) MOTION for Robert E. Dunn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236369. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/12/2019	55	MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. (Attachments: # 1 Affidavit Declaration in Support of Motion for Admission Pro Hac Vice, # 2 Exhibit NY Certificate of Good Standing, # 3 Exhibit FL Certificate of Good Standing, # 4 Exhibit DC Certificate of Good Standing, # 5 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Hilborn, Jason) (Entered: 07/12/2019)
07/12/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. (118 in 1:19-cv-04676-PAE, 55 in 1:19-cv-05435-PAE, 51 in 1:19-cv-05433-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jc) (Entered: 07/12/2019)
07/12/2019	56	ORDER FOR ADMISSION PRO HAC VICE granting 53 Motion for Daniel Mach to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/12/2019) (ks) (Entered: 07/12/2019)
07/16/2019	57	ORDER terminating (88) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. The Court accordingly sets the following schedule: July 22, 2019: Defendants produce the administrative record ("A.R.") to plaintiffs and file a certified list of the contents of the A.R. with the Court. August 14, 2019: Defendants file their motion for summary judgment and their opposition to plaintiffs' motions for a preliminary injunction. Defendants are to file a single brief addressing these subjects. August 21, 2019: Amicus briefs supporting defendants are to be filed. September 5, 2019: Plaintiffs file their oppositions to defendants' summary judgment motion, their cross-motions for summary judgment, and their replies in support of their motions for a preliminary injunction. Plaintiffs are to file single briefs addressing these subjects. September 12, 2019: Amicus briefs supporting plaintiffs are to be filed. September 19, 2019: Defendants file their reply in support of the motion

		<p>for summary judgment and their opposition to plaintiffs' motions for summary judgment. Defendants are to file a single brief addressing these subjects. October 3, 2019: Plaintiffs file their reply briefs in support of their motions for summary judgment. October 18, 2019: Oral argument will be held, beginning at 9:30 a.m., at the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, N.Y. 10007. The courtroom at which argument will be held is to be determined. As to the mechanics of briefing, although the Court expects that the plaintiffs will coordinate amongst themselves to avoid unnecessary duplication of briefing, the Court does not direct that plaintiffs file a single consolidated brief but will allow two separate briefs, one each from the government plaintiffs (19 Civ. 4676) and the provider plaintiffs (19 Civ. 5433 and 19 Civ. 5435). The Court sets the following page limits for each party's submissions. Defendants' opening brief (due August 14) is limited to 80 pages. Plaintiffs' briefs (due September 5) are limited to 50 pages each. Defendants' brief (due September 19) is limited to 50 pages. Plaintiffs' reply briefs (due October 3) are limited to 30 pages each. All amicus briefs are limited to 25 pages. The Court is conscious that there is a pending motion to intervene in this case, see Dkts. 64, 109, that will become fully briefed today. The Court will address the proposed intervenor's participation in the schedule, if necessary, upon resolution of that motion. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (anc) Modified on 7/17/2019 (anc). (Entered: 07/16/2019)</p>
07/16/2019		<p>Set/Reset Deadlines: Cross Motions due by 9/5/2019. Motions due by 8/14/2019. Responses due by 9/19/2019. Replies due by 10/3/2019. Set/Reset Hearings: Oral Argument set for 10/18/2019 at 09:30 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(anc) (Entered: 07/16/2019)</p>
07/16/2019	58	<p>ORDER FOR ADMISSION PRO HAC VICE granting (118) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (51) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (55) Motion for Robert E. Dunn to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 7/15/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 07/16/2019)</p>
07/16/2019	59	<p>ORDER FOR ADMISSION PROHACVICE on re: (118 in 1:19-cv-04676-PAE, 51 in 1:19-cv-05433-PAE, 55 in 1:19-cv-05435-PAE) MOTION for Jason H. Hilborn to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17236645. Motion and supporting papers to be reviewed by Clerk's Office staff. filed by Regina Renee Frost, Christian Medical and Dental Associations. The motion of Jason H. Hilborn, for admission to practice Pro Hae Vice in the above captioned action is granted. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hae Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. SO</p>

		ORDERED. (Signed by Judge Paul A. Engelmayer on 7/15/2019) (kv) Modified on 9/29/2019 (kv). (Entered: 07/16/2019)
07/16/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Initial Pretrial Conference held on 7/16/2019. Matthew Colangelo, Diana Salgado & Alexa Kolbi-Molinas present for Plaintiffs. Benjamin Takemoto present for Defendants. Court reporter present. (ajs) (Entered: 07/17/2019)
07/19/2019	60	ORDER granting (130) Motion to Authorize in case 1:19-cv-04676-PAE. Defendants' motion for entry of order is GRANTED. Defendants are authorized to release the information described in Defendants' motion that may be covered by the Privacy Act, 5 U.S.C. § 552a, without obtaining the prior written consent of the individuals to whom such records or information pertain. IT IS SO ORDERED. (Signed by Judge Paul A. Engelmayer on 7/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rro) (Entered: 07/19/2019)
07/29/2019	61	AFFIDAVIT OF SERVICE. All Defendants. Service was made by MAIL. Document filed by Public Health Solutions, Inc., National Family Planning and Reproductive Health Association. (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2, # 3 Exhibit Exhibit 3)(Kaley, Lindsey) (Entered: 07/29/2019)
07/30/2019		Pro Hac Vice Fee Payment: for 52 MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Filing fee \$ 200.00, receipt number ANYSDC-17341240.(Gill, Elizabeth) (Entered: 07/30/2019)
07/30/2019	62	MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Family Planning and Reproductive Health Association, Public Health Solutions, Inc..(Gill, Elizabeth) (Entered: 07/30/2019)
07/31/2019		>>> NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. 62 MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/31/2019)
07/31/2019	63	ORDER FOR ADMISSION PRO HAC VICE granting 54 MOTION for Robert E. Dunn to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/31/2019) (jca) (Entered: 07/31/2019)
07/31/2019	64	ORDER FOR ADMISSION PRO HAC VICE granting 62 MOTION for Elizabeth Olmsted Gill to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 7/31/2019) (jca) (Entered: 07/31/2019)
08/02/2019	65	OPINION & ORDER re: (64 in 1:19-cv-04676-PAE) MOTION to Intervene: For the reasons reviewed above, the Court denies CMDA and Dr. Frost's motion for intervention of right but grants their motion for permissive intervention. The Clerk of Court is respectfully requested to terminate the motion pending at Dkt. 64 and to add Dr. Regina Frost and the Christian Medical and Dental Association to the caption of this case as defendants. The

		Court authorizes CMDA and Dr. Frost to file a single consolidated brief, not to exceed 30 pages, in opposition to plaintiffs' motions for a preliminary injunction by August 14, 2019. They are also at liberty, within that single brief and that page limit, to move for summary judgment. In the event that CMDA and Dr. Frost do so move, their reply in support of the motion for summary judgment, not to exceed 15 pages, is due September 19, 2019. The Court will permit CMDA and Dr. Frost's counsel to participate in argument on October 18, 2019. (Regina Frost and Christian Medical and Dental Association added.) (Signed by Judge Paul A. Engelmayer on 8/2/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/02/2019)
08/12/2019	66	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Adam Grogg to Withdraw as Attorney . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Attachments: # 1 Affidavit, # 2 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Grogg, Adam) Modified on 10/8/2019 (db). (Entered: 08/12/2019)
08/13/2019	67	ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS granting (143) Motion to Withdraw as Attorney; granting (58) Motion to Withdraw as Attorney; granting (66) Motion to Withdraw as Attorney: Adam Grogg seeks leave to withdraw as counsel for plaintiffs Planned Parenthood Federation of America, Inc., and Planned Parenthood of Northern New England, Inc., in No. 19-cv-5433. The Court concludes that the motion be granted. (Attorney Adam Grogg terminated) (Signed by Judge Paul A. Engelmayer on 8/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/13/2019)
08/14/2019	68	ORDER GRANTING MOTION FOR WITHDRAWAL OF ATTORNEY granting (144) Motion to Withdraw as Attorney. in case 1:19-cv-04676-PAE. It is hereby ORDERED that: 1. Ms. Deutsch's appearance as counsel in this case is withdrawn. 2. The Clerk of the Court shall update case records accordingly. So ORDERED. (Signed by Judge Paul A. Engelmayer on 8/14/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 08/14/2019)
08/14/2019	69	MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment</i> . Document filed by Alex M. Azar, II, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, U.S. Department of Health and Human Services. Responses due by 9/5/2019 (Attachments: # 1 Exhibit, # 2 Text of Proposed Order)(Humphreys, Bradley) (Entered: 08/14/2019)
08/14/2019	70	MEMORANDUM OF LAW in Support re: 69 MOTION to Dismiss <i>or, in the Alternative, for Summary Judgment. and in Opposition to Plaintiffs' Motion for Preliminary Injunction</i> . Document filed by Alex M. Azar, II, Office for Civil Rights of the U.S. Department of Health and Human Services, Roger Severino, U.S. Department of Health and Human Services. (Humphreys, Bradley) (Entered: 08/14/2019)
08/16/2019	71	

		<p>ORDER with respect to (157) Letter Motion to Compel in case 1:19-cv-04676-PAE. The Court has received plaintiffs' letter dated 8/15/2019, indicating that the administrative record, which the Court ordered to be produced on 7/22/2019, has yet to be produced in complete form. The Court has not previously been aware of this circumstance, and defendants have not sought leave of Court to extend the 7/22/2019 deadline. The Court directs defendants to respond in writing by 5 p.m. today, 8/16/2019, addressing whether the complete administrative record has not been produced, the Court directs that it be produced by 5 p.m. on Monday, 8/19/2019, and counsel for defendants by that date and time file a sworn certification on the docket of this case representing that the administrative record has been filed in complete form. The Court hereby schedules a conference for Wednesday, 8/21/2019, at 11 a.m., which will be held in the event that defendants have not certified, by 5 p.m. on 8/19/2019, that complete administrative record has been produced. The purpose of the conference would be to determine whether sanctions, including contempt sanctions, are appropriate, for the unexcused failure to comply with the aspect of the scheduling order in this case setting a deadline for production of the administrative record, and to determine whether any modifications to the briefing schedule are necessary. (Signed by Judge Paul A. Engelmayer on 8/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (tro) (Entered: 08/16/2019)</p>
08/16/2019		<p>Set/Reset Deadlines as to (157 in 1:19-cv-04676-PAE) LETTER MOTION to Compel defendants to complete the administrative record addressed to Judge Paul A. Engelmayer from Matthew Colangelo dated August 15, 2019.. Responses due by 8/16/2019 Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)</p>
08/16/2019		<p>Set/Reset Hearings: Status Conference set for 8/21/2019 at 11:00 AM before Judge Paul A. Engelmayer. Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(tro) (Entered: 08/16/2019)</p>
08/19/2019	72	<p>ORDER re: (161 in 1:19-cv-04676-PAE) Notice: In light of the Government's certification that it has produced the full administrative record to the Plaintiffs, Dkt. 161, the conference scheduled for August 21, 2019 is adjourned. (Signed by Judge Paul A. Engelmayer on 8/19/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 08/20/2019)</p>
08/21/2019	73	<p>MOTION for Denise Mayo Harle to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17469700. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # 1 Affidavit Affidavit of Denise Harle in Support of PHV Motion, # 2 Exhibit FL Certificate of Good Standing, # 3 Exhibit GA Certificate of Good Standing, # 4 Text of Proposed Order Proposed Order) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)</p>
08/21/2019		

		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>73</u> MOTION for Denise Mayo Harle to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17469700. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (bcu) (Entered: 08/21/2019)
08/21/2019	<u>74</u>	NOTICE OF APPEARANCE by Denise Harle on behalf of American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/21/2019	<u>75</u>	MOTION for Leave to File Amicus Brief <i>in Support of Defendants' Motion for Summary Judgment</i> . Document filed by American Association of Pro-Life Obstetricians & Gynecologists, American College of Pediatricians, Catholic Medical Association, National Catholic Bioethics Center. (Attachments: # <u>1</u> Proposed Amicus Brief, # <u>2</u> Text of Proposed Order Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harle, Denise) (Entered: 08/21/2019)
08/22/2019	<u>76</u>	ORDER GRANTING UNOPPOSED MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF DEFENDANTS granting (171) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (67) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (75) Motion for Leave to File Document in case 1:19-cv-05435-PAE: Having considered the papers and pleadings on file, the Court GRANTS the Motion and ORDERS that the amicus curiae brief submitted by Alliance Defending Freedom be filed. (Signed by Judge Paul A. Engelmayer on 8/22/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)
08/22/2019	<u>77</u>	ORDER FOR ADMISSION PRO HAC VICE granting (169) in case 1:19-cv-04676-PAE; granting (65) in case 1:19-cv-05433-PAE; granting (73) in case 1:19-cv-05435-PAE Motion for Denise Mayo Harle to Appear Pro Hac Vice. (Signed by Judge Paul A. Engelmayer on 8/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 08/22/2019)
08/30/2019	<u>78</u>	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated 8/30/2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 08/30/2019)
09/03/2019	<u>79</u>	ORDER granting (175) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (71) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (78) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 9/3/2019) Filed In Associated Cases:

		1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE. (ne) (Entered: 09/04/2019)
09/03/2019	80	ORDER granting (176) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE. Granted. So Ordered. (Signed by Judge Paul A. Engelmayer on 9/3/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/04/2019)
09/05/2019	81	MOTION for Summary Judgment . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..(Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	82	MEMORANDUM OF LAW in Support re: 81 MOTION for Summary Judgment . <i>in Opposition to Defendants' Motion for Summary Judgment, and in Further Support of Plaintiffs' Motion for Preliminary Injunction.</i> Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	83	DECLARATION of Kimberly Custer (Second) in Support re: 81 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	84	DECLARATION of Meagan Gallagher (Second) in Support re: 81 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	85	DECLARATION of Clare M. Coleman (Second) in Support re: 81 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/05/2019	86	DECLARATION of Lisa David (Second) in Support re: 81 MOTION for Summary Judgment .. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. (Mac Dougall, Sarah) (Entered: 09/05/2019)
09/06/2019	87	MOTION for Julie Wilensky to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17556811. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by National Center for Lesbian Rights. (Attachments: # 1 Affidavit of Julie Wilensky, # 2 Exhibit CA Certificate of Good Standing, # 3 Exhibit NY Certificate of Good Standing, # 4 Exhibit CT Certificate of Good Standing, # 5 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/06/2019)
09/09/2019	88	ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE granting (189) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (80) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (87) Motion for Julie Wilensky to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A.

		Engelmayer on 9/9/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/09/2019)
09/10/2019	89	LETTER MOTION for Leave to File Excess Pages addressed to Judge Paul A. Engelmayer from Robert E. Dunn dated September 10, 2019. Document filed by Christian Medical and Dental Associations, Regina Renee Frost, Christian Medical and Dental Association, Regina Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Dunn, Robert) (Entered: 09/10/2019)
09/11/2019	90	ORDER granting (192) Letter Motion for Leave to File Excess Pages in case 1:19-cv-04676-PAE; granting (82) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05433-PAE; granting (89) Letter Motion for Leave to File Excess Pages in case 1:19-cv-05435-PAE. Granted. (Signed by Judge Paul A. Engelmayer on 9/11/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) (Entered: 09/11/2019)
09/12/2019	91	MOTION for Leave to File Brief of Amici Curiae of <i>NCLR et al.</i> Document filed by National Center for Lesbian Rights. (Attachments: # 1 Brief of NCLR et al. as Amici Curiae) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Wilensky, Julie) (Entered: 09/12/2019)
09/12/2019	92	NOTICE OF APPEARANCE by Stephanie Schuster on behalf of The National LGBT Cancer Network, Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	93	CONSENT MOTION to File Amicus Brief . Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Brief in Support of Plaintiff's Motion For Summary Judgment) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Schuster, Stephanie) (Entered: 09/12/2019)
09/12/2019	94	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591569. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) Modified on 9/13/2019 (wb). (Entered: 09/12/2019)
09/12/2019	95	MEMO ENDORSEMENT granting (194) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (84) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (91) Motion for Leave to File Document

		in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/12/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/12/2019)
09/12/2019	<u>96</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Susan Baker Manning to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591611. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A - Affidavit in Support of Motion, # <u>2</u> Exhibit B - Certificates of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) Modified on 9/13/2019 (wb). (Entered: 09/12/2019)
09/12/2019	<u>97</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number NYSDC-17591637. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # <u>1</u> Exhibit A - Affidavit in Support of Motion, # <u>2</u> Exhibit B - Certificate of Good Standing, # <u>3</u> Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) Modified on 9/13/2019 (wb). (Entered: 09/12/2019)
09/12/2019	<u>98</u>	MOTION for Leave to File Amicus Brief . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health. (Attachments: # <u>1</u> Exhibit 1 - Proposed Amicus Brief)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	<u>99</u>	MEMORANDUM OF LAW in Support re: (98 in 1:19-cv-05435-PAE) MOTION for Leave to File Amicus Brief . . Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender

		Health. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/12/2019	100	NOTICE OF APPEARANCE by Peter M. Skinner on behalf of City of Columbus. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	101	MOTION for Leave to File AMICUS CURIAE BRIEF . Document filed by City of Columbus. (Attachments: # 1 BRIEF OF AMICI CURIAE LOCAL GOVERNMENTS, # 2 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Skinner, Peter) (Entered: 09/12/2019)
09/12/2019	102	LETTER MOTION for Oral Argument / <i>Letter Requesting Oral Argument</i> addressed to Judge Paul A. Engelmayer from Shannon Rose Selden dated September 12, 2019. Document filed by, the American Society for Reproductive Medicine, The American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health.Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/12/2019)
09/13/2019		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. 96 MOTION for Susan Baker Manning to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17591611. Motion and supporting papers to be reviewed by Clerk's Office staff., 97 MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17591637. Motion and supporting papers to be reviewed by Clerk's Office staff., 94 MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17591569. Motion and supporting papers to be reviewed by Clerk's Office staff.. The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of California, Florida, and Texas;. Re-file the motion as a Motion to Appear Pro Hac Vice - attach the correct signed PDF - select the correct named filer/filers - attach valid Certificates of Good Standing issued within the past 30 days - attach Proposed Order.. (wb) (Entered: 09/13/2019)
09/13/2019	103	MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificate of Good Standing, # 3 Text of Proposed Order)Filed In Associated

		Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Harris, Susan) (Entered: 09/13/2019)
09/13/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>103</u> MOTION for Susan Feigin Harris to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/13/2019)
09/13/2019	<u>104</u>	LETTER addressed to Judge Paul A. Engelmayer from Shannon R. Selden dated September 13, 2019 re: withdrawal of oral argument request (Dkt. 207). Document filed by, the American Society for Reproductive Medicine, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse-Midwives, the American College of Obstetricians and Gynecologists, the American College of Osteopathic Obstetricians and Gynecologists, the American Muslim Health Professionals, the National Association of Nurse Practitioners in Womens Health, the North American Society for Pediatric and Adolescent Gynecology, the Society for Maternal-Fetal Medicine, the World Professional Association for Transgender Health, The American Medical Association. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Selden, Shannon) (Entered: 09/13/2019)
09/13/2019	<u>105</u>	MEMO ENDORSEMENT granting (202) Motion to File Amicus Brief in case 1:19-cv-04676-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>106</u>	ORDER granting (206) Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (94) Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (101) Motion for Leave to File Document in case 1:19-cv-05435-PAE: On September 12, 2019, fifteen amici curiae local governments moved for leave to file a brief in support of Plaintiffs' motion for summary judgment in these actions. Having considered the papers and pleadings on file, the Court GRANTS the motion and ORDERS that the brief be filed. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>107</u>	MEMO ENDORSEMENT granting (203) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE; granting (91) Letter Motion for Leave to File Document in case 1:19-cv-05433-PAE; granting (98) Letter Motion for Leave to File Document in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/13/2019	<u>108</u>	MEMO ENDORSEMENT granting (197) Motion to File Amicus Brief in case 1:19-cv-04676-PAE; granting (86) Motion to File Amicus Brief in case 1:19-cv-05433-PAE; granting (93) Motion to File Amicus Brief in case 1:19-cv-05435-PAE. ENDORSEMENT: Granted. The amici are granted leave to file

		the brief, and the Court will consider the proposed brief. (Signed by Judge Paul A. Engelmayer on 9/13/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/13/2019)
09/16/2019	109	ORDER FOR ADMISSION PRO HAC VICE granting (208) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (96) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (103) Motion for Susan Feigin Harris to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. (Signed by Judge Paul A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 09/16/2019)
09/16/2019	110	ORDER terminating (207) Letter Motion for Oral Argument in case 1:19-cv-04676-PAE; terminating (95) Letter Motion for Oral Argument in case 1:19-cv-05433-PAE; terminating (102) Letter Motion for Oral Argument in case 1:19-cv-05435-PAE. The Court appreciates this letter and respectfully requests the Clerk of the Court to terminate the motion pending at Dkt. 207. (Signed by Judge Paul A. Engelmayer on 9/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (cf) (Entered: 09/16/2019)
09/17/2019	111	MOTION for Susan Baker Manning to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Baker Manning, Susan) (Entered: 09/17/2019)
09/17/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. 111 MOTION for Susan Baker Manning to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/17/2019)
09/18/2019	112	MOTION for Geraldine E. Edens to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, Legacy Community Health Services, Inc., National LGBTQ Task Force, The National LGBT Cancer Network. (Attachments: # 1 Exhibit A - Affidavit in Support of Motion, # 2 Exhibit B - Certificates of Good Standing, # 3 Text of Proposed Order)Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Edens, Geraldine) (Entered: 09/18/2019)
09/19/2019	113	ORDER FOR ADMISSION PRO HAC VICE granting (198) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting (218) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (87) Motion for Geraldine E. Edens to Appear Pro Hac Vice; granting

		(105) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (112) Motion for Geraldine E. Edens to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Geraldine E. Edens, for admission to practice Pro Hae Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)
09/19/2019	114	ORDER FOR ADMISSION PRO HAC VICE granting (217) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-04676-PAE; granting (89) Motion for Susan Baker Manning to Appear Pro Hac Vice; granting (104) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05433-PAE; granting (111) Motion for Susan Baker Manning to Appear Pro Hac Vice in case 1:19-cv-05435-PAE. The motion of Susan Baker Manning, for admission to practice Pro Hac Vice in the above captioned action is GRANTED. IT IS HEREBY ORDERED that Applicant is admitted to practice Pro Hac Vice in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing the discipline of attorneys. (Signed by Judge Paul A. Engelmayer on 9/18/19) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (yv) (Entered: 09/19/2019)
09/24/2019	115	NOTICE OF APPEARANCE by Benjamin Daniel Battles on behalf of State of Vermont. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Battles, Benjamin) (Entered: 09/24/2019)
10/03/2019	116	REPLY MEMORANDUM OF LAW in Support re: (74 in 1:19-cv-05433-PAE) MOTION for Summary Judgment ., (81 in 1:19-cv-05435-PAE) MOTION for Summary Judgment ., (183 in 1:19-cv-04676-PAE) MOTION for Summary Judgment . . Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc.. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 10/03/2019)
10/14/2019	117	LETTER addressed to Judge Paul A. Engelmayer from David M. Zionts dated October 14, 2019 re: Presentation of Arguments at Hearing on October 18, 2019. Document filed by Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc..Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Zionts, David) (Entered: 10/14/2019)
10/15/2019	118	ORDER: Argument in the above-captioned cases is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. The argument will be held in courtroom 506. The Court has allocated three hours for argument. The Court anticipates that plaintiffs will argue first and will have 75 minutes among them. The Court has received plaintiffs' counsel's letter identifying the

		allocation of topics among counsel. Dkt. 238. The Court appreciates this notice. The Court expects plaintiffs' counsel to carefully manage time to assure that sufficient time remains to address the important subjects to be covered by the third and fourth presenters, and as further set forth in this Order. So ordered. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 506, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer). (Signed by Judge Paul A. Engelmayer on 10/15/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (rjm) (Entered: 10/15/2019)
10/16/2019	119	ORDER: Argument in the above-captioned cases will now be held in courtroom 318. The venue has changed in order to enable the Court to use courtroom 506 as an overflow room in the event attendance exceeds capacity. Argument is scheduled for Friday, October 18, 2019, and will start promptly at 9:30am. (Oral Argument set for 10/18/2019 at 09:30 AM in Courtroom 318, 40 Centre Street, New York, NY 10007 before Judge Paul A. Engelmayer.) (Signed by Judge Paul A. Engelmayer on 10/16/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/17/2019)
10/18/2019		Minute Entry for proceedings held before Judge Paul A. Engelmayer: Oral Argument held on 10/18/2019. Court reporter present. (ajs) (Entered: 10/18/2019)
10/21/2019	120	ORDER: The Court has noted that only portions of the administrative record have been filed on the docket. To assure completeness, defendants are to file a copy of the full administrative record on the docket by Friday, October 25, 2019. (Signed by Judge Paul A. Engelmayer on 10/21/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(jwh) (Entered: 10/21/2019)
10/25/2019	121	ORDER granting (243) Letter Motion for Leave to File Document in case 1:19-cv-04676-PAE: Granted. (Signed by Judge Paul A. Engelmayer on 10/25/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (jwh) (Entered: 10/25/2019)
11/06/2019	122	OPINION AND ORDER: For the foregoing reasons, the Court grants plaintiffs' motions for summary judgment; denies HHS's motions both to dismiss and for summary judgment; and denies as moot plaintiffs' motion for preliminary relief. The Court accordingly vacates HHS's 2019 Rule in its entirety. A separate order will issue shortly terminating these and all other outstanding motions. The Clerk of Court is respectfully directed thereafter to close these cases. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(mro) (Main Document 122 replaced on 11/6/2019) (mro). (Entered: 11/06/2019)
11/06/2019	123	ORDER denying as moot (41) Motion for Preliminary Injunction; denying (147) Motion to Dismiss; denying (149) Motion for Summary Judgment; granting (179) Motion for Summary Judgment; granting (183) Motion for Summary Judgment; granting (195) Letter Motion for Leave to File Document

in case 1:19-cv-04676-PAE; denying as moot (38) Letter Motion for Leave to File Document; denying (61) Motion to Dismiss; granting (74) Motion for Summary Judgment; granting (90) Motion to Appear Pro Hac Vice; denying as moot (19) Motion for Preliminary Injunction in case 1:19-cv-05433-PAE; denying as moot (43) Letter Motion for Leave to File Document; granting (52) Motion to Appear Pro Hac Vice; denying (69) Motion to Dismiss; granting (81) Motion for Summary Judgment; denying as moot (25) Motion for Preliminary Injunction in case 1:19-cv-05435-PAE. Consistent with today's accompanying opinion and order, the Court hereby issues the following orders: In 19 Civ. 4676: The Court grants plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. In 19 Civ. 5433: The Court grants plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 61; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. In 19 Civ 5435: The Court grants plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment. Dkt. 69; and The Court denies as moot plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors' motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52. The Court respectfully directs the Clerk of the Court to terminate the foregoing pending motions and close this case. (Signed by Judge Paul A. Engelmayer on 11/6/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (mro) Transmission to Orders and Judgments Clerk for processing. (Entered: 11/06/2019)

11/06/2019

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CLERK'S JUDGMENT re: (123 in 1:19-cv-05435-PAE, 117 in 1:19-cv-05433, 249 in 1:19-cv-04676-PAE, Order on Motion for Preliminary Injunction, Order on Motion to Dismiss, Order on Motion for Summary Judgment, Order on Motion for Leave to File Document, Order on Motion to Appear Pro Hac Vice,. in favor of City of Chicago, City of New York, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, Cook County, Illinois, District of Columbia, National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Planned Parenthood of Northern New England, Inc., Public Health Solutions, Inc., State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maryland, State of Michigan, State of Minnesota, State of Nevada, State of New Jersey, State of New Mexico, State of New York, State of Oregon, State of Rhode Island, State of Vermont, State of Wisconsin against Christian Medical and Dental Association, Office for Civil Rights, Office for Civil Rights of the U.S. Department of Health and Human Services, U.S. Department of Health and Human Services, United States Department of

		<p>Health And Human Services, United States Department of Health and Human Services, United States of America, Alex M. Azar, II, Alex M. Azar II, Regina Frost, Roger Severino. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated November 6, 2019, and consistent with today's accompanying Opinion and Order, the Court hereby issues the following orders: in 19 Civ. 4676: The Court grants Plaintiffs' motion for summary judgment, Dkts. 179 and 183, and grants, nunc pro tunc, the motion by Scholars of the LGBT Population for leave to file an amicus brief, Dkt. 195; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 147, and the Defendant-Intervenors' motion for summary judgment, Dkt. 149; and The Court denies as moot plaintiffs' motion for preliminary relief. Dkt. 41. in 19 Civ. 5433: The Court grants Plaintiffs' motion for summary judgment. Dkt. 74; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 61; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 19; the Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 38; and Susan Feigin Harris's subsequently granted motion to appear pro hac vice, Dkt. 90. in 19 Civ. 5435: The Court grants Plaintiffs' motion for summary judgment. Dkt. 81; The Court denies HHS's motion to dismiss or, in the alternative, for summary judgment, Dkt. 69; and The Court denies as moot Plaintiffs' motion for preliminary relief, Dkt. 25; Defendant-Intervenors motion for leave to file an over-length amicus brief, Dkt. 43; and Elizabeth Olmsted Gill's subsequently granted motion to appear pro hac vice, Dkt. 52; accordingly, these cases are closed. (Signed by Clerk of Court Ruby Krajick on 11/06/2019) (Attachments: # 1 Notice of Right to Appeal) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(dt) (Entered: 11/06/2019)</p>
12/04/2019	125	<p>LETTER MOTION for Extension of Time <i>to File Bill of Costs</i> addressed to Judge Paul A. Engelmayer from Sarah Mac Dougall dated December 4, 2019. Document filed by National Family Planning and Reproductive Health Association, Planned Parenthood Federation of America, Inc., Public Health Solutions, Inc., State of New York. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Mac Dougall, Sarah) (Entered: 12/04/2019)</p>
12/06/2019	126	<p>ORDER: granting (251) Letter Motion for Extension of Time in case 1:19-cv-04676-PAE; granting (119) Letter Motion for Extension of Time in case 1:19-cv-05433-PAE; granting (125) Letter Motion for Extension of Time in case 1:19-cv-05435-PAE. Granted. SO ORDERED. (Signed by Judge Paul A. Engelmayer on 12/05/2019) Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE (ama) (Entered: 12/06/2019)</p>
12/18/2019	127	<p>FILING ERROR - NO ORDER/JUDGMENT SELECTED FOR APPEAL - NOTICE OF APPEAL. Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) Modified on 12/18/2019 (nd). (Entered: 12/18/2019)</p>
12/18/2019		

		<p>***NOTICE TO ATTORNEY REGARDING DEFICIENT APPEAL. Notice to attorney Ho, Allyson to RE-FILE Document No. (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal,.. The filing is deficient for the following reason(s): the order/judgment being appealed was not selected;. Re-file the appeal using the event type Corrected Notice of Appeal found under the event list Appeal Documents - attach the correct signed PDF - select the correct named filer/filers - select the correct order/judgment being appealed. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)</p>
12/18/2019	128	<p>CORRECTED NOTICE OF APPEAL re: (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal, (250 in 1:19-cv-04676-PAE) Clerk's Judgment, (248 in 1:19-cv-04676-PAE) Memorandum & Opinion,, (249 in 1:19-cv-04676-PAE, 249 in 1:19-cv-04676-PAE) Order on Motion for Preliminary Injunction, Order on Motion for Leave to File Document, , Order on Motion to Appear Pro Hac Vice, Order on Motion to Dismiss, Order on Motion for Summary Judgment . Document filed by Christian Medical and Dental Associations, Regina Renee Frost. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) Modified on 12/18/2019 (nd). (Entered: 12/18/2019)</p>
12/18/2019		<p>Appeal Fee Due: for (122 in 1:19-cv-05433-PAE, 128 in 1:19-cv-05435-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal.\$505.00 Appeal fee due by 1/2/2020. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)</p>
12/18/2019		<p>Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: (122 in 1:19-cv-05433-PAE, 128 in 1:19-cv-05435-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)</p>
12/18/2019		<p>Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for (128 in 1:19-cv-05435-PAE, 122 in 1:19-cv-05433-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal filed by Regina Renee Frost, Christian Medical and Dental Associations were transmitted to the U.S. Court of Appeals. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(nd) (Entered: 12/18/2019)</p>
12/20/2019		<p>Appeal Fee Payment: for (127 in 1:19-cv-05435-PAE, 253 in 1:19-cv-04676-PAE, 121 in 1:19-cv-05433-PAE) Notice of Appeal, (128 in 1:19-cv-05435-PAE, 122 in 1:19-cv-05433-PAE, 254 in 1:19-cv-04676-PAE) Corrected Notice of Appeal,,,,. Filing fee \$ 505.00, receipt number NYSDC-18332495. Filed In Associated Cases: 1:19-cv-04676-PAE, 1:19-cv-05433-PAE, 1:19-cv-05435-PAE(Ho, Allyson) (Entered: 12/20/2019)</p>

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, CITY OF
NEW YORK, STATE OF
COLORADO, STATE OF
CONNECTICUT, STATE OF
DELAWARE, DISTRICT OF
COLUMBIA, STATE OF HAWAII,
STATE OF ILLINOIS, STATE OF
MARYLAND, COMMONWEALTH
OF MASSACHUSETTS, STATE OF
MICHIGAN, STATE OF
MINNESOTA, STATE OF NEVADA,
STATE OF NEW JERSEY, STATE
OF NEW MEXICO, STATE OF
OREGON, COMMONWEALTH OF
PENNSYLVANIA, STATE OF
RHODE ISLAND, STATE OF
VERMONT, COMMONWEALTH
OF VIRGINIA, STATE OF
WISCONSIN, CITY OF CHICAGO,
and COOK COUNTY, ILLINOIS,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION NO.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. This lawsuit challenges a U.S. Department of Health and Human Services regulation that – in an unprecedented and unlawful expansion of nearly thirty federal statutory

provisions – would compel the Plaintiff States and local jurisdictions to grant to individual health providers the categorical right to deny lawful and medically necessary treatment, services, and information to patients, based on the provider’s own personal views. *Protecting Statutory Conscience Rights in Health Care; Delegations of Authority*, 84 Fed. Reg. 23,170 (May 21, 2019) (the “Final Rule”). This change to put providers above patients comes at a dangerous price: it will undermine the Plaintiffs’ ability to administer their health care systems and deliver patient care effectively and efficiently.

2. In violation of clear constitutional and statutory limits, the Final Rule seeks to coerce the Plaintiffs to comply with the Department’s overbroad application of federal law by subjecting the Plaintiffs to termination, withholding, or denial of potentially all federal health care funds if the Department determines, in its sole discretion, that the Plaintiffs, their agencies, or any of their sub-recipients have failed to comply with the Final Rule or any of the related statutory provisions. 84 Fed. Reg. at 23,271-72 (to be codified at 45 C.F.R. § 88.7). For the Plaintiffs, this financial exposure could amount to hundreds of billions of dollars each year.

3. The requirements that Defendants seek to impose through this Final Rule are invalid. The Final Rule far exceeds in scope and substance the underlying federal health care statutes it purports to implement; conflicts with federal statutes regarding access to health care, informed consent, the provision of emergency medical services, and religious accommodations; violates constitutional safeguards that assign the spending power to Congress and prohibit the Executive Branch from coercing states to implement preferred federal policies; and violates the Establishment Clause by imposing a categorical requirement that Plaintiffs accommodate the religious objections of their employees, whatever the cost.

4. The Final Rule harms Plaintiffs by undermining Plaintiffs' carefully-balanced health care policies and laws; imposing severe constraints on the operation of Plaintiffs' health care institutions that will dramatically undermine their effectiveness and burden their operations; and threatening Plaintiffs' right to billions of dollars in federal health care funds needed to assure the health and safety of Plaintiffs' residents and communities.

5. Plaintiffs' health care institutions operate to protect the health and welfare of their residents, yet the Final Rule undermines their efficient delivery of care and creates irrational, untenable, and potentially cruel situations. For example, the Final Rule would prohibit Plaintiffs' institutions from inquiring, pre-hire, whether a candidate for a nursing position had a religious objection to administering a measles vaccination, regardless of whether such a duty was a core element of the position needed during an outbreak of the disease. Or if a woman arrives at the emergency room of one of Plaintiffs' institutions presenting with a ruptured ectopic pregnancy, the Final Rule would permit a wide swath of employees – from receptionists to nurses to doctors to pharmacists to anesthesiologists – to refuse to assist that patient in real time, and without any advance notice, no matter the intense medical risk to the patient. And despite existing efforts of Plaintiffs' institutions to balance the beliefs of their staff with their mission to provide patient care, the Final Rule would similarly permit a doctor or medical resident – again, without notice – to refuse to remove a feeding tube from a comatose patient at the moment the procedure is set to occur, even if the patient's loved ones were present to witness the objection.

6. Communities of color and other vulnerable populations will bear a disproportionate burden of the harms caused by the Final Rule. Patients reliant on federal funding for the provision of health care are disproportionately non-white compared to the overall

population. And women and LGBTQI individuals who are already stigmatized in obtaining access to health care will be further hindered in obtaining the lawful medical services they need.

7. Plaintiffs the State of New York, the City of New York, the State of Colorado, the State of Connecticut, the State of Delaware, the District of Columbia, the State of Hawai‘i, the State of Illinois, the State of Maryland, the Commonwealth of Massachusetts, the State of Michigan, the State of Minnesota, the State of Nevada, the State of New Jersey, the State of New Mexico, the State of Oregon, the Commonwealth of Pennsylvania, the State of Rhode Island, the State of Vermont, the Commonwealth of Virginia, the State of Wisconsin, the City of Chicago, and the County of Cook therefore bring this action to vacate the Final Rule and enjoin its implementation because it exceeds and is contrary to Defendants’ statutory jurisdiction, authority, and limitations in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(C); is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law under the APA, 5 U.S.C. § 706(2)(A); is unconstitutionally vague and coercive in violation of the Spending Clause, U.S. Const. art. I, sec. 8, cl. 1; violates the constitutional separation of powers; and violates the Establishment Clause of the First Amendment to the U.S. Constitution.

JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2201(a). Jurisdiction is also proper under the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. § 702.

9. Declaratory and injunctive relief is sought consistent with 5 U.S.C. §§ 705 and 706, and as authorized in 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)(2) and (e)(1). Defendants are United States agencies or officers sued in their official capacities. Plaintiffs the State of New York and the City of New York are residents of this judicial district, and a

substantial part of the events or omissions giving rise to this Complaint occurred and are continuing to occur within the Southern District of New York.

PARTIES

11. Plaintiff the State of New York, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is New York State's chief law enforcement officer and is authorized to pursue this action pursuant to N.Y. Executive Law § 63.

12. Plaintiff the City of New York is a municipal corporation organized pursuant to the laws of the State of New York. New York City is a political subdivision of the State and derives its powers through the New York State Constitution, New York State laws, and the New York City Charter. New York City is the largest city in the United States by population.

13. Plaintiff the State of Colorado is a sovereign state of the United States of America. The State of Colorado brings this action by and through its Attorney General, Philip J. Weiser. The Attorney General has authority to represent the state, its departments, and its agencies, and "shall appear for the state and prosecute and defend all actions and proceedings, civil and criminal, in which the state is a party." Colo. Rev. Stat. § 24-31-101.

14. Plaintiff the State of Connecticut, acting by and through its Attorney General, William Tong, brings this action as the chief civil legal officer of the State, and at the request of Governor Ned Lamont. Attorney General Tong is empowered to bring this action on behalf of the State of Connecticut and the Governor under Conn. Gen. Stat. § 3-124 et seq.

15. Plaintiff the State of Delaware is represented by and through its Attorney General Kathleen Jennings, and is a sovereign state of the United States of America. Attorney General Jennings is Delaware's chief law enforcement officer, *see* Del. Const., art. III, and is authorized to pursue this action under 29 Del. Code § 2504.

16. Plaintiff the District of Columbia (the “District”) is a municipal corporation empowered to sue and be sued, and is the local government for the territory constituting the permanent seat of the federal government. The District brings this case through the Attorney General for the District of Columbia, who is the chief legal officer for the District and possesses all powers afforded the Attorney General by the common and statutory law of the District. The Attorney General is responsible for upholding the public interest and has the authority to file civil actions in order to protect the public interest. D.C. Code § 1-301.81.

17. Plaintiff the State of Hawai‘i, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is the State of Hawai‘i’s chief law enforcement officer and is authorized to pursue this action pursuant to Hawai‘i Revised Statutes §§ 26-7 and 28-1.

18. Plaintiff the State of Illinois, represented by and through its Attorney General, Kwame Raoul, is a sovereign state of the United States of America. The Attorney General is the chief legal officer of the State, Ill. Const. 1970, art. V, § 15, and is authorized to pursue this action under 15 ILCS 205/4.

19. Plaintiff the State of Maryland is a sovereign state of the United States of America. Maryland is represented by and through its chief legal officer, Attorney General Brian E. Frosh. Under the Constitution of Maryland, and as directed by the Maryland General Assembly, the Attorney General has the authority to file suit to challenge action by the federal government that threatens the public interest and welfare of Maryland residents. Md. Const. art. V, § 3(a)(2); 2017 Md. Laws, J. Res. 1.

20. Plaintiff the Commonwealth of Massachusetts, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is authorized to pursue this action under Mass. Gen. Laws ch. 12, §§ 3 and 10.

21. Plaintiff the State of Michigan, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is the State of Michigan's chief law enforcement officer and is authorized to pursue this action pursuant to Mich. Comp. Laws § 14.28.

22. Plaintiff the State of Minnesota, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is Minnesota's chief legal officer and is authorized to pursue this action on behalf of the State. Minn. Stat. § 8.01.

23. Plaintiff the State of Nevada, represented by and through its Attorney General, is a sovereign state of the United States of America. Attorney General Aaron D. Ford is the chief legal officer of the State of Nevada and has the authority to commence actions in federal court to protect the interests of Nevada. Nev. Rev. Stat. § 228.170. Governor Stephen F. Sisolak is the chief executive officer of the State of Nevada. The Governor is responsible for overseeing the operations of the State and ensuring that its laws are faithfully executed. Nev. Const., art. 5, § 1.

24. Plaintiff the State of New Jersey, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is New Jersey's chief legal officer and is authorized to pursue this action on behalf of the State. *See* N.J. Stat. Ann. § 52:17A-4(e), (g).

25. Plaintiff the State of New Mexico, represented by and through its Attorney General Hector Balderas, is a sovereign state of the United States of America. The Attorney

General is authorized to bring an action on behalf of New Mexico in any court when, in his judgment, the interests of the State so require, N.M. Stat. Ann. § 8-5-2.

26. Plaintiff the State of Oregon, acting by and through the Attorney General of Oregon, Ellen F. Rosenblum, is a sovereign state of the United States of America. The Attorney General is the chief law officer of Oregon and is empowered to bring this action on behalf of the State of Oregon, the Governor, and the affected state agencies under Or. Rev. Stat. §§ 180.060, 180.210, and 180.220.

27. Plaintiff the Commonwealth of Pennsylvania is a sovereign state of the United States of America. This action is brought on behalf of the Commonwealth by Attorney General Josh Shapiro, the “chief law officer of the Commonwealth.” Pa. Const. art. IV, § 4.1. Attorney General Shapiro brings this action on behalf of the Commonwealth pursuant to his statutory authority under 71 Pa. Stat. § 732-204.

28. Plaintiff the State of Rhode Island has the authority to initiate this action by and through its Attorney General, Peter F. Neronha. The Attorney General is a constitutional officer of the State, is vested with all of its common law powers, and has broad discretion to bring actions for the benefit of the State. *See* R.I. Const. art. 9, § 12; R. I. Gen. Laws § 42-9-6; *see also State v. Lead Indus. Ass’n, Inc.*, 951 A.2d 428, 470-74 (R.I. 2008).

29. Plaintiff the State of Vermont, represented by and through its Attorney General, Thomas J. Donovan, is a sovereign state in the United States of America. The Attorney General is the state’s chief law enforcement officer and is authorized to pursue this action pursuant to Vt. Stat. Ann. tit. 3, §§ 152 and 157.

30. Plaintiff the Commonwealth of Virginia brings this action by and through its Attorney General, Mark R. Herring. The Attorney General has the authority to represent the

Commonwealth, its departments, and its agencies in “all civil litigation in which any of them are interested.” Va. Code Ann. § 2.2-507(A).

31. Plaintiff the State of Wisconsin, represented by and through its Attorney General, Joshua L. Kaul, is a sovereign state of the United States of America. The Attorney General appears in this action at the request of the Governor to represent the interests of the State of Wisconsin pursuant to Wis. Stat. § 165.25(1m).

32. Plaintiff the City of Chicago is a municipal corporation and home-rule unit organized and existing under the constitution and laws of the State of Illinois. Chicago is the third largest city in the United States by population.

33. Plaintiff the County of Cook, Illinois (“Cook County”), is the second most populous county in the United States, with a populace of over five million people. Cook County is represented by its State’s Attorney, Kimberly M. Foxx, whose powers and duties include commencing and prosecuting all actions, civil and criminal, in which Cook County or its citizens might be concerned. 55 ILCS 5/3-9005. It is governed by its Board of Commissioners and Chief Elected Officer, Toni Preckwinkle (the “County Board”). The County Board serves as the Board of Public Health for Cook County, owning and operating Cook County Health & Hospitals System (“CCH”).

34. Plaintiffs are aggrieved by Defendants’ actions and have standing to bring this action because the Final Rule harms their sovereign, quasi-sovereign, economic, and proprietary interests and will continue to cause injury unless and until the Final Rule is vacated.

35. Defendant United States Department of Health and Human Services (“HHS” or “the Department”) is a cabinet agency within the executive branch of the United States

government, and is an agency within the meaning of 5 U.S.C. § 552(f). HHS promulgated the Final Rule and is responsible for its enforcement.

36. Defendant Alex M. Azar II is the Secretary of HHS and is sued in his official capacity.

37. Defendant the United States of America is sued as allowed by 5 U.S.C. § 702.

ALLEGATIONS

I. Federal statutory background.

38. In the Final Rule, HHS claims to interpret and implement nearly thirty federal statutory provisions concerning refusals to provide health care services due to religious objections, several of which concern behavior by state and local governments. 84 Fed. Reg. at 23,170-74, 23,263-69 (to be codified at 45 C.F.R. § 88.3). The most relevant of these statutes relate to abortion and sterilization; assisted suicide, euthanasia, and mercy killing; and counseling and referral, as described below.

A. Federal statutes related to abortion and sterilization.

39. The Final Rule states that it implements a number of statutes that principally concern objections to abortion and sterilization. 84 Fed. Reg. at 23,264-66 (to be codified at 45 C.F.R. §§ 88.3(a), (b), (c), (f)).

40. The Church Amendments, codified at 42 U.S.C. § 300a-7, prohibit government entities that receive certain federal funds from discriminating against physicians or health care personnel because they performed or assisted in the performance of any sterilization procedure or abortion or refused to do so because of religious beliefs or moral convictions. 42 U.S.C. § 300a-7(c)(1).

41. The Church Amendments also prohibit the use of federal funds to require any individual to perform or assist in the performance of any sterilization procedure or abortion, if contrary to that individual's religious beliefs or moral convictions. *Id.* § 300a-7(b)(1).

42. The Coats-Snowe Amendment, codified at 42 U.S.C. § 238n, prohibits state and local governments that receive federal funds from discriminating against "health care entities," defined to include physicians and participants in a health profession training program, on the ground that they refuse to be trained or provide training in the performance of abortion. 42 U.S.C. §§ 238n(a), (c)(2).

43. The Weldon Amendment is an appropriations rider that has been included in each HHS appropriations statute enacted since 2004. *E.g.*, Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, § 507(d), 132 Stat. 2981, 3118 (Sept. 28, 2018). The Weldon Amendment provides that none of the funds appropriated in the Act may be made available to any state or local government if it discriminates against any institutional or individual health care entity "on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions." *Id.* § 507(d)(1), 132 Stat. at 3118.

44. Section 1303 of the Affordable Care Act ("ACA") permits states to exclude abortion coverage from qualified health plans; provides that health plans are not required to cover abortion services as part of their essential health benefits; and prohibits health plans from discriminating against providers because of their unwillingness to provide or refer for abortions. 42 U.S.C. §§ 18023(a)(1), (b)(1)(A), (b)(4).

B. Federal statutes related to assisted suicide.

45. The Final Rule also states that it implements several statutes concerning objections to assisted suicide, euthanasia, or mercy killing. 84 Fed. Reg. at 23,266-67 (to be codified at 45 C.F.R. §§ 88.3(e), (i)).

46. Section 1553 of the ACA proscribes state and local governments that receive federal funding under the ACA from discriminating against a health care entity on the basis that the entity “does not provide any health care item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.” 42 U.S.C. § 18113(a).

47. In addition, the Assisted Suicide Funding Restriction Act of 1997 provides that the advanced directives requirements applicable to state-administered Medicaid programs, codified at 42 U.S.C. § 1396a(w), do not require a provider, organization, or its employees “to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing” 42 U.S.C. § 14406.

C. Federal statutes related to counseling and referral.

48. The Department states in the Final Rule that it is implementing a number of federal statutory provisions related to health care counseling or referral. 84 Fed. Reg. at 23,266-67 (to be codified at 45 C.F.R. § 88.3(h)).

49. As applicable to the Plaintiffs, the statute related to state-administered Medicaid programs, 42 U.S.C. § 1396u-2(b)(3)(B), provides that Medicaid managed care organizations are not required “to provide, reimburse for, or provide coverage of, a counseling or referral service if the organization objects to the provision of such service on moral or religious grounds,” so long as this policy is communicated to prospective enrollees. *Id.*

D. Other statutes that the Final Rule purports to implement.

50. The Final Rule states that it implements a range of disparate additional statutes that relate in some way to religious refusals to provide care. 84 Fed. Reg. at 23,267-69 (to be codified at 45 C.F.R. §§ 88.3(j) – 88.3(q)).

51. The ACA’s individual mandate, 26 U.S.C. § 5000A, includes an exemption for individuals whose religious beliefs prohibit accepting the benefits of private or public insurance. 26 U.S.C. § 5000A(d)(2)(A)(i); *see* 26 U.S.C. § 1402(g)(1).

52. Seven statutory provisions concern specific exemptions from various requirements for “religious nonmedical health care providers.” *See* 42 U.S.C. § 1320a-1(h) (exemption from limitation on use for capital expenditures); *id.* § 1320c-11 (exemption from requirements for quality improvement organizations); *id.* §§ 1395i-5, 1395x(e), 1395x(y)(1) (eligibility for nonmedical Medicare services); *id.* § 1396a(a) (exemption from Medicaid requirements for medical criteria and standards); *id.* § 1397j-1(b) (exemption from requirements to Elder Justice Block Grants to states).

53. The Final Rule also states that it implements statutes involving the Department’s grants and research conducted in consultation with the Department of Labor and related to occupational safety and health, *see* 29 U.S.C. § 669(a)(5); as well as statutes concerning early intervention and suicide assessments for youth, *see* 42 U.S.C. §§ 290bb-36(f), 5106i(a).

II. The “Protecting Statutory Conscience Rights in Health Care; Delegations of Authority” rule.

54. On May 4, 2017, the President signed an Executive Order entitled “Promoting Free Speech and Religious Liberty.” Exec. Order No. 13,798, 82 Fed. Reg. 21,675 (May 8, 2017). Among other things, this Executive Order directed the Attorney General to issue “Religious Liberty Guidance . . . interpreting religious liberty protections in Federal law.” *Id.*

55. On October 6, 2017, as directed by Executive Order 13,798, the Attorney General issued a memorandum “to guide all administrative agencies and executive departments in the execution of federal law.” Memorandum from the Attorney General to All Executive Departments and Agencies, *Federal Law Protections for Religious Liberty* 1 (Oct. 6, 2017), at <https://www.justice.gov/opa/press-release/file/1001891/download>.

56. The Attorney General’s religious liberty guidance identified several statutory provisions that the Department purports to implement in the Final Rule – including the Church Amendments, the Coats-Snowe Amendment, and the Weldon Amendment – as intended to “root out public and private discrimination based on religion.” *Federal Law Protections for Religious Liberty* 8a, 16a-17a.

A. The 2018 proposed rulemaking.

57. Pursuant to Executive Order 13,798 and the Attorney General’s religious liberty guidance, in January 2018, HHS published in the Federal Register a Notice of Proposed Rulemaking regarding refusals to provide health care services based on religious, moral, ethical, or other objections. *Protecting Statutory Conscience Rights in Health Care; Delegations of Authority*, 83 Fed. Reg. 3880, 3881, 3923 (proposed Jan. 26, 2018) (the “Proposed Rule”) (“Pursuant to the President’s Executive Order and Executive Branch policy, and in keeping with the Attorney General’s religious liberty guidance, HHS proposes this rule to enhance the awareness and enforcement of Federal health care conscience and associated anti-discrimination laws, to further conscience and religious freedom, and to protect the rights of individuals and entities to abstain from certain activities related to health care services without discrimination or retaliation.”).

58. The Proposed Rule described broad and unconditional rights for health care personnel to refuse to provide health care services on the basis of “religious, moral, ethical, or other reasons.” *Id.* at 3923.

59. The Proposed Rule intended to enforce these refusal rights by withholding, denying, or terminating all federal health care funds provided by the Department in the event the Department determined that there “appear[ed] to be a failure or threatened failure to comply” with the Proposed Rule or related statutes. *Id.* at 3931.

60. In assessing the likely costs of the Proposed Rule, the Department failed to include or account for the substantial monetary and nonmonetary costs of the health consequences and patient burdens resulting from increased likelihood of denials of medical services and care.

61. HHS received over 72,000 comments on the Proposed Rule. *See* Final Rule, 84 Fed. Reg. at 23,180 & n.41.

62. Nineteen States and the District of Columbia commented in opposition to the Proposed Rule and identified the shortcomings that are the subject of this challenge.¹

63. Plaintiff the City of New York also commented on the Proposed Rule, explaining that the proposal would harm patients, result in discrimination against vulnerable populations, and impose costly administrative burdens on the City’s health care system.²

¹ *See* Comment Letter from the Attorneys General of New York, *et al.* (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70188>; *see also* Comment Letter from N.Y. State Dep’t of Fin. Servs. (Mar. 21, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-51681>; Comment Letter from the Attorney General of California (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70182>.

² *See* Comment Letter from N.Y. City Dep’t of Health & Mental Hygiene, *et al.* (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71028>.

64. Prominent professional health care organizations and health care providers also submitted comments opposing the Proposed Rule, including the American Medical Association, the Association of American Medical Colleges, Planned Parenthood Federation of America, the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, and the American Academy of Physician Assistants.³

B. The Final Rule.

65. President Trump announced the Final Rule at a White House event on May 2, 2019. The President proclaimed that the Final Rule provided “new protections of conscience rights for physicians, pharmacists, nurses, teachers, students, and faith-based charities.”⁴

66. Following President Trump’s White House event, the Department released the Final Rule on May 2, 2019, and published it in the Federal Register on May 21, 2019. 84 Fed. Reg. at 23,170, 23-272.

67. The Final Rule is scheduled to take effect on July 22, 2019. 84 Fed. Reg. at 23,170.

68. The Final Rule states that its purpose is to “provide for the implementation and enforcement of the Federal conscience and anti-discrimination laws” identified in the Rule, in order to “protect the rights of individuals, entities, and health care entities to refuse to perform, assist in the performance of, or undergo certain health care services or research activities to

³ See, e.g., Comment Letter from Am. Med. Ass’n (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70564>; Comment Letter from Ass’n of Am. Med. Colleges (Mar. 26, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-67592>; Comment Letter from Planned Parenthood Fed’n of Am. (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71810>; Comment Letter from Am. Coll. of Obstetricians & Gynecologists (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70647>; Comment Letter from Am. Acad. of Pediatrics (Mar. 27, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71048>; Comment Letter from Am. Acad. of Physician Assistants (Mar. 26, 2018), at <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-65085>.

⁴ President Donald J. Trump, Remarks at the National Day of Prayer Service (May 2, 2019), at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-day-prayer-service/>.

which they may object for religious, moral, ethical, or other reasons.” 84 Fed. Reg. at 23,263 (to be codified at 45 C.F.R. § 88.1).

69. To effectuate this purpose, the Department purports to rely on nearly thirty different statutory provisions, none of which provide HHS with explicit authority to issue legislative rules implementing or interpreting provisions concerning refusals to provide health care services due to religious or moral objections.

70. As described below, the Department has attempted to accomplish this purpose by (1) redefining key statutory terms far beyond their plain text, in order to cover a broader range of conduct and entities than Congress enacted; (2) assigning to itself an extraordinarily broad and coercive enforcement power that would allow the Department to terminate billions of dollars in federal health care funds to the Plaintiffs if the Department decides that Plaintiffs have failed to comply with the Final Rule or any of the nearly thirty statutes it implements; and (3) ignoring or expressly claiming to abrogate contrary federal law, including patient protections in the Affordable Care Act, the Emergency Medical Treatment and Labor Act, and Title VII of the Civil Rights Act of 1964.

1. The Final Rule’s definitions of statutory terms.

71. The Final Rule defines “assist in the performance” to mean “to take an action that has a specific, reasonable, and articulable connection to furthering a procedure,” which “may include counseling, referral, . . . or otherwise making arrangements for the procedure . . . depending on whether aid is provided by such actions.” 84 Fed. Reg. at 23,263 (to be codified at 45 C.F.R. § 88.2).

72. Under this definition, simply scheduling a medical appointment would constitute “assistance,” *id.* at 23,186-87; and recipients of federal funds would be required to guess which routine procedures or referrals – such as driving an individual with an ectopic pregnancy to the

hospital – “may” constitute “assistance” that requires additional steps to accommodate workers or protect patients, *id.* at 23,188. The Final Rule does not identify a statutory basis for adopting a definition this broad and vague.

73. The Final Rule contains a lengthy definition of “discriminate or discrimination” that, among other requirements, provides that employers will need a “persuasive justification” to ask an employee if they are willing to perform an essential job function to which they might morally object; cannot create an accommodation that excludes a staff member from their “field[] of practice”; and must depend on an employee’s willingness to accept an accommodation to avoid discrimination, regardless of the reasonableness of such accommodation. 84 Fed. Reg. at 23,263 (to be codified at 45 C.F.R. § 88.2).

74. This definition of “discrimination” would appear to require that Plaintiffs’ health care entities hire someone who cannot deliver health care services that are critical to the health care entity’s mission, or risk sanction. The Final Rule’s definition of “discrimination” also would prohibit Plaintiffs’ health care entities from transferring an employee to another area of a health care entity or a different shift even if the employee’s beliefs categorically preclude the employee from performing the essential functions of the initial position.

75. In addition, the Final Rule defines “health care entity” to extend far beyond physicians and health care professionals, including as well any “health care personnel,” pharmacists, pharmacies, medical laboratories, and research facilities; and, for purposes of the Weldon Amendment, also including health insurance issuers, health insurance plans, and plan sponsors or third-party administrators. 84 Fed. Reg. at 23,264 (to be codified at 45 C.F.R. § 88.2).

76. This definition is far broader than the definition of “health care entity” contained in both the Coats-Snowe Amendment, *see* 42 U.S.C. § 238n(c)(2); and the Weldon Amendment, *see* Pub. L. No. 115-245, § 507(d)(2), 132 Stat. at 3118.

77. The Final Rule’s definition of “health care entity” would expand the applicable statutes far beyond their plain meaning, to permit objections by human resources analysts, customer service representatives, data entry clerks, and numerous others who believe that analyzing benefits, answering a benefits-related question, or entering a particular pre-authorization for an objected-to procedure, for example, is inconsistent with their personal beliefs.

78. The Final Rule defines “referral or refer for” to mean “the provision of information in oral, written, or electronic form . . . where the purpose or reasonably foreseeable outcome of provision of the information is to assist a person in receiving funding or financing for, training in, obtaining, or performing a particular health care service, program, activity, or procedure.” 84 Fed. Reg. at 23,264 (to be codified at 45 C.F.R. § 88.2).

79. When read together, the Final Rule’s definitions present an unreasonable and unworkable situation for Plaintiffs, both as direct providers of health care and as regulators and grantors of others who provide health care within Plaintiffs’ jurisdictions. An ambulance driver in a private, sub-contracted fleet, a customer service representative at an insurance company’s hotline, and a hospital pharmacist all share the right, under the Final Rule, not to be asked prior to hiring whether they can execute the core functions of their jobs without objection. Once hired, all three have no duty to voluntarily disclose to their employers any religious or moral objection to any aspect of their work. All three may object at any time to a task requested by their employers, without advance notice and regardless of the costs to patient health. And should their

employers subsequently seek to accommodate an expressed objection, all three have the categorical right to reject the accommodation as not “effective” – and without any consequence to their employment.

2. The Final Rule’s funding termination scheme.

80. The Final Rule authorizes the Department to withhold, deny, suspend, or terminate billions of dollars in federal health care funds to the Plaintiffs if the Department determines that in its view “there is a failure to comply” with any provision of the Final Rule or the statutes it implements. *See* 84 Fed. Reg. at 23,271-72 (to be codified at 45 C.F.R. § 88.7(i)).

81. The Final Rule states that determinations of noncompliance may “be resolved by informal means,” but expressly authorizes the Department to terminate a recipient’s federal funds even during the pendency of good-faith voluntary compliance efforts. *Id.* at 23,271-72 (to be codified at 45 C.F.R. § 88.7(i)(2)).

82. The Final Rule’s enforcement scheme disregards that Congress in the relevant statutes conditioned funding from specific sources to specific and disparate requirements and prohibitions. *Compare, e.g.*, 42 U.S.C. § 300a-7(c)(1) (Church Amendment restrictions that apply to specific statutory funding sources), *with id.* § 300a-7(c)(2) (Church Amendment restrictions that apply only to “grant[s] or contract[s] for biomedical or behavioral research).

83. The Department responded to comments during the rulemaking process regarding the astonishing overbreadth of the fund-termination threat by asserting in the preamble to the Final Rule that “[t]he only funding streams threatened by a violation of the Federal conscience and anti-discrimination laws are the funding streams that such statutes directly implicate.” *Id.* at 23,223. But the final regulatory text contains no description at all of the funds a recipient stands to lose if the Department determines that the recipient has not complied with the Final Rule. *See id.* at 23,271-72 (to be codified at 45 C.F.R. § 88.7(i)). Forcing Plaintiffs to guess which federal

funds are at risk – from among the nearly thirty statutes Defendants are claiming to implement with the Final Rule – is not consistent with constitutional and statutory requirements regarding separation of powers or grantmaking conditions that may attach to the use of federal funds.

84. In addition, the Department’s implementation of the Weldon Amendment in particular would place at risk not only Plaintiffs’ receipt of all federal funds from HHS, but also Plaintiffs’ receipt of *all* federal funds from the Department of Labor and Department of Education as well, including funds entirely unrelated to health care. *See* Departments of Labor, HHS, Education, and Related Agencies Appropriations Act, Pub. L. No. 115-245, §§ 3, 507(d), 132 Stat. at 2981, 3118, 3122; 84 Fed. Reg. at 23,172, 23,265-66, 23,272 (to be codified at 45 C.F.R. §§ 88.3(c), 88.7(i)(3)(i), (iii)). The Department cited no statutory support for its purported authority to create a regulatory enforcement mechanism to terminate funds originating from the Department of Labor and the Department of Education.

85. The Final Rule also appears to give the Department authority to terminate congressionally-appropriated funding in its discretion. *See* 84 Fed. Reg. at 23,271-72 (to be codified at 45 C.F.R. § 88.7).

86. The process for the Department to follow in order to effect compliance with the Final Rule is described only by cursory reference to three disparate administrative procedures, each identified by way of non-exclusive example, providing insufficient notice to Plaintiffs of their rights and responsibilities in an administrative process that could cost Plaintiffs billions of dollars in health care resources. *See* 84 Fed. Reg. at 23,272 (to be codified at 45 C.F.R. § 88.7(i)(3)) (“[C]ompliance . . . may be effected . . . pursuant to statutes and regulations which govern the administration of contracts (*e.g.*, Federal Acquisition Regulation), grants (*e.g.*, 45 CFR Part 75) and CMS funding arrangements (*e.g.*, the Social Security Act).”).

87. The Final Rule authorizes the Department to commence a compliance review or investigation of any of the Plaintiffs if the Department “suspect[s],” based on any source, noncompliance with the Final Rule or any of the underlying statutes. 84 Fed. Reg. at 23,271 (to be codified at 45 C.F.R. §§ 88.7(c), (d)).

88. The Department also claims the right in any investigation to require the Plaintiffs to waive any rights to doctor or patient privacy or confidentiality. *Id.* at 23,270-71 (to be codified at 45 C.F.R. § 88.6(c)).

3. The Final Rule’s interaction with federal law.

89. The Final Rule either ignores or expressly disclaims compliance with contrary federal law.

90. Section 1554 of the Affordable Care Act prohibits the Secretary of Health and Human Services from promulgating any regulation that “(1) creates any unreasonable barriers to the ability of individuals to obtain appropriate medical care; (2) impedes timely access to health care services; (3) interferes with communications regarding a full range of treatment options between the patient and the provider; (4) restricts the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions; (5) violates principles of informed consent and the ethical standards of health care professionals; or (6) limits the availability of health care treatment for the full duration of a patient’s medical needs.” 42 U.S.C. § 18114.

91. The Final Rule is contrary to each of the limitations on HHS’s rulemaking authority that Congress imposed through Section 1554 of the ACA. And the Department’s assertion in the Final Rule that Section 1554 only applies to regulations that themselves implement the ACA, 84 Fed. Reg. at 23,224, is contrary to both the text and judicial application of that statute. 42 U.S.C. § 18114; *see Oregon v. Azar*, No. 19-cv-317, 2019 WL 1897475, at

*12 (D. Or. Apr. 29, 2019); *California v. Azar*, No. 19-cv-1184, 2019 WL 1877392, at *21-22 (N.D. Cal. Apr. 26, 2019).

92. The Medicaid and Medicare statutes that the Final Rule states it is interpreting, *see* 84 Fed. Reg. at 23,263, 23,266-67 (to be codified at 45 C.F.R. § 88.3(h)), provide that with regard to informed consent, those statutes shall not “be construed to affect disclosure requirements under State law.” 42 U.S.C. § 1396u-2(b)(3)(B) (Medicaid managed care organization); *see also* 42 U.S.C. § 1395w-22(j)(3)(C) (Medicare+Choice). But the Final Rule seeks to and would interfere with the enforcement of State and local disclosure requirements on just this issue, as described further in ¶¶ 108-09 below.

93. The Emergency Medical Treatment and Labor Act (“EMTALA”), 42 U.S.C. § 1395dd, requires hospitals to provide emergency care. EMTALA defines the term “emergency medical condition” to include “a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy” 42 U.S.C. § 1395dd(e)(1)(A).

94. The Final Rule acknowledges EMTALA, noting only that “where EMTALA might apply in a particular case, the Department would apply both EMTALA and the relevant law under this rule harmoniously to the extent possible.” 84 Fed. Reg. at 23,188. But the Final Rule contains no provisions that specify how the statutory mandate to provide emergency care will be protected when, in the Department’s view, that mandate conflicts with the categorical refusal-of-care rights that the Final Rule confers on employees. *Id.* at 23,263.

95. Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment based on religious beliefs, 42 U.S.C. § 2000e-2(a); and balances protection of religious beliefs against employers' needs by providing that employers are not obligated to accommodate employees' religious beliefs to the extent that such an accommodation would cause "undue hardship" on the employer. *Id.* § 2000e(j).

96. The Final Rule expressly provides that it does not incorporate *any* assessment of undue hardship or other burden on employers. 84 Fed. Reg. at 23,190-91. And the Final Rule does not address how the Department will determine if Plaintiffs have engaged in "discrimination" in instances where an employee's absolute refusal right conflicts with Title VII's balancing test.

4. The Final Rule's Regulatory Impact Analysis.

97. The Final Rule includes a Regulatory Impact Analysis purporting to quantify the costs and benefits of the Final Rule. 84 Fed. Reg. at 23,226.

98. The cost-benefit analysis in the Final Rule expressly refuses to quantify the impact of the Final Rule on access to care, the effect the Final Rule will have on refusals to refer for services, or the effect on patients who delay or forego health care. *Id.* at 23,250-54.

99. Despite expressly declining to assess the true costs of the Final Rule on patient care, the Department concluded without evidence both that the Final Rule would likely enhance access to care, *see id.* at 23,182; and that the Final Rule should be implemented "without regard to whether data exists on the competing contentions about its effect on access to services." *Id.*

III. The Final Rule harms Plaintiffs.

100. The Final Rule harms Plaintiffs' sovereign, quasi-sovereign, economic, and proprietary interests.

A. The Final Rule interferes with Plaintiffs’ effective administration and enforcement of their own laws.

101. Each of the Plaintiffs has enacted laws and policies that carefully balance central health care concerns with other – sometimes competing – needs, including protecting employees’ religious beliefs and respecting employers’ business needs. The Final Rule upsets the carefully crafted, longstanding balances struck in Plaintiffs’ statutes and regulations, and harms the Plaintiffs’ interests in enforcing their own laws.

102. The Final Rule explicitly purports to preempt conflicting state laws. *Id.* at 23,226 (“To the extent State or local laws or standards conflict with the Federal laws that are the subject of this rule, the Federal conscience and antidiscrimination laws preempt such laws and standards with respect to funded entities and activities With respect to States, States can decline to accept Federal funds that are conditioned on respecting Federal conscience rights and protections.”); *id.* at 23,272 (to be codified at 45 C.F.R. § 88.8) (“Nothing in this part shall be construed to preempt any Federal, State, or local law that is equally or more protective of religious freedom and moral convictions.”)

103. As set forth in the paragraphs that follow, the Final Rule interferes with and would undermine the enforcement of Plaintiffs’ laws and regulations that include provisions concerning (1) access to emergency and medically necessary care; (2) prohibitions on abandoning patients in medical need; (3) a patient’s right to receive information and ask questions about recommended treatments so they can make well-considered choices about care (that is, informed consent); (4) access to lawful prescriptions; (5) how best to balance accommodation of employees’ religious or moral beliefs with employers’ obligations to patients, their business, and other employees; (6) women’s access to comprehensive reproductive health care and related services; and (7) required insurance coverage for contraception and abortion.

1. The Final Rule interferes with Plaintiffs' laws regarding the provision of emergency and medically necessary care.

104. Many of the Plaintiffs have laws requiring the provision of emergency and medically necessary care that would be hindered by the Final Rule. For example:

- a. Colorado requires information about emergency contraception to be provided to survivors of sexual assault. *See* Colo. Rev. Stat. § 25-3-110(2).
- b. Connecticut law provides that emergency treatment to a victim of sexual assault includes the provision of emergency contraception to the victim of sexual assault at the facility upon the request of such victim. *See* Conn. Gen. Stat. § 19a-112e(b)(3).
- c. The law in the District of Columbia requires hospitals that provide emergency care to inform victims of sexual assault of the option to be provided emergency contraception for the prevention of pregnancy, and to immediately provide emergency contraception if the victim requests it and if the requested treatment is not medically contraindicated. D.C. Code § 7-2123. Hospitals are also required to provide the necessary care and treatment to meet the needs of patients. D.C. Mun. Regs. Tit. 22-B, § 2024.
- d. Delaware law mandates that health care professionals who decline to comply with an individual instruction or health-care directive or decision for reasons of conscience provide continued care to a patient, including life sustaining care, until a transfer can be accomplished. *See* 16 Del. Code § 2508(e)-(g).
- e. Hawai'i law requires any hospital at which a female sexual assault victim presents for emergency services to provide medically and factually accurate and unbiased information about emergency contraception, and where indicated, offer and

dispense emergency contraception to female assault victims who request it. No hospital is required to dispense emergency contraception to a female assault victim who has been determined to be pregnant. *See* Haw. Rev. Stat. § 321-512. Hawai‘i requires certain emergency services be rendered to *any* ill or injured person who requests treatment at a hospital which has an emergency service department. *See* Haw. Admin. R. § 11-93-10. Hospitals in Hawai‘i shall not deny admission to any individual on account of race, color, religion, ancestry, or national origin. *See* Haw. Admin. R. § 11-93-13(b). Each individual admitted to a hospital in Hawai‘i shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care. *See* Haw. Admin. R. § 11-93-26.

- f. Illinois law requires the provision of emergency medical care, and provides that individuals with conscience objections are not relieved of their obligations to provide emergency medical care. *See* 210 ILCS 70/1; 210 ILCS 80/1; 745 ILCS 70/6; Ill. Adm. Code 545.35.
- g. Massachusetts law requires the provision of emergency care, including the provision of emergency contraception to the survivors of sexual assault. *See* Mass. Gen. Laws ch. 111, § 70E. Hospitals and other health care facilities open to the public are prohibited from refusing care, or otherwise discriminating against patients, on the basis of characteristics including sexual orientation and gender identity. *See* Mass. Gen. Laws ch. 272, § 98.
- h. Minnesota law states that it shall be the standard of care for all hospitals that provide emergency care to, at a minimum, provide female sexual assault victims

with medically and factually accurate and unbiased written and oral information about emergency contraception, orally inform female sexual assault victims of the option to be provided with emergency contraception, and immediately provide emergency contraception to each sexual assault victim who requests it provided it is not medically contraindicated and is ordered by a legal prescriber. Minn. Stat. § 145.4712.

- i. Nevada law requires the provision of emergency medical care, which can require procedures to which a health professional may object, including abortions. *See* Nev. Rev. Stat. §§ 439B.410, 632.475(3).
- j. New Jersey law requires that emergency health care facilities provide emergency care to sexual assault victims, which includes “orally inform[ing] each sexual assault victim of her option to be provided emergency contraception at the health care facility.” N.J. Stat. Ann. § 26:2H-12.6c(b).
- k. New Mexico law requires a hospital that provides emergency care to sexual assault survivors to provide medically and factually accurate and objective written and oral information about emergency contraception, to inform each survivor of her option to be provided emergency contraception at the hospital, and to provide emergency contraception for those who request it. N.M. Stat. Ann. § 24-10D-3.
- l. New York state law requires the provision of emergency medical care, which can require abortions or other procedures to which a health care professional may object. *See* N.Y. Pub. Health Law § 2805-b. New York law also requires that mandatory emergency care include the provision of emergency contraception to survivors of sexual assault. *See* N.Y. Pub. Health Law § 2805-p.

- m. New York City law requires that all agency contracts with hospitals provide for prompt counseling about, and on-site administration of, emergency contraception for rape survivors. N.Y.C. Admin. Code § 6-125(b).
- n. Oregon law requires health plans to cover the provision of emergency care without preauthorization. ORS § 743A.012.
- o. Pennsylvania has established a comprehensive emergency medical services system, recognizing that “[e]mergency medical services are an essential public service.” 35 Pa. Cons. Stat. pt. VI ch. 81. As part of this system, Pennsylvania law requires that mandatory emergency care include the provision of emergency contraception to survivors of sexual assault. 28 Pa. Code § 117.53.
- p. Rhode Island requires every health-care facility that has an emergency medical-care unit, including free-standing emergency rooms, to provide “prompt, life-saving, medical-care treatment in an emergency, and a sexual-assault examination for victims of sexual assault, without discrimination on account of economic status or source of payment, and without delaying treatment for the purpose of a prior discussion of the source of payment unless the delay can be imposed without material risk to the health of the person.” R.I. Gen. Laws § 23-17-26(a).
- q. The Commonwealth of Virginia requires all health carriers “providing individual or group health insurance coverage” who provide “any benefits with respect to services in an emergency department of a hospital” to provide such coverage “[w]ithout the need for any prior authorization determination, regardless of whether the emergency services are provided on an in-network or out-of-network basis.” Va. Code Ann. § 38.2-3445. The Commonwealth likewise requires

physicians administering anesthesia to “[r]emain physically present or immediately available, as appropriate, to manage complications and emergencies until discharge criteria have been met.” 18 Va. Admin. Code 85-20-320.

- r. Wisconsin law provides that “[n]o hospital providing emergency services may refuse treatment to any sick or injured person.” Wis. Stat. § 256.30(2).

Wisconsin law also requires a hospital that provides emergency services to provide emergency contraception to a victim of sexual assault. Wis. Stat. § 50.375.

105. The Final Rule does not address its effect on state laws mandating emergency treatment, and would substantially interfere with these laws.

2. The Final Rule interferes with Plaintiffs’ laws that prohibit abandoning a patient in medical need.

106. Many of the Plaintiffs have laws and regulations prohibiting health care professionals from abandoning a patient in medical need without first arranging for the patient’s care, including:

- a. Colorado Medical Board policy requires providers to provide 15 to 30 days of emergency coverage while a patient obtains a new provider. *See* Colo. Rev. Stat. § 12-36-117(1)(u); Colo. Med. Bd. Pol. 40-2.
- b. Connecticut law prohibits health care professionals who are unwilling to comply with a patient’s advance directives or living will from abandoning a patient in medical need without first arranging for the patient’s care by another provider. *See* Conn. Gen. Stat. § 19a-580a.
- c. Delaware law mandates that health care professionals who decline to comply with an individual instruction or health-care directive or decision for reasons of

conscience provide continued care to a patient, including life sustaining care, until a transfer can be accomplished. *See* 16 Del. C. § 2508(e)-(g).

- d. In the District of Columbia, regulated professionals, including doctors, nurses and pharmacists, can be disciplined, including by having their licenses revoked, for abandoning patients. D.C. Code § 3-1205.14(a)(30); *see also* D.C. Mun. Regs. tit. 29, § 563 (same with respect to emergency medical services agencies and providers).
- e. Hawai'i laws include provisions for discipline of physicians for conduct or practice contrary to recognized standards of ethics of the medical profession, including the American Medical Association's standards requiring providing care to patients in emergencies. *See* Haw. Rev. Stat. § 453-8. Hawai'i laws also include provisions for discipline of nurses for unprofessional conduct, including abandoning a patient. *See* Haw. Rev. Stat. § 457-12; Haw. Admin. R. § 16-89-60.
- f. Illinois law provides that abandoning a patient is grounds for disciplinary action, including license revocation. 225 ILCS 60/22(A)(16).
- g. Maryland law prohibits a physician and other health care providers from abandoning a patient. *E.g.*, Md. Code Ann., Health Occ. § 14-404(a)(6).
- h. In Massachusetts, health care providers are prohibited from abandoning a patient in need of medical care and may be disciplined, including by the suspension or revocation of their license, for failing to provide proper care. *See, e.g.*, 244 CMR § 9.03(15) (nurses); 243 CMR §§ 1.03(4)(A)(3), 2.07(10)(a)-(b) (physicians).
- i. In Michigan, a physician cannot abandon a patient under his or her care. *See Fortner v Koch*, 272 Mich. 273, 280 (1936).

- j. Nevada law prohibits a physician working in an emergency situation from transferring a patient to another facility unless certain conditions are met. *See Nev. Rev. Stat. § 439B.410.*
- k. New Jersey law requires an “appropriate, respectful and timely transfer of care” and “assur[ance] that the patient is not abandoned or treated disrespectfully,” among other patient protections, if a health care professional declines to participate in withdrawing or withholding life-sustaining measures “in accordance with . . . sincerely held personal or professional convictions.” *See N.J. Stat. Ann. § 26:2H-62(b), (c).*
- l. New Mexico physicians may suffer a loss of license for abandoning a patient in medical need. *See N.M. Stat. Ann. § 61-6-15(D)(24).*
- m. New York regulations prohibit health professionals from “abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care.” 8 NYCRR § 29.2.
- n. Pennsylvania law prohibits certain health care professionals from abandoning their patients. 35 Pa. Cons. Stat. § 8121(a)(4) (emergency medical services providers); 28 Pa. Code § 21.18(b)(7) (registered nurses); 49 Pa. Code § 16.61(a)(17) (physicians); 49 Pa. Code § 21.148(b)(7) (licensed practical nurses).
- o. Rhode Island law provides that abandoning a patient is grounds for disciplinary action, including license revocation. R.I. Gen. Laws §§ 5-37-5.1 and 5-37-6.3.

- p. Vermont law provides that a doctor is prohibited from abandoning a patient and may face misconduct proceedings for doing so. *See* Vt. Stat. Ann. tit. 26, § 1354(a). Additionally, a hospital patient in Vermont has a right to one attending physician who is primarily responsible for coordinating that patient’s care, and whose identity is known to the patient. *See* Vt. Stat. Ann. tit. 18, § 1852(a)(2), (9). The patient also “has the right to expect reasonable continuity of care.” *Id.* § 1852(a)(11).
- q. The Commonwealth of Virginia prohibits medical practitioners from “terminat[ing] the relationship or mak[ing] his [or her] services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.” 18 Va. Admin. Code 85-20-28.
- r. Wisconsin law provides that patient abandonment is a form of unprofessional conduct subject to various penalties, including revocation of a doctor’s medical license. *See* Wis. Stat. § 448.02(3)(c). Patient abandonment occurs when further treatment is medically indicated and the physician fails to give the patient at least 30 days’ notice about the withdrawal of care, or fails to provide for emergency care during the period between giving notice of intent to withdraw, and the date on which the patient-physician relationship ends. *See* Wis. Admin. Code § Med. 10.03(2)(o).

107. The Final Rule would interfere with these laws by allowing health care professionals to refuse to provide services to a patient or to refer that patient to a health care professional willing to do so.

3. The Final Rule dramatically undermines Plaintiffs' laws regarding informed consent.

108. Many of the Plaintiffs have enacted and implemented legislation regarding informed consent – that is, the patient's right to receive information and ask questions about recommended treatments so they can make well-considered choices about care – including:

- a. Colorado requires a broad range of facilities to ensure patients are provided informed consent, which include informing patients about the availability of alternative procedures. *See* Colo. Rev. Stat. § 25-3-102(1)(c), 6 Colo. Code Regs. 1011-1 §§ 6.102(3)(c), 6.104(1)(g); *see also* Colo. Rev. Stat. § 25-1-121(4).
- b. Connecticut law requires healthcare providers to give patients all facts material to their care so as to ensure that patients can make their own informed medical decisions. *See Logan v. Greenwich Hosp. Ass'n*, 191 Conn. 282, 288 (1983). Additionally, informed consent is required for administration of AIDS vaccine, *see* Conn. Gen. Stat. § 19a-591a; treatment with an investigational drug, biological product, or device, *see* Conn. Gen. Stat. § 20-14q; medication, psychosurgery or shock therapy for the treatment of psychiatric disabilities, *see* Conn. Gen. Stat. § 17a-543; and sterilization, *see* Conn. Gen. Stat. § 45a-699a. Moreover, some facilities are required by regulation as well as the standards of practice to secure informed consent. *See, e.g.*, Conn. Agencies Regs. § 19-13-D3(d)(8) (short term acute care hospitals); Conn. Agencies Regs. § 19a-116-1(c) (abortion services in outpatient clinics); Conn. Agencies Regs. § 19-13-D56(e) (outpatient surgery facilities); Conn. Agencies Regs. § 19a-495-6e(f) (inpatient hospice facilities).

- c. Delaware law requires that patients receive sufficient information to make informed medical decisions. *See* 18 Del. C. § 6852.
- d. The law in the District of Columbia recognizes the duty of physicians to inform patients of the consequences of a proposed treatment that stems from the right of every competent adult to determine what shall be done with his or her own body. *See Miller-McGee v. Washington Hosp. Ctr.*, 920 A.2d 430, 439 (D.C. 2007) (citing *Crain v. Allison*, 443 A.2d 558, 563-64 (D.C. 1982); *Canterbury v. Spence*, 464 F.2d 772, 780 (D.C. Cir. 1972)). Each patient in every hospital in the District of Columbia has the right to be informed in advance about care and treatment and to make informed decisions regarding care and to receive information necessary to make decisions. D.C. Mun. Regs., tit. 22-B § 2022. In addition, hospitals must provide medically and factually accurate written information developed by the Department of Health regarding emergency contraception for the prevention of pregnancy due to sexual assault, and must orally inform sexual assault victims about the option to be provided emergency contraception. D.C. Code §§ 7-2122 & 7-2123.
- e. Hawai‘i mandates that certain information must be provided to a patient prior to obtaining consent to a proposed medical or surgical treatment or a diagnostic or therapeutic procedure, including “[t]he recognized alternative treatments or procedures, including the option of not providing these treatments or procedures,” the “recognized material risks of serious complications or mortality associated with” the proposed procedure, alternative treatments or procedures, and not undergoing any treatment or procedure, and the benefits of alternative treatments

or procedures. Haw. Rev. Stat. § 671-3(b)(4)-(6); *see also* Haw. Admin. R. § 16-85-25.

- f. Illinois law requires health care providers to give patients information concerning their condition and proposed treatment, 410 ILCS 50/3, and requires that health care providers conducting HIV testing to first obtain informed consent from individuals undergoing testing. 410 ILCS 305/3.
- g. Maryland law requires that patients give informed consent before any nonemergency care is provided, including “the benefits and risks of the care, alternatives to the care, and the benefits and risks of alternatives to the care.” 2019 Md. Laws ch. 285 (to be codified at Md. Code Ann., Health-Gen. § 19-342); *see also Sard v. Hardy*, 281 Md. 432 (1977). Informed consent is separately statutorily required for HIV testing, Md. Code Ann. Health-Gen. § 18-336, and for treatment using an investigational drug, biological product, or device, Md. Code Ann., Health-Gen § 21-2B-01.
- h. Massachusetts law mandates informed consent for patients. Mass. Gen. Laws ch. 111, § 70E. Patients must be provided all significant medical information material to their decision whether to undergo a procedure, including information concerning “the available alternatives, including their risks and benefits.” *Harnish v. Children’s Hosp. Med. Ctr.*, 387 Mass. 152, 156 (1982).
- i. Michigan requires informed consent, which “requires a physician to warn a patient of the risks and consequences of a medical procedure.” *Lucas v. Awaad*, 299 Mich. App. 345, 361 (2013).

- j. Minnesota law mandates that physicians give patients “complete and current information concerning their diagnosis, treatment, alternatives, risks, and prognosis as required by the physician’s legal duty to disclose[,]” which “shall include the likely medical or major psychological results of the treatment and its alternatives.” Minn. Stat. § 144.651, subd. 9.
- k. Nevada law mandates informed consent for patients, which ensures that patients can make their own informed medical decisions based on what a reasonable practitioner in the same field of practice would disclose. *See Beattie v. Thomas*, 99 Nev. 579, 584, 668 P.2d 268, 271 (Nev. 1983).
- l. New Jersey law requires that patients admitted to a general hospital “receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment,” and that a patient “be advised of any medically significant alternatives for care or treatment.” N.J. Stat. Ann. § 26:2H-12.8(d).
- m. Under New Mexico law, a physician’s failure to obtain informed consent constitutes negligence. *Gerety v. Demers*, 92 N.M. 396, 589, 589 P.2d 180 (N.M. 1978).
- n. New York law mandates informed consent for patients, which ensures that patients can make their own informed medical decisions. N.Y. Pub. Health L. § 2805-d.
- o. Oregon law requires that a physician or physician assistant explain, among other things, that there may be alternative procedures or methods of treatment to a procedure or treatment. *See* ORS 677.097.

- p. Pennsylvania mandates informed consent for certain procedures, including the performance of surgery. 40 Pa. Stat. and Cons. Stat. § 1303.504.
- q. Rhode Island mandates informed written consent for patients electing abortion procedures. R.I. Gen. Laws § 23-4.7-2.
- r. Vermont protects patients' rights to informed consent in multiple contexts. *See* Vt. Stat. Ann. tit. 12, § 1909(d) (“A patient shall be entitled to a reasonable answer to any specific question about foreseeable risks and benefits, and a medical practitioner shall not withhold any requested information.”); Vt. Stat. Ann. tit. 18, § 1871 (providing a “right to be informed of all evidence based-options” for palliative care and “all available options” for terminal care); *id.* § 1852(a)(4) (hospital patient has “right to receive from the patient’s physician information necessary to give informed consent prior to the start of any procedure or treatment . . . [w]here medically significant alternatives for care or treatment exist, or where the patient requests information concerning medical alternatives, the patient has the right to such information”); *id.* § 1852(a)(8) (hospital patient “has the right to expect that within its capacity a hospital shall respond reasonably to the request of a patient for services”).
- s. The Commonwealth of Virginia requires physicians to obtain informed consent prior to providing certain procedures, except where the patient is incapable of providing such consent and “a delay in treatment might adversely affect recovery.” *See e.g.*, Virginia Code Ann. §§ 54.1-2970, 2971; 18 Va. Admin. Code 85-20-28.

- t. Wisconsin law imposes a duty on physicians to inform their patients about the availability of treatments and procedures and their risks and benefits so patients can make informed, voluntary decisions about their medical care. *See Wis. Stat. § 448.30.* In the specific case of emergency contraception, a hospital must provide a sexual assault victim “medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy” so that she can make an informed decision. *Wis. Stat. § 50.375(2)(a).*

109. The Final Rule does not require that a patient be informed that a health care provider is refusing to counsel them about, or refer them to, certain health care services, which severely undermines Plaintiffs’ ability to monitor compliance with and enforce their own laws regarding informed consent.

4. The Final Rule interferes with Plaintiffs’ laws requiring pharmacies to fill lawful prescriptions.

110. Several of the Plaintiffs have enacted laws requiring pharmacies to fill lawful prescriptions, including:

- a. Colorado law provides that pharmacies that do not have emergency contraception in stock must place a conspicuous notice stating “Plan B Emergency Contraception Not Available.” *Colo. Rev. Stat. § 25-3-110(4).* In addition, the state’s emergency contraception law already contains protections for those who refuse to provide information “on the basis of religious or moral beliefs.” *Id.* § 25-3-110(3)(a).
- b. Connecticut law provides that pharmacies that permit refusal to dispense contraception are prohibited from participating in the Connecticut State employee health plan. *See Formal Opinion of the Attorney General to the Hon. Nancy*

Wyman (Formal Opinion 2006-004, Mar. 2, 2006), available at <https://portal.ct.gov/AG/Opinions/2006-Formal-Opinions/Honorable-Nancy-Wyman-Comptroller-Formal-Opinion-2006004-Attorney-General-State-of-Connecticut> (last visited May 20, 2019).

- c. Delaware regulations mandate that pharmacies “[e]stablish procedures within operation that maintain standard of practice as it relates to the dispensing of pharmaceuticals and refusal to dispense pharmaceuticals based on the religious, moral, or ethical beliefs of the dispensing pharmacist. These procedures shall include proper supervision of supportive personnel and delegation of authority to another pharmacist when not on duty.” 24 Del. Admin. Code § 2500-3.1.2.4.
- d. Under Maryland law, a pharmacist may only refuse to fulfill a prescription based on “professional judgment, experience, knowledge, or available reference materials.” Md. Code. Ann., Health Occ. § 12-501.
- e. Minnesota regulations state it is unprofessional conduct for a pharmacist or pharmacy to “refus[e] to compound or dispense prescription drug orders that may reasonably be expected to be compounded or dispensed in pharmacies by pharmacists,” with an exception for abortions. Minn. R. 6800.2250, subpt. 1.
- f. Nevada law requires pharmacists to fill prescriptions unless they reasonably believe in their professional judgment that it would be unlawful, imminently harmful to the medical health of the patient, fraudulent, or not for a legitimate medical purpose. *See* Nev. Admin. Code § 639.753(1). Nevada law has specific requirements for pharmacists to fill contraception prescriptions. *See* Nev. Rev. Stat. § 639.28075.

- g. New Jersey law requires pharmacy practice sites to “fill lawful prescriptions for prescription drugs or devices[,]” even if an employee of the practice objects to filling the prescription based upon “sincerely held moral, philosophical, or religious beliefs.” N.J. Stat. Ann. § 45:14-67.1(a).
- h. Pennsylvania law allows a pharmacist to decline to fill or refill prescriptions based on a religious, moral, or ethical belief, but recognizes that “the pharmacist has a professional obligation to take steps to avoid the possibility of abandoning or neglecting a patient.” 49 Pa. Code § 27.103(a).
- i. Under Wisconsin law, “a pharmacy shall dispense lawfully prescribed contraceptive drugs and devices and shall deliver contraceptive drugs and devices restricted to distribution by a pharmacy to a patient without delay.” Wis. Stat. § 450.095(2).

111. The Final Rule would potentially preempt or interfere with these laws and allow individual pharmacists or pharmacies to refuse to provide or dispense lawful prescriptions. *See* 84 Fed. Reg. at 23,196, 23,264 (to be codified at 45 C.F.R. § 88.2).

5. The Final Rule hinders Plaintiffs’ administration and enforcement of their laws regarding the accommodation of religious objections in the workplace and in the provision of health care.

112. Many of the Plaintiffs have enacted carefully-crafted laws designed to balance accommodation of employees’ religious or moral beliefs with employers’ obligations to patients, their business, and other employees. For example:

- a. The City of Chicago has enacted laws respecting religious objections in the workplace while balancing the needs of employers. Under the City’s Human Rights Ordinance, employers are required “to make all reasonable efforts to accommodate the religious beliefs, observances, and practices of employees or

prospective employees unless the employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." Chicago Mun. Code § 2-160-050.

- b. Delaware requires health care providers or institutions that decline to comply with an individual instruction or health-care decision on the basis of conscience to promptly inform the patient and to continue providing care, including life-sustaining care, to the patient until a transfer can be effected. *See* 16 Del. C. § 2508(e)-(g). Institutional denials must be based on a prior written policy that was communicated to the patient. *See id.*
- c. The District of Columbia provides an exemption for churches and other religious nonprofit entities from the statutory requirement to cover contraceptives in health insurance plans, and requires any employers claiming the exemption to provide notice to its employees. D.C. Code § 31-3834.04(a). District law also prohibits discrimination in employment based on a person's actual or perceived religion, however actions that may have a discriminatory effect are not unlawful if they are not intentionally devised or operated to discriminate based on religion and can be justified by business necessity. *See* D.C. Code §§ 2-1401.03, 2-1401.11, 2-1401.31.
- d. Hawai'i law prohibits discriminatory employment practices, including on the basis of religion. *See* Haw. Rev. Stat. § 378-2. This law, however, may not prohibit or prevent employers from "the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a

particular business or enterprise” that “have a substantial relationship to the functions and responsibilities of prospective or continued employment,” or from “refusing to hire, refer, or discharge any individual for reasons relating to the ability of the individual to perform the work in question.” Haw. Rev. Stat. § 378-3(2)-(3). Hawai‘i allows religious employers to provide their employees a health plan without coverage for contraceptive services if the employers provide written notice of the contraceptive services the employer refuses to cover for religious reasons and written information describing how enrollees may directly access contraceptive services in an expeditious manner. *See* Haw. Rev. Stat. § 432:10A-116.7.

- e. Maryland law prohibits employers from discriminating against any individual with respect to that individual’s religion, except when providing a notice or advertisement indicating a bona fide occupational qualification for employment. *See* Md. Code Ann., State Gov’t § 20-606 (West). Additionally, Maryland law provides that a person may not be required “to perform or participate in, or refer to any source for, any medical procedure that results in artificial insemination, sterilization, or termination of pregnancy,” except insofar as “the failure to refer a patient to a source for any medical procedure that results in sterilization or termination of pregnancy” would be the cause of death or serious physical injury or serious long-lasting injury to the patient or otherwise contrary to the standards of medical care. Md. Code. Ann., Health Gen. § 20-214.
- f. Massachusetts law requires employers to make reasonable accommodations “to an employee’s or prospective employee’s religious observance or practice,” but

does not require accommodations that cause an “undue hardship.” Mass. Gen. Laws ch. 151B § 4(1A).

- g. Minnesota law states that it is an unfair employment practice for an employer to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions facilities or privileges of employment, and to refuse to hire or maintain a system of employment which unreasonably excludes a person seeking employment, except when based on a bona fide occupational qualification. Minn. Stat. § 363A.08, subd. 2.
- h. New Jersey carefully balances conscience protection with patients’ right to care. Under New Jersey’s conscience law, no person, hospital, or health care facility shall be “required to perform or assist in the performance of an abortion or sterilization.” N.J. Stat. Ann. § 2A:65A-1, -2. This law is not applicable to non-sectarian non-profit hospitals. *Doe v. Bridgeton*, 366 A.2d 641, 647 (N.J. 1976). New Jersey law also permits “a private, religiously-affiliated health care institution” to “develop institutional policies and practices defining circumstances in which it will decline to participate in withholding or withdrawing of specified measures utilized to sustain life.” N.J. Stat. Ann. § 26:2H-65(b). Such policies must be in writing and must be communicated to patients or their health care representatives “prior to or upon admission, or as soon after admission as is practicable.” *Id.* “If the institutional policies and practices appear to conflict with the legal rights of a patient wishing to forego health care, the health care institution shall attempt to resolve the conflict” and must ensure that the patient “is not abandoned or treated disrespectfully.” *Id.*

- i. New Mexico prohibits employers, unless based on a bona fide occupational qualification, from discriminating in employment on the basis of religion. N.M. Stat. Ann. § 28-1-7(A)-(C). Likewise, New Mexico prohibits any person in a public accommodation from distinguishing directly or indirectly in offering or refusing to offer services, facilities, or goods on the basis of religious affiliation. N.M. Stat. Ann. § 28-1-7(F). Further, the State’s Religious Freedom Restoration Act prohibits the State from burdening the free exercise of religion, unless a restriction is of general applicability, does not discriminate among religions, and survives strict scrutiny. N.M. Stat. Ann. § 28-22-3.
- j. New York state law applies a careful balancing test to the accommodation of religious beliefs in the workplace, prohibiting employers from imposing any employment conditions that would require an individual to forego a sincerely held practice of his or her religion “unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee’s or prospective employee’s sincerely held religious observance or practice without undue hardship on the conduct of the employer’s business.” N.Y. Exec. L. § 296(10).
- k. New York City has enacted laws respecting religious objections that balance competing interests. In the context of employment, the City Human Rights Law prohibits employers from imposing “upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, such person’s creed or religion” and requires the employer to make reasonable accommodation to the

religious needs of such person. N.Y.C. Admin. Code § 8-107(3)(a). Employers are required to “engage in a cooperative dialogue within a reasonable time with a person who has requested [a religious] accommodation.” *Id.* § 8-107(28).

- l. Oregon protects health care providers who decline to participate in physician-assisted dying while balancing the rights of patients to receive care. ORS 127.885. In the area of reproductive health, Oregon law allows individuals to decline to dispense contraception or participate in abortion procedures, provided the individuals provide advance notice to the institution. ORS 435.225; ORS 435.485(2). Likewise, individuals are not required to provide advice on terminating pregnancies if they advise the patient they will decline to provide such advice. ORS 435.485(1). Oregon law also allows institutions to deny admission to individuals for the purpose of terminating a pregnancy, again with the requirement that an institution adopt a policy and inform patients of that policy. ORS 435.475.
- m. With regard to lawful objections to assisting in the performance of an abortion or sterilization, Pennsylvania requires employers to “make reasonable accommodations to the needs of their employe[e]s,” unless such accommodations would constitute “undue hardship to the conduct of the employer's business.” 16 Pa. Code § 51.44(b). “Such undue hardship, for example, may exist where the employe[e]’s needed work cannot be performed by another employe[e] of substantially similar qualifications in the situation where and at the time when the person refuses to perform or participate in the performance of abortion or

sterilization procedures or where the employe[e] refuses to perform his normally assigned duties incident to employment.” *Id.* § 51.44(c).

- n. Rhode Island regulation under the Department of Health permits a licensed pharmacist to “decline to dispense a drug or device, pursuant to an order or prescription, on ethical, moral, or religious grounds only if the licensed pharmacist has previously notified the pharmacy owner, in writing, of the device(s), drug or class of drugs to which he or she objects, and the pharmacy owner can, without creating undue hardship, provide a reasonable accommodation of the licensed pharmacist's objection. The licensed pharmacy owner shall establish protocols to ensure that the patient has timely access to the prescribed drug or device despite the licensed pharmacist's refusal to dispense the prescription or order. For the purpose of this section, ‘reasonable accommodation’ shall mean the pharmacy owner has demonstrated that they explored any available reasonable alternative means of accommodating the licensed pharmacist’s ethical, moral, or religious objections, including the possibilities of excusing the licensed pharmacist from those duties or permitting those duties to be performed by another person, but is unable to reasonably accommodate the ethical, moral, or religious objections without undue hardship on the conduct of the pharmacy owner’s business.” 216-RICR-40-15-1.15.2.
- o. Vermont law prohibits discriminatory employment practices, including on the basis of religion, except where required by “a bona fide occupational qualification.” Vt. Stat. Ann. tit. 21 § 495(a).

- p. The Commonwealth of Virginia has pre-existing laws permitting any person “who shall state in writing an objection to any abortion or all abortions on personal, ethical, moral or religious grounds” to be exempted from “procedures which will result in such abortion.” Va. Code § 38.2-3445. The Commonwealth likewise allows genetic counselors to opt out of “counseling that conflicts with their deeply-held moral or religious beliefs” and protects such objectors from liability “provided [the counselor] informs the patient that he [or she] will not participate in such counseling and offers to direct the patient to the online directory of licensed generic counselors maintained by the Board.” Va. Code Ann. § 54.1-2957.21.
- q. Wisconsin law balances the interests of objectors, patients, and medical facilities. Specifically, Wisconsin law provides conscience protection for persons who object to abortion or sterilization on “moral or religious grounds.” But a person who objects must state “in writing his or her objection to the performance of or providing assistance to such a procedure . . . shall not be required to participate in such medical procedure.” Wis. Stat. § 253.09(1). Such a refusal shall not be the basis for any damages claim or any disciplinary or recriminatory action against such person. *Id.*; *see also* Wis. Stat. §§ 441.06(6); 448.03(5). Further, no hospital, school, or employer may discriminate against any person with respect to admission, hiring, retention, or other condition of student or employee status on the basis of the person’s “refus[al] to recommend, aid or perform” abortion or sterilization. Wis. Stat. § 253.09(3).

113. The Final Rule interferes with these laws by requiring the absolute accommodation of all employees with religious objections, without considering the needs of employers or patients.

114. By elevating an objector's rights over the rights of patients and employers, the Final Rule will cause substantial harm to the Plaintiffs' interest in enforcing their employment accommodation laws and in improving patient health outcomes.

6. The Final Rule interferes with Plaintiffs' laws protecting women's access to comprehensive reproductive health care and related services.

115. A number of the Plaintiffs have enacted laws that protect women's access to contraception, abortion, and other reproductive health care services, including laws that accommodate religious objections to the provision of such services by requiring adequate notice of such objections. For example:

- a. Colorado law protects women's access to contraception, requiring health plans to provide coverage for contraception under specific circumstances. Colo. Rev. Stat. §§ 10-16-104(3)(a), -104.2. Access to birth control procedures, supplies, and information must also be provided to minors under specific circumstances. Colo. Rev. Stat. § 13-22-105.
- b. Connecticut law protects women's access to contraception. Specifically, Connecticut law provides that "[t]he decision to terminate a pregnancy prior to the viability of the fetus shall be solely that of the pregnant woman in consultation with her physician." Conn. Gen. Stat. § 19a-602(a). Connecticut law also allows an individual to refuse to assist in a non-emergency abortion. Conn. Agencies Regs. § 19-13-D54.

- c. The District of Columbia does not restrict the right to abortion and District law establishes the right of patients younger than 18 to consent to abortion care without parental involvement. *See* D.C. Mun. Regs. tit. 22-B, § 22-B600.
- d. Hawai‘i law protects women’s access to abortions. Specifically, Hawai‘i law provides that “[t]he State shall not deny or interfere with a female’s right to choose or obtain an abortion of a nonviable fetus or an abortion that is necessary to protect the life or health of the female. Haw. Rev. Stat. § 453-16(c). Hawai‘i law also allows an individual or hospital to refuse to participate in an abortion and such individual or hospital will not be liable for a refusal. Haw. Rev. Stat. § 453-16(e).
- e. Illinois law requires certain agencies to deliver specified services either directly on-site or by referral, including contraception and other reproductive health care services. 77 Ill. Adm. Code 635.90.
- f. Massachusetts law protects women’s access to abortion and contraception, including emergency contraception. *See, e.g.*, Mass Gen. Laws ch. 112, §§ 12L-M, ch. 272 § 21A. Massachusetts law also provides specific conscience protections for health care workers that are limited to religious or moral objections to abortion and sterilization, including the right to refuse to participate in scheduled medical procedures that result in abortion or sterilization after providing written notice of an objection. *See* Mass. Gen. Law ch. 112, § 12I.
- g. Nevada law makes it unlawful to require an employee’s participation in the induction or performance of an abortion outside of medical emergency situations

upon filing of a written statement indicating a moral, ethical, or religious basis for refusal to participate. *See Nev. Rev. Stat. § 632.475(3).*

- h. New Mexico enacted the Family Planning Act, N.M. Stat. Ann. §§ 24-8-1 through 24-8-8, to protect access to family planning services including contraceptive procedures, diagnosis, treatment, and supplies. The legislature found it “desirable that family planning services be readily accessible to all who want and need them” and that “dissemination of information about family planning by the state and its local government units is consistent with public policy.” N.M. Stat. Ann. § 24-8-3. The State makes its family planning services available with public funds to the extent that public funds are available, including to medically indigent persons at no cost. N.M. Stat. Ann. 24-8-7. New Mexico requires payment for medically necessary abortions with public funds for indigent women, as its Equal Rights Amendment to the state constitution, N.M. Const., art. II, § 18, provides greater protection against gender discrimination than does federal law. *New Mexico Right to Choose/NARAL v. Johnson*, 1999-NMSC-005, 126 N.M. 788, 975 P.2d 841 (N.M. 1998).
- i. New York state law, in order to facilitate staffing and scheduling practices that accommodate conscience and religious beliefs, provides that an individual may refuse to assist in a non-emergency abortion as long as the individual notifies the responsible hospital or other institution in advance. N.Y. Civ. Rights L. § 79-I.
- j. Under Oregon law a public body, or an officer, agent, or employee of a public body, may not deprive a consenting individual of the right to obtain and use safe

methods of contraception, nor interfere with or restrict those rights by regulating access to benefits, services or information. ORS 435.200.

- k. Pennsylvania law allows hospitals and health care facilities to decline to provide abortions or sterilizations on moral, religious or professional grounds as long as the facility provides a written ethical policy. 43 Pa. Stat. Ann. § 955.2; 16 Pa. Code §§ 51.31–51.33. Pennsylvania law likewise allows individuals to refuse to assist in the performance of abortion or sterilization procedures on moral, religious or professional grounds as long as they notify the responsible hospital or institution in advance. 43 Pa. Stat. Ann. § 955.2; 16 Pa. Code §§ 51.41–51.44. Such individuals may be subject to disciplinary action, however, if their expression of refusal “constitutes an overt act which disrupts hospital procedures, operations, or services or which endangers the health or safety of any patient.” 16 Pa. Code § 51.42(a). Pennsylvania also allows hospitals to refuse to provide emergency contraception to sexual assault victims for religious or moral reasons as long as they provide 30 days written notice to the Pennsylvania Department of Health. 28 Pa. Code § 117.57.
- l. Rhode Island requires a physician or anyone who works in a healthcare facility to give written notice of objection in performing abortions or sterilization procedures. *See* RIGL § 23-17-11.
- m. The Commonwealth of Virginia requires insurers who otherwise provide prescription drug coverage to offer coverage for “any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive.” Va. Code Ann. § 38.2-3407.5:1.

116. The Final Rule would undermine these laws and constitutional requirements by allowing an individual or health care entity to refuse to provide contraception or assist in an abortion without adequate notice to the responsible hospital or other appropriate institution.

7. The Final Rule interferes with Plaintiffs' laws that require insurance coverage for contraception and abortion.

117. A number of the Plaintiffs have enacted statutes or regulations requiring insurance providers to offer coverage for contraception and abortion.

- a. Connecticut has "Contraceptive Equity Laws" that require insurers to provide coverage for contraception. *See* Conn. Gen. Stat. §§ 38a-503e(a), 38a-530e(a). Healthcare facilities that may find such procedures objectionable are permitted to comply with these requirements by contracting with one or more independent providers. *See* Conn. Gen. Stat. § 19a-112e(c).
- b. Delaware requires health insurance plans to cover over-the-counter contraceptives without any cost-sharing, including emergency contraceptives. *See* Del. Senate Bill No. 151, *An act to amend Title 18, Title 29, and Title 31 of the Delaware Code Relating to Insurance Coverage of Contraceptives*, 149th General Assembly.
- c. The District of Columbia requires individual and group health plans to cover all FDA-approved contraceptive drugs, devices, products and services for women without cost-sharing. D.C. Code § 31-3834.03. District law also permits pharmacists to prescribe as well as dispense prescription methods of contraception for up to a 12-month supply at one time for women who do not face serious risks from contraception. D.C. Code § 31-3834.01. The provision requires individual

and group health plans to cover a full-year supply of prescription contraceptives.

Id.

- d. Hawai‘i law requires that all employer groups, mutual benefit societies, and health maintenance organizations, provide coverage for contraceptive services or supplies for the subscriber or any dependent of the subscriber who is covered by the policy. Employer groups, mutual benefit societies, and health maintenance organizations that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any prescription contraceptive supplies or impose any unusual copayment charge, or waiting requirements for such supplies. *See* Haw. Rev. Stat. §§ 431:10A-116.6; 432:1-604.5; 432D-23.
- e. Illinois law requires insurers to provide coverage for contraception. 215 ILCS 5/356z.4.
- f. Maryland has “Contraceptive Equity Laws” governing access to broad contraceptive coverage. *See* Md. Code Ann., Ins. §§ 15-826 to 826.2. Maryland’s essential health benefits requires non-grandfathered individual and small group plans to cover abortion services. *See* https://insurance.maryland.gov/Insurer/Documents/bulletins/15-33_2017-ACA-Rate-Form-Filing-Deadlines-and-Substitution-Rules.pdf.
- g. Massachusetts requires most commercial insurance plans to provide no-cost coverage for women’s contraceptive care and services, including sterilization and emergency contraception. *See* Mass. Gen. Law ch. 175, § 47W; Mass. Gen. Law ch. 176A § 8W; Mass Gen. Law ch. 176B § 4W; Mass. Gen. Law ch. 176G § 4O.

- h. Nevada requires insurers to provide coverage for contraception, except for those affiliated with a religious organization who object on religious grounds. *See Nev. Rev. Stat. §§ 689A.0418, 689B.0378, 689C.1676, 695A.1865, 695B.1919, 695C.1696.*
- i. New Jersey law requires that certain health insurers, health service corporations, and employee health benefits plans that cover outpatient prescription drugs also provide coverage for female contraceptives. *See e.g., N.J. Stat. Ann. § 17B:27A-19.15; N.J. Stat. Ann. § 17B:26-2.1y; N.J. Stat. Ann. § 52:14-17.29j; N.J. Stat. Ann. § 17:48F-13.2; N.J. Stat. Ann. § 17:48E-35.29.* The laws allow for limited exemptions for religious employers, requiring written notice of exemption for prospective enrollees. *See e.g., N.J. Stat. Ann. § 17B:27A-19.15; N.J. Stat. Ann. § 17B:26-2.1y; N.J. Stat. Ann. § 17:48F-13.2; N.J. Stat. Ann. § 17:48E-35.29.*
- j. New Mexico in its 2019 legislative session amended group health coverage requirements under the Health Care Purchasing Act to require coverage, at a minimum, for at least one product or form of contraception in each of the contraceptive method categories identified by the federal Food and Drug Administration, a sufficient number and assortment of oral contraceptive pills, and clinical services related to the provision or use of contraception. H. B. 89 (2019), chaptered at Chapter 263, Sec. 9 (signed Apr. 4, 2019).
- k. New York requires all fully insured insurance policies that provide hospital, surgical, or medical expense coverage to cover medically necessary abortions without copayments, coinsurance, or annual deductibles. *See 11 N.Y.C.R.R. 52.16.* New York's recently-enacted Comprehensive Contraception Coverage

Act, which will go into effect in January 2020, will require group health insurance companies to cover doctor-prescribed F.D.A. approved contraceptive devices as well as voluntary sterilization procedures for women. N.Y. Ins. Law § 3221(1)(16) (eff. Jan. 1, 2010).

- l. Oregon law requires health plans to cover the provision of reproductive health care, including contraception and abortion. ORS 743A.067.
- m. Rhode Island requires health plans to provide coverage for F.D.A. approved contraceptive drugs and devices requiring a prescription (except RU 486). R.I. Gen. Laws §§ 27-18-57; 27-19-48; 27-41-59.
- n. Vermont law requires reproductive health equity in insurance coverage, such that a health insurance plan must provide coverage for contraceptive drugs and services to the same extent that plan provides coverage for any drugs or services. Vt. Stat. Ann. tit. 8, § 4099c.
- o. The Commonwealth of Virginia requires insurers who otherwise provide prescription drug coverage to offer coverage for “any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive.” Va. Code Ann. § 38.2-3407.5:1.

118. The Final Rule interferes with Plaintiffs’ ability to enforce their laws requiring insurance coverage for contraception and abortion-related services by, among other things, defining the group of individuals and entities authorized to exercise conscience objections to include not only health care professionals but also sponsors of health insurance plans.

B. The Final Rule harms Plaintiffs' health care institutions.

119. Many of the Plaintiffs – including Colorado, Connecticut, Delaware, Hawai'i, Illinois, Massachusetts, New York, New York City, Oregon, Virginia, and Cook County – own and operate health care institutions, including teaching hospitals and medical education centers.

120. In addition, a number of the Plaintiffs – including Hawai'i, Pennsylvania, and Vermont – subcontract or sub-grant HHS funds to private health care institutions within their states.

121. These health care institutions provide a range of services to Plaintiffs' diverse populations, including emergency care, long-term care, and primary and preventative care.

122. The Final Rule places a number of new and stringent limitations upon the ability of Plaintiffs' institutions to inquire about whether members of their staff object to “performing, referring for, participating in, or assisting in the performance of” particular services or activities. First, the Final Rule does not permit any inquiry into prospective staff members' religious or moral objections prior to their hiring, whether or not such objections would materially impact the prospective employee's ability to fulfill their job obligations. *See* 84 Fed. Reg. at 23,263 (to be codified at 85 C.F.R. § 88.2).

123. Second, post-hiring, Plaintiffs' health institutions may inquire about staff members' objections no more frequently than “once per calendar year,” absent a “persuasive justification” which is not specified or defined in the Final Rule. *Id.*

124. Third, beyond annual post-hire inquiries initiated by Plaintiffs' institutions, the Final Rule places no duty – and appears to prohibit the Plaintiffs from imposing a duty – on staff members to disclose known religious or moral objections to participating in a service or activity. *See id.*

125. Fourth, to the extent Plaintiffs' institutions learn of a religious or moral objection by a staff member, any accommodation offered to that individual must be "voluntarily accept[ed]" by the staff member and must be "effective" – a term undefined in the Final Rule – in order for Plaintiffs to avoid "engag[ing] in discriminatory action." *Id.*

126. Fifth, any effort Plaintiffs make to continue providing any objected-to service, program, or treatment using alternate staff would itself be impermissible under the Final Rule if that effort "require[s] any additional action" by the objecting individual, *id.* (emphasis added); or if it "exclude[s] protected [persons] from fields of practice." *Id.*

127. Alone and in combination, these severe and unrealistic constraints on the operation of Plaintiffs' institutions will dramatically undermine their effectiveness and efficiency, leading to significantly increased costs, worse health outcomes, and greatly increased risk of catastrophic error.

128. Plaintiffs' institutions currently rely on sufficient notice of staff members' religious or moral objections in order effectively to staff and run their various departments. For example, emergency care departments within these institutions must be able to plan and staff for urgent situations in which the absence of a single staff member could threaten the health, safety, and life of patients in distress. The Final Rule's new limitations upon the notice a health institution may seek concerning staff members' religious or moral objections undermines the ability of Plaintiffs' institutions to staff their operations effectively, and as a result, threatens patient care and public health.

129. As a result of this threat, Plaintiffs' institutions must preemptively plan to increase staff, in order to avoid any such risks of patient harm. In some instances, this will take the form of double-staffing emergency rooms, end-of-life care, and other departments in which

the risk of an objection without sufficient notice to Plaintiffs' institutions would have devastating consequences for patients.

130. The cost of this parallel staffing will be unduly burdensome to the Plaintiffs. For example, New York City will be forced to increase expenditures on salaries to ensure there is sufficient staff to comply with objections under the Final Rule. As shown below, in the 2018 fiscal year, New York City Health + Hospitals ("H+H") – the City's municipal hospital system and the largest public health care system in the United States – directly employed 35,860 full-time and part-time staff, 8,433 affiliate and temporary staff persons, and 700 staff persons who provided hourly services. The salaries for these workers amounted to over \$4.1 billion in fiscal year 2018. The cost of hiring additional employees to establish the parallel staff needed to comply with the Final Rule would therefore be significant.

FY18	H+H (Full Time & Part Time Staff)	Affiliate	Allowances	Overtime	Temporary Staffing	FY18 Total
Full Time Equivalent (FTEs)	35,860	5,657	700	2,144	2,776	47,138
Health + Hospital Corp (\$ in 000s)	\$2,588,661	\$1,208,964	\$51,931	\$155,881	\$155,529	\$4,160,966

131. This burden on Plaintiffs is especially pronounced in areas within the Plaintiffs' states in which there are few other health care providers, such as rural areas, and in areas in which other providers are more likely to be religious and have objections of their own to the provision of certain types of care.

132. The Final Rule also harms Plaintiffs' health institutions by undermining longstanding efforts by those institutions to build trust with the patient communities they serve.

As set forth above, the Final Rule drastically limits the ability of Plaintiffs' institutions to seek advance notice of their staff members' religious or moral objections, and to plan for and accommodate such objections accordingly. The likelihood that Plaintiffs' health institutions may not know of staff members' objections in advance, which may then be expressed at the time of a needed procedure and potentially in front of a patient, jeopardizes the trust of patients that these institutions have worked for years to develop.

C. The Final Rule harms Plaintiffs by threatening billions of dollars in congressionally-appropriated health care funds.

133. Given the threat posed by the enforcement provisions of the Final Rule that the Department may withhold, deny, suspend, or terminate billions of dollars in federal health care funds to the Plaintiffs in the Department's discretion, the Plaintiffs face the "Hobson's choice" of either (1) implementing costly changes to their laws, regulations, and policies, thereby threatening effective patient care and efficient administration of their health care systems; or (2) risking the loss of all of the federal funds they rely on to provide that care.

134. The amount of federal funding at risk runs to the hundreds of billions of dollars when considering appropriated funds from the Department alone.

135. According to publicly available information on the Department's Tracking Accountability in Government Grants System ("TAGGS"), collectively, the Plaintiffs received nearly \$200 billion in federal health care funding in the 2018 fiscal year that the Final Rule threatens should the Department determine, in its discretion, that any of the Plaintiffs are not complying with the Final Rule or any of the statutes it implements.

136. The City of Chicago's Department of Public Health (CDPH) receives almost \$90 million in annual federal health care funding from the Department, including over \$89 million in federal grants and \$311,701 in Medicaid reimbursement in 2018. These grants include

approximately \$6.5 million for HPV and other vaccine coverage; \$9.25 million for maternal and child health, \$40 million for HIV prevention and treatment, \$3.4 million for sexually transmitted disease and teen pregnancy prevention; and over \$19 million for bioterrorism and ebola preparedness and response.

- a. CDPH uses these funds to provide a wide array of health services and programs to its residents, including operating thirteen clinics throughout the City that provide free vaccinations, mental-health services, and testing and treatment for sexually transmitted diseases. While CDPH offers free healthcare to all of its residents, the majority of its patients are non-white and medically vulnerable populations. In addition to operating its own clinics, CDPH uses the federal health care grants it receives to help partner with many community-based health centers that offer additional medical services and health education programs. These delegates operate clinics that, for example, provide care for the needs of woman and children, and primary care for people living with HIV/AIDS.
- b. This funding is crucial for CDPH's operations: 75% of CDPH's total budget of nearly \$177 million comes from federal sources, and 50% of CDPH's total budget comes directly from the Department.

137. According to TAGGS, Colorado received nearly \$6.4 billion in federal funds from the Department in federal fiscal year 2018 for entities identified as being at the state level in the TAGGS system. The Colorado Department of Health Care Policy and Financing, responsible for administering Medicaid and Children's Health Insurance Program in Colorado, account for \$5.31 billion of those expenditures. Colorado uses these funds, in concert with state funds, to provide health care coverage to its members. As of the end of April 2019, there were

1.24 million Coloradoans enrolled in these programs. For state fiscal year 2019-20, the Colorado Medicaid Department's budget will be \$10.66 billion, which includes \$6.04 billion in federal funds. This represents 33.35% of the Colorado budget for that fiscal year.

138. According to TAGGS, Connecticut received nearly \$5.5 billion in health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

139. Cook County, through CCH, provides healthcare services to vulnerable Cook County residents and received more than \$500 million in Department funds in 2018. This figure includes reimbursement for direct medical services as well as grant funding. These funds are used to provide healthcare services to more than 300,000 Cook County residents, more than 65% of whom are uninsured or underinsured and would otherwise lack meaningful access to medical care.

140. According to TAGGS, Delaware received over \$1.7 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. Delaware receives funds for its participation in Medicaid and the Children's Health Insurance Program, which it uses to provide a full range of health services to over 240,000 citizens of the State. Delaware also receives Title X funding, including \$1,100,000 for the 2019 federal fiscal year in Title X family planning service grants. Title X family planning clinics play a critical role in ensuring access to a broad range of family planning and preventative health services.

141. According to TAGGS, the District of Columbia received over \$2.6 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

142. According to TAGGS, Hawai'i received over \$2 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

143. According to TAGGS, Illinois received over \$15 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. In December 2018, the Department's Office for Civil Rights sent a questionnaire to Illinois inquiring about federal health care funding that Illinois receives from the Department in the context of religious objections.

144. According to TAGGS, Maryland received over \$8.6 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities as identified as being at the state level in the TAGGS system.

145. According to TAGGS, Massachusetts received over \$12.4 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities as identified as being at the state level in the TAGGS system.

146. According to TAGGS, Michigan received more than \$14.5 billion in health care funding from the Department in the 2018 federal fiscal year for entities as identified as being at the state level in the TAGGS system.

147. According to TAGGS, Minnesota received over \$9.4 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

148. According to TAGGS, Nevada received over \$2.6 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. Nevada expects to spend over \$6.7 billion on federal

reimbursement for medical services through its two year budget, with significant additional Department monies for additional services. Nevada uses these funds to provide numerous services to its citizens that are wholly unrelated to what the Final Rule regulates. These programs serve more than one million Nevadans. Medicaid funding alone amounts to 20% of Nevada's two year budget.

149. According to TAGGS, New Jersey received \$11.8 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. Federal health care funds in New Jersey include over \$7 billion in Department funding for Medicaid and the Children's Health Insurance Program. New Jersey uses these funds to provide a full range of health services to citizens of the State. For example:

- a. Through Medicaid and the Children's Health Insurance Program alone, New Jersey serves over 1.7 million people in the State.
- b. New Jersey also received around \$30.7 million in funding in the 2018 federal fiscal year under the Older Americans Act, which allows older adults to live with independence and dignity in community settings.
- c. New Jersey received approximately \$850.9 million to support individuals with disabilities in the 2018 federal fiscal year. These funds allowed New Jersey to provide services, education, or residential placement for nearly 25,000 adults through more than 200 agencies across the State.
- d. Federal funding also supports disease prevention, public health programs, opioid addiction treatment, federally-qualified health centers, and emergency programs throughout the State of New Jersey.

150. According to TAGGS, New Mexico received over \$4.7 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities as identified as being at the state level in the TAGGS system.

151. According to TAGGS, New York received over \$46.9 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities as identified as being at the state level in the TAGGS system.

152. New York City relies on billions of dollars in federal health care funding from the Department.

- a. H+H alone receives approximately \$3.4 billion in federal health care funding that is threatened should the Department determine that New York City's laws, rules, or policies do not comply with the Final Rule or related statutes. Specifically, H+H receives: \$5,933,864 for CHIP; \$1,153,400,144 for Medicaid; \$29,459,286 in federal grants related to HIV/AIDS, STD Treatment and Prevention, Substance Abuse Treatment, Public Health and Prevention, Immunization, Biomedical and Behavioral Research; \$112,799,439 in other grants; \$521,003,737 for DSH (disproportionate share hospitals); \$457,229,525 for UPL (upper payment limit); and \$1,114,354,374 for Medicare. This funding allows H+H to serve around one million patients annually.
- b. The NYC Department of Health and Mental Hygiene – one of the largest public health agencies in the world – receives over \$330 million in federal health care funding from the Department. It uses this money to operate clinics and programs that provide vaccinations, tuberculosis testing and treatment, and services for sexually transmitted diseases and reproductive health.

153. According to TAGGS, Oregon (including the Oregon Health Authority (“OHA”) and the Oregon Department of Human Services) received over \$8.1 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system, including:

- a. \$5 billion in funding for Oregon’s Medicaid program (Oregon Health Plan) and the Children’s Health Insurance Program combined, providing health coverage to over 970,000 Oregon residents, over 400,000 of whom are children;
- b. Over \$300 million in funding for public health and prevention programs used for infectious disease screening and prevention, nutrition outreach and education, and reduction and prevention of tobacco, alcohol, and opioid abuse; and
- c. Federal grants for health care research and health care delivery. Other state institutions of higher learning also receive HHS grants for biomedical research and education.
- d. The Oregon Department of Human Services received \$966 million in Medicaid Funds. Sixty-six percent of those funds represent services for older Americans (\$638 million), serving 275,000 clients over the course of fiscal year 2018.

154. According to TAGGS, Pennsylvania received over \$21.8 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

155. According to TAGGS, Rhode Island received over \$2.1 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. Rhode Island receives an annual amount of federal funding totaling approximately \$7,054,232 for programs for arthritis, asthma, cancer registry,

breast and cervical cancer, comprehensive cancer, colorectal cancer, diabetes, heart disease and stroke, and screening for heart disease. The Rhode Island Department of Health was awarded \$2,725,000 in Title X funds for family planning program services for project period April 1, 2016 through August 31, 2018. The number of clients served by Title X service sites in 2018 was 29,098.

156. According to TAGGS, Vermont received over \$1.2 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system. The Vermont Department of Health has received approximately \$780,000 in Title X grants each year over the past ten years, with minor fluctuations. The Vermont Department of Health is the sole Title X grantee for the State of Vermont.

157. According to TAGGS, Virginia received over \$6.7 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

158. According to TAGGS, Wisconsin received over \$6.7 billion in federal health care funding from the Department in the 2018 federal fiscal year for entities identified as being at the state level in the TAGGS system.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Administrative Procedure Act – Exceeds Statutory Authority)

159. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

160. Under the Administrative Procedure Act, courts must “hold unlawful and set aside agency action” that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

161. Defendants may only exercise authority conferred by statute. *City of Arlington v. FCC*, 569 U.S. 290, 297-98 (2013).

162. The Final Rule exceeds Defendants’ authority under the statutes it purports to implement because the Final Rule legislates and implements excessively broad definitions of statutory text, including “assist in the performance,” “health care entity,” and “discriminate or discrimination.” 84 Fed. Reg. at 23,263-64.

163. In addition, the Final Rule establishes an extraordinarily broad enforcement scheme that would authorize the Department to withhold, deny, suspend, or terminate billions of dollars in federal health care funds to the Plaintiffs if in Defendants’ determination there is a failure to comply with the Final Rule or any of the underlying statutes. 84 Fed. Reg. at 23,271-72. This enforcement scheme is not authorized by the relevant federal statutes.

164. The Final Rule also establishes an enforcement scheme that would authorize the Department to withhold or suspend all federal financial assistance from the Department of Labor and Department of Education to the Plaintiffs if in Defendants’ determination there is a failure to comply with the Final Rule or the Weldon Amendment. *Id.* This enforcement scheme is not authorized by the relevant federal statutes.

165. The Final Rule is therefore “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” in violation of the APA. 5 U.S.C. § 706(2)(C).

166. Defendants’ violation causes ongoing harm to Plaintiffs and their residents.

SECOND CLAIM FOR RELIEF

(Administrative Procedure Act – Not in Accordance with Law)

167. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

168. Under the APA, a court must set “aside agency action” that is “not in accordance with law.” 5 U.S.C. § 706(2)(A).

169. The Final Rule violates Section 1554 of the Affordable Care Act, which prohibits the Department from implementing any regulation that “(1) creates any unreasonable barriers to the ability of individuals to obtain appropriate medical care; (2) impedes timely access to health care services; (3) interferes with communications regarding a full range of treatment options between the patient and the provider; (4) restricts the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions; (5) violates principles of informed consent and the ethical standards of health care professionals; or (6) limits the availability of health care treatment for the full duration of a patient’s medical needs.” 42 U.S.C. § 18114.

170. The Final Rule conflicts with the Medicaid and Medicare statutes it purports to implement, which provide that with regard to informed consent, those statutes shall not “be construed to affect disclosure requirements under State law.” 42 U.S.C. § 1396u-2(b)(3)(B) (Medicaid managed care organization); *see also* 42 U.S.C. § 1395w-22(j)(3)(C) (Medicare+Choice).

171. The Final Rule violates the Emergency Medical Treatment and Labor Act (“EMTALA”), which requires hospitals to provide emergency care. 42 U.S.C. § 1395dd.

172. The Final Rule conflicts with Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment based on religious beliefs, and further provides that employers are not obligated to accommodate employees' religious beliefs where the accommodation would cause "undue hardship" on the employer. 42 U.S.C. § 2000e(j)

173. The Final Rule is therefore "not in accordance with law" as required by the APA. 5 U.S.C. § 706(2)(A).

174. Defendants' violation causes ongoing harm to Plaintiffs and their residents.

THIRD CLAIM FOR RELIEF

(Administrative Procedure Act – Arbitrary and Capricious)

175. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

176. The APA provides that courts must "hold unlawful and set aside" agency action that is "arbitrary, capricious, [or] an abuse of discretion." 5 U.S.C. § 706(2)(A).

177. The Final Rule is arbitrary and capricious because Defendants' justification for its decision runs counter to the evidence before the agency, relies on factors Congress did not intend the agency to consider, and disregards material facts and evidence, including nationally recognized standards of care for medical professionals.

178. The Final Rule is arbitrary and capricious because its definitions of "assist in the performance," "discriminate or discrimination," "health care entity," and "referral or refer for," taken together, arbitrarily require Plaintiffs to guess whether routine procedures and services would require additional steps to accommodate workers or protect patients, and unreasonably ignore evidence in the rulemaking record that these definitions create an unworkable situation for Plaintiffs and other health care providers and regulators.

179. The Final Rule is arbitrary and capricious because the Department conducted and relied on a flawed cost-benefit analysis, citing benefits the Final Rule would confer without any evidentiary basis, and failing adequately to account for the true costs the Final Rule will impose, including the significant costs to Plaintiffs and to the public health and safety of their residents.

180. The Final Rule is arbitrary and capricious because it fails to consider important aspects of the problem, including the Rule's interference with the administration of EMTALA and Title VII.

181. The Final Rule is therefore "arbitrary, capricious, [or] an abuse of discretion" in violation of the APA. 5 U.S.C. § 706(2)(A).

182. Defendants' violation causes ongoing harm to Plaintiffs and their residents.

FOURTH CLAIM FOR RELIEF

(U.S. Constitution art. I, § 8, cl. 1 – Spending Clause)

183. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

184. The Spending Clause of the Constitution does not permit the Department to "exert a power akin to undue influence" over the Plaintiffs by attaching conditions to federal funds that are "so coercive as to pass the point at which pressure turns into compulsion." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 578-88 (2012) (op. of Roberts, C.J.) (citations omitted).

185. The Department's threat to withhold, deny, suspend, or terminate billions of dollars in federal health care funds to the Plaintiffs – as well as *all* funds appropriated under the Departments of Labor, HHS, Education, and Related Agencies Appropriations Act, Pub. L. No. 115-245, Div. B, including funds entirely unrelated to health care – is unconstitutionally coercive and violates the Spending Clause.

186. The Spending Clause also requires that any conditions attached to the receipt of federal funds must be unambiguous and clearly stated in advance, so that states and local governments considering acceptance of those funds can do so knowingly and voluntarily. *South Dakota v. Dole*, 483 U.S. 203, 207 (1987).

187. The Final Rule is unconstitutionally vague and ambiguous, and attaches new after-the-fact conditions to Plaintiffs' receipt of federal funds, in violation of the Spending Clause.

188. The Spending Clause further requires that conditions placed on federal funds be reasonably related to the purposes of the federal programs at issue. *Id.* at 213.

189. The Final Rule unconstitutionally imposes conditions on Plaintiffs' receipt of federal funds that have no nexus to the purposes of those federal funding programs.

190. Defendants' violation causes ongoing harm to Plaintiffs and their residents.

FIFTH CLAIM FOR RELIEF

(U.S. Constitution – Separation of Powers)

191. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

192. The Constitution vests the spending power in Congress, not the Executive Branch. U.S. Const. art. I, § 8, cl. 1.

193. Congress may delegate some discretion to the Executive Branch to decide how to spend appropriated funds, but that discretion is cabined by the scope of the delegation. *City of Arlington*, 569 U.S. at 297.

194. The Executive Branch cannot amend or cancel appropriations that Congress has duly enacted. *Clinton v. City of New York*, 524 U.S. 417, 439 (1998); *Train v. City of New York*, 420 U.S. 35, 38, 44 (1975).

195. The Final Rule imposes requirements not authorized by the underlying federal statutes and would allow Defendants to withhold, deny, suspend, or terminate federal financial assistance for noncompliance with those requirements.

196. The Final Rule's conditions improperly usurp Congress's spending power and amount to an unconstitutional refusal to spend money appropriated by Congress, in violation of constitutional separation of powers principles.

197. Defendants' violation causes ongoing harm to Plaintiffs and their residents.

SIXTH CLAIM FOR RELIEF

(U.S. Constitution amend. I – Establishment Clause)

198. Plaintiffs incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

199. Laws that compel employers to “conform their business practices to the particular religious practices of . . . employees” violate the Establishment Clause of the United States Constitution. *Estate of Thornton v. Caldor*, 472 U.S. 703, 709 (1995).

200. By requiring employers, including State and local governments, to accommodate their employees' religious beliefs to the exclusion of other interests, the Final Rule will impose substantial burdens on third parties – including Plaintiffs' other employees and patients – in contravention of the First Amendment.

201. Defendants' violation causes ongoing harm to Plaintiffs and their residents.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court:

1. Declare that the Final Rule is in excess of the Department's statutory jurisdiction, authority, or limitations, or short of statutory right within the meaning of 5 U.S.C. § 706(2)(C);
2. Declare that the Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law within the meaning of 5 U.S.C. § 706(2)(A);
3. Declare that the Final Rule is unconstitutional;
4. Vacate and set aside the Final Rule;
5. Enjoin the Department and all its officers, employees, and agents, and anyone acting in concert with them, from implementing, applying, or taking any action whatsoever under the Final Rule;
6. Stay the effective date of the Final Rule pursuant to 5 U.S.C. § 705;
7. Award Plaintiffs their reasonable fees, costs, and expenses, including attorneys' fees, pursuant to 28 U.S.C. § 2412; and
8. Grant other such relief as this Court may deem proper.

DATED: May 21, 2019

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*Motion to appear *pro hac vice* forthcoming.

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.; and PLANNED
PARENTHOOD OF NORTHERN NEW
ENGLAND, INC.,

Plaintiffs,

v.

ALEX M. AZAR II, in his official capacity as
Secretary, United States Department of
Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ROGER
SEVERINO, in his official capacity as
Director, Office for Civil Rights, United
States Department of Health and Human
Services; and OFFICE FOR CIVIL RIGHTS,
United States Department of Health and
Human Services,

Defendants.

Civil Action No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs Planned Parenthood Federation of America, Inc. (“PPFA”) and Planned Parenthood of Northern New England, Inc. (“PPNNE”) (collectively, “Planned Parenthood”) complain and allege as follows:

I. INTRODUCTION

1. Planned Parenthood brings this action under the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*, to set aside and enjoin a final rule issued by the Department of Health and Human Services (“HHS” or the “Department”) that will authorize and embolden people to discriminate in the delivery of health care and, as a result, significantly restrict the ability of millions of individuals in this country to access vital and potentially life-saving medical services. The rule, entitled Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019) (to be codified at 45 C.F.R. pt. 88) (the “Refusal of Care Rule” or the

“Rule”), attached as Exhibit A, represents a radical departure from HHS’s stated mission “to enhance the health and well-being of all Americans”¹ and the agency’s long history of combating discrimination, protecting patient access to care, and eliminating health disparities.

2. The Refusal of Care Rule would dramatically and unlawfully broaden existing federal law far beyond what Congress intended. The Rule would allow almost any health care provider—including hospitals or individual workers in the health care setting, even those only tangentially involved in the delivery of patient care—to refuse to provide, assist with, or refer for virtually any health service, based solely on a personal objection. The Rule even permits the withholding of *information* from patients about all their health care options—and without any notice to patients, making patients’ informed consent impossible. In many circumstances, the failure to provide this information amounts to a denial of care because, without that information, patients do not know that option exists, and thus cannot seek care at a different medical facility.

3. The Rule appropriates language from civil rights laws that were intended to combat discrimination and improve access to health care and distorts it in a manner that will instead *encourage* discrimination and *decrease* access to health care. The Rule’s expansive definitions and confusing parameters will invite workers to discriminate against individuals seeking care. For example, a receptionist could interpret the Rule to allow him to refuse to schedule a transgender patient for transition-related care, an annual physical examination, or screening for cervical cancer. Particularly in rural areas with limited health care provider options, one individual’s decision to refuse care could effectively make health services unavailable to patients in need.

¹ HHS Mission Statement, <https://www.hhs.gov/about/strategic-plan/introduction/index.html> (last visited June 10, 2019).

4. The Rule abandons longstanding protections for patients in the face of providers' objections to providing or assisting in the provision of care. For example, the Rule does not include exceptions for emergencies—indeed, in finalizing the Rule, the Department specifically declined to clarify that protections for patients in emergency situations under the federal Emergency Medical Treatment and Active Labor Act (“EMTALA”) still apply. The result is that a patient in distress could be denied care from a hospital emergency room or denied information about life-saving treatment because a single doctor, clinician, or technician asserts a religious or moral objection. Indeed, Defendants acknowledge that an ambulance driver could refuse to take a patient suffering from an ectopic pregnancy to the hospital because of objections to the care she will receive when she gets there.

5. The Rule jeopardizes access to the full array of health services offered by Planned Parenthood and is antithetical to its mission to provide comprehensive and non-judgmental health care and information to all who seek care at any of its more than 600 health centers across the country. The Rule imposes onerous restrictions on health care providers, such as Planned Parenthood, that receive certain federal funding from the Department (i.e., “covered entities”) and are required to comply and certify compliance with the Rule.

6. In particular, the Rule abandons the long-standing balancing framework that Title VII of the Civil Rights Act of 1964 sets forth, which requires religious accommodations only when they do not impose undue hardship on the employer's operations. Instead, the Rule appears to require covered entities like Planned Parenthood to offer absolute accommodations to employees, trainees, volunteers, and contractors who object to providing or assisting with a health service, such as abortion and sterilization—notwithstanding the harm these accommodations may cause to patients or to Planned Parenthood's ability to perform operations

core to its mission. The Rule goes even further and prevents covered entities from even *inquiring* during the hiring or recruitment process whether an individual has an objection to providing or assisting with such health services. In essence, the Rule prevents Planned Parenthood from ensuring that an individual will do his or her job prior to finalizing the employment relationship with that person.

7. Thus, Planned Parenthood could be forced to hire people who are opposed to its core mission and the care it provides, and it may be constrained from taking any action to remove those people once hired. This not only prevents Planned Parenthood from ensuring that its patients receive the care they need, but also threatens the security of Planned Parenthood, its patients and staff. If a Planned Parenthood affiliate runs afoul of the broad and vague restrictions in the Rule, under the Rule's strict enforcement mechanisms, it stands to lose *all* of its federal funding that it uses to provide a wide range of health care services to patients across the country.

8. The devastating burden to patients and their families who will be denied health care will be disproportionately borne by those who already face significant barriers to health care—women, people of color, patients living in rural areas, lesbian, gay, bisexual, transgender, and queer individuals, people with low incomes, immigrants, and people living with disabilities. Patients seeking reproductive health care will lose critical care under the Rule: rape survivors could be denied emergency contraception, people with unintended pregnancies could be denied information and counseling on all of their options, and people suffering ectopic pregnancies or miscarriages could be denied critical and time-sensitive care. The Refusal of Care Rule would, in effect, subordinate the health and safety of patients to the personal beliefs of health care providers who wish to deny them care.

9. A broad coalition of the nation's trusted medical associations submitted comments opposing the Rule, including the American Medical Association, the American Academy of Family Physicians, the American Nurses Association, the American College of Obstetricians and Gynecologists, the American College of Emergency Physicians, the American Academy of Pediatrics, the American Hospital Association, and the Association of American Medical Colleges. As the Association of American Medical Colleges explained in urging HHS to withdraw the Rule, "[t]hose who choose the profession of medicine are taught repeatedly . . . that, in the end, their duty to care for the patient must come first, before self. . . . Conscience is a burden that belongs to that individual professional; patients should not have to shoulder it."² The Rule nonetheless upends fundamental medical ethics by elevating an individual's personal beliefs above a patient's health. In promulgating the Rule, the Department explicitly chose to ignore these concerns and the foreseeable negative consequences for patient health.

10. By the Departments' own estimates, the Refusal of Care Rule would impact over 613,000 hospitals, health clinics, doctors' offices, and nonprofits, which includes facilities operated by PPFA's affiliates (such as Plaintiff PPNNE), and cost over \$1 billion to implement. But the Rule's true costs are substantially greater than the Department estimates, as the Department entirely abdicates its responsibility to weigh the substantial costs to patients and their families that will inevitably result from the above-described denials of health care that the Rule would cause, and fails to realistically account for the costs to health care providers who must comply with the Rule's vague and onerous requirements.

11. The Department has decided to impose these costs even though federal law already provides protections for health care providers who object to providing certain health care

² Comment of Ass'n of Am. Med. Colls. (Mar. 26, 2018), <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-67592> (last visited June 10, 2019).

services, and the Department has failed to show that additional protections are necessary. Yet the Department forged ahead with this harmful Rule, unlawfully expanding the reach of existing federal refusal laws and imposing new, burdensome restrictions on health care employers like Planned Parenthood that *do* want to ensure patients receive the care they need.

12. The Refusal of Care Rule must be held unlawful and set aside. Among other reasons, the Rule's radical expansion of the underlying federal laws is contrary to clear statutory language and congressional intent; the Rule conflicts with other federal laws, including EMTALA, Title X of the Public Health Service Act ("Title X"), and Section 1554 of the Patient Protection and Affordable Care Act ("ACA"); and the Rule violates the First and Fifth Amendments of the Constitution. Moreover, the Rule is arbitrary and capricious because the Department completely failed to address important aspects of the problem (most notably the Rule's effects on patients seeking care), reconcile the Rule with other federal laws, clarify vague terms and contradictory requirements, provide a reasoned explanation for the Rule's dramatic reversal in policy, conduct an adequate regulatory impact analysis, and respond to significant comments. The Rule was also promulgated without procedures required by law as the Department failed to provide an opportunity to comment on key aspects of the final Rule.

13. The Rule is scheduled to take effect on July 22, 2019. Unless enjoined and set aside, the Refusal of Care Rule will irreparably harm Planned Parenthood, its patients, and, indeed, the nation's public health. Planned Parenthood, therefore, seeks a declaration that the Refusal of Care Rule is unlawful, and preliminary and permanent injunctive relief preventing its enforcement.

II. THE PARTIES

14. Plaintiff PPFA is a not-for-profit corporation with its principal place of business in New York City (Manhattan) and organized under New York's laws. PPFA is the leading

national organization dedicated to public education and advocacy in the field of reproductive health care. PPFA's core mission is to ensure the provision of high-quality, non-judgmental comprehensive reproductive health care services, to provide educational programs relating to reproductive and sexual health, and to advocate for public policies to ensure access to health services—including and especially for individuals with low incomes or from underserved communities. PPFA also engages in public education about, and advocacy in favor of, the right to access safe and legal abortions.

15. PPFA is a membership organization composed of 53 affiliate organizations, with a Board of Directors. The member-affiliates are responsible for setting the long-range goals and priorities of PPFA and for electing the PPFA Board of Directors. Through their participation and voting, PPFA's member-affiliates control the mission and direction of PPFA. Under PPFA's bylaws, PPFA's member-affiliates are also required to contribute financially to PPFA, and affiliate dues contribute to PPFA's financial support. Although PPFA member-affiliates are independent organizations, as an affiliate of PPFA each has the right to use the Planned Parenthood name and service mark.

16. Cumulatively, PPFA's member-affiliates operate more than 600 health centers that provide a wide range of reproductive health care services and education. Among them are contraception (including long-acting reversible contraceptives ("LARCs")), contraceptive counseling, physical exams, clinical breast exams, screening for cervical cancer, testing and treatment for sexually transmitted infections ("STIs"), pregnancy testing and counseling, gender-affirming care including hormone therapy for transgender patients, some sterilization services (including vasectomies), colposcopies, abortion, and health education services. PPFA affiliates also provide referrals for these services if they are unable to provide them at their health centers.

17. In 2018, Planned Parenthood affiliates provided more than 9.8 million services to approximately 2.4 million patients during the course of approximately four million visits. Planned Parenthood provided reversible contraceptives to more than 1.8 million patients and administered more than 560,000 cancer screenings and preventive services such as breast exams and cervical screens (Pap tests). An estimated one out of every three women nationally has received care from a PPFA affiliate at least once in her life.

18. In the past several years, the occurrence of gonorrhea, chlamydia, and syphilis has dramatically spiked in communities nationwide, and particularly in the communities that Planned Parenthood serves. Accordingly, STI testing and treatment has become a larger portion of Planned Parenthood's service mix. In 2018, PPFA's affiliates administered more than 4.9 million STI tests, as compared to approximately 4.7 million STI tests in 2017 and approximately 4.4 million STI tests in 2016.

19. Fifty-six percent of Planned Parenthood health centers are in health professional shortage areas, rural areas, or medically underserved areas, as designated by the Health Resources and Services Administration within HHS.

20. Seventy-three percent of Planned Parenthood patients have incomes at or below 150% of the federal poverty level, which equates to \$18,735³ for a single person household.

21. Planned Parenthood health centers also play a critical role in serving communities of color. Approximately 26% of Planned Parenthood's patients are Latinx, 18% are Black, and 11% are Native American, Asian, or Multiracial.

³ Calculations based on *Poverty Guidelines*, U.S. Dep't of Health & Human Servs., <https://aspe.hhs.gov/poverty-guidelines> (last visited June 10, 2019).

22. Virtually all PPFA member-affiliates receive HHS funds and, therefore, are subject to the Refusal of Care Rule. For example, in 2017, Planned Parenthood affiliates collectively received over \$67 million in grants under Title X of the Public Health Service Act. In addition, nearly every Planned Parenthood affiliate participates in the Medicaid program and receives reimbursement (collectively in the hundreds of millions of dollars) for providing health services to Medicaid patients. In addition, PPFA affiliates receive other HHS funds that subject them to the Refusal of Care Rule, including under the Social Services Block Grant (“SSBG” or “Title XX”) program, 42 U.S.C. § 1397 *et seq.*; the Ryan White AIDS program; the National Breast and Cervical Cancer Early Detection Program (“NBCCEDP”), 42 U.S.C. § 300k *et seq.*; the Infertility Prevention Program (“IPP”), 42 U.S.C. § 247c-1; and the Maternal and Child Health Services Block Grant (“Title V”) program, 42 U.S.C. § 701 *et seq.* Some PPFA member-affiliates delegate HHS funds to sub-recipients. In addition, some PPFA member-affiliates receive grants from and/or participate in research projects funded by the National Institute of Health.

23. Planned Parenthood is also a major employer. Combined, Planned Parenthood affiliates employ more than 10,000 individuals nationwide, including almost 9,000 full-time employees. In addition, Planned Parenthood has more than 30,000 volunteers annually. Planned Parenthood affiliates must make hiring decisions for approximately 2,000 employee vacancies per year. If allowed to take effect, the Rule will unlawfully and drastically alter Planned Parenthood’s hiring practices, potentially forcing it to hire individuals who have objections to core health services it provides, such as abortion, and raise serious questions about how it conducts its employment practices.

24. PPFA sues on its own behalf, on behalf of its member-affiliates that receive federal funds that subject them to the Refusal of Care Rule and on behalf of their patients nationwide. PPFA has standing to sue on behalf of its member-affiliates because (1) its member-affiliates would have standing to sue in their own right; (2) the interests PPFA seeks to protect are germane to its purposes; and (3) neither the claims asserted, nor the relief requested, require the participation in this lawsuit of each individual PPFA member-affiliate.

25. Plaintiff PPNNE is a not-for-profit Vermont corporation and a member-affiliate of PPFA. It provides clinical, educational, and counseling services at 21 health care centers in Vermont, New Hampshire, and Maine. PPNNE is the largest reproductive health care and sexuality education provider in northern New England, serving more than 45,000 people annually. PPNNE provides a wide range of reproductive health services at its health care centers, including birth control, such as emergency contraception and LARCs; testing and treatment for STIs; testing for HIV and HPV; pregnancy testing; and breast and cervical cancer screenings. PPNNE also provides medication abortions through 11 weeks after the first day of a patient's last menstrual period and aspiration abortions through 19 weeks 0 days. In addition, all PPNNE health centers offer post-exposure prophylaxis (PEP) and pre-exposure prophylaxis (PrEP) for HIV prevention; gender-affirming care, including hormone therapy, for transgender patients; prenatal screenings and referrals; and referrals for sterilizations (e.g., vasectomies).

26. PPNNE participates in many federal programs administered by HHS that subject it to the Refusal of Care Rule, including the Title X program, the SSBG program, and Medicaid.

27. PPFA member-affiliates, including PPNNE, reasonably fear that the Rule frustrates their ability to carry out their mission to provide comprehensive reproductive health services to the patients they serve. They fear that they will be forced to hire and accommodate

individuals to work in their health centers despite that they object to providing or assisting with certain core services, including individuals who are only tangentially involved in the provision of patient care. One person's objection could effectively result in the refusal of care for an affiliate's patients, inhibiting their access to medical treatment. The Rule also imposes vague and unworkable requirements, putting a PPFA member-affiliate at risk of losing all of its federal funding, which is used to provide necessary health services to millions of individuals. They also reasonably fear that the Refusal of Care Rule exposes Planned Parenthood to security risks and threatens the safety of its staff and patients, as it hampers Planned Parenthood's ability to screen during the hiring process for individuals who have a dangerous opposition to the services Planned Parenthood provides.

28. PPFA, PPNNE, and all of PPFA's other member-affiliates are collectively referred to here as "Planned Parenthood."

29. Defendant Alex M. Azar II is the Secretary of HHS, the agency that promulgated the Refusal of Care Rule. Defendant Azar is sued in his official capacity, as are his successors.

30. Defendant HHS is an agency of the United States government, located at 200 Independence Avenue, S.W., Washington, D.C. 20201.

31. Defendant Roger Severino is the Director of the Office of Civil Rights at HHS. Defendant Severino is sued in his official capacity, as are his successors.

32. Defendant Office for Civil Rights ("OCR") is the office within HHS to which HHS has delegated its claimed responsibility for enforcing the Refusal of Care Rule. OCR thus claims authority to initiate compliance reviews, conduct investigations, supervise and coordinate compliance by HHS and its components, and use other enforcement tools to address alleged violations and resolve complaints.

III. JURISDICTION AND VENUE

33. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331.

34. This action, including Planned Parenthood’s claims for injunctive and declaratory relief, is authorized by the APA, 5 U.S.C. §§ 702, 704–706; the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202; Rules 57 and 65 of the Federal Rules of Civil Procedure; and the equitable powers of this Court.

35. Defendants’ issuance of the final Rule on May 21, 2019, constitutes final agency action that is judicially reviewable under the APA, 5 U.S.C. §§ 704, 706.

36. Venue is appropriate under 28 U.S.C. § 1391(e)(1)(C) because PPFA’s headquarters is located in this judicial district, and no real property is involved in this action.

IV. FACTUAL ALLEGATIONS

A. Statutory and Regulatory Background

1. The Underlying Refusal Statutes

37. The Refusal of Care Rule purports to “implement[] and enforce[]” more than 20 federal laws, the vast majority of which have never previously been the subject of agency rulemaking. Of particular relevance here, the Rule purports to implement, among other laws, the Church Amendments, 42 U.S.C. § 300a-7; the Coats-Snowe Amendment, 42 U.S.C. § 238n; and the Weldon Amendment, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019, Div. B, § 507(d), Pub. L. No. 115-245, 132 Stat. 2981, 3118 (2018) (collectively the “federal refusal laws” or “federal refusal statutes”).

a) The Church Amendments (1973–1979)

38. Originally sponsored by Senator Frank Church of Idaho, the Church Amendments refer to a series of laws passed in the 1970s.

(i) Church (b) and (c)(1)

39. Church (b) and (c)(1) were passed shortly after the Supreme Court's decision in *Roe v. Wade*, 410 U.S. 113 (1973), and following a district court decision that enjoined a Catholic hospital from preventing a physician from performing a voluntary sterilization procedure on the grounds that the hospital's receipt of certain federal funds meant it was acting under the color of state law, *see* H.R. Rep. 93-227 (1973), at 1473 (citing *Taylor v. St. Vincent's Hospital*, 369 F. Supp. 948, 950 (D. Mont. 1973)).

40. In response to those decisions, Congress passed a law stating that receiving federal funding does not, in and of itself, obligate individuals or entities to provide abortion or sterilization services. *See, e.g.*, 119 Cong. Rec. 9599 (Mar. 27, 1973) (statement of Sen. Church). However, the Senators who originally debated the Church Amendments made clear that they intended the law to have a very limited impact on patient access to abortion and sterilization services. Senator Church noted that in his home state of Idaho “[t]here is no great difficulty for those who wish to obtain a sterilization or an abortion operation to go to the publicly owned hospitals where such procedures are available.” 119 Cong. Rec. 9601 (Mar. 27, 1973). Senator Stevenson believed the law would not prevent anyone at all from obtaining an abortion or sterilization services, asserting that “[n]o individuals will be denied an abortion or sterilization” as a result of the Church Amendments. *Id.* at 9596.

41. Church (b)(1) states that “[t]he receipt of any grant, contract, loan, or loan guarantee under [, *inter alia*,] the Public Health Services Act [42 U.S.C.A. § 201 *et seq.*] . . . by any individual . . . does not authorize any court or other public official to require . . . such individual to perform or assist in the performance of any sterilization procedure or abortion” if it “would be contrary to his religious beliefs or moral convictions.” 42 U.S.C. § 300a-7(b)(1).

42. Church (b)(2) further provides that the receipt of such funds does not authorize any court or other public official to require a receiving entity to “(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or (B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion” if it “would be contrary to the religious beliefs or moral convictions of such personnel.” 42 U.S.C. § 300a-7(b)(2).

43. Church (c)(1) prohibits entities that receive funds under, *inter alia*, the Public Health Services Act, from “discriminat[ing] in the employment, promotion, or termination of employment of” or “in the extension of staff or other privileges to any physician or other health care personnel”

- because such person “performed or assisted in the performance of a lawful sterilization procedure or abortion,” or
- because such person “refused to perform or assist in the performance of such a procedure or abortion” because such procedures are “contrary to his religious beliefs or moral convictions,” or
- because of such person’s “religious beliefs or moral convictions respecting sterilization procedures or abortions.” 42 U.S.C. § 300a-7(c)(1).

(ii) Church (c)(2) and (d)

44. Church (c)(2) and (d) were added in 1974 when the Senate was considering the National Research Act, which addresses funding for biomedical and behavioral research, and was designed to ensure that research projects involving human subjects were performed in an ethical manner. *See* 119 Cong. Rec. 29213–32 (Sept. 11, 1973). Subsection (c)(2) prohibits any

entity that receives a grant or contract for biomedical or behavioral research under any program administered by the Secretary of HHS from “discriminat[ing] in the employment, promotion, or termination of employment of” or “extension of staff or other privileges to any physician or other health care personnel”:

- because such person “performed or assisted in the performance of any lawful health service or research activity;” or
- because such person “refused to perform or assist in the performance of any such service or activity on the grounds that” it would be “contrary to his religious beliefs or moral convictions;” or
- because of such person’s “religious beliefs or moral convictions respecting any such service or activity.” 42 U.S.C. § 300a-7(c)(2).

45. Church (d), which was also passed as part of the National Research Act, provides that “[n]o individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by [HHS] if his performance . . . would be contrary to his religious beliefs or moral convictions.” *Id.* § 300a-7(d).

(iii) Church (e)

46. Church (e) was enacted in 1979 and provides that entities that receive funds under, *inter alia*, the Public Health Service Act may not deny admission or otherwise discriminate against applicants for training or study based on their participation in abortions or sterilizations. *See* 42 U.S.C. § 300a-7(e).

47. The substance of the Church Amendments has remained unchanged since 1979.

b) The Coats-Snowe Amendment (1996)

48. In 1996, Congress adopted the Coats-Snowe Amendment in response to a decision by the Accrediting Council for Graduate Medical Education (“ACGME”) to require obstetrician-gynecologist residency programs to provide abortion training. The ACGME required that all obstetrics and gynecology residency programs provide induced abortion training beginning January 1, 1996; however, “[n]o program or resident with a religious or moral objection [would] be required to provide training in or to perform induced abortions.”⁴

49. The Coats-Snowe Amendment prohibits the federal government, or any state or local government that receives federal financial assistance, from discriminating against any “health care entity” on the basis that:

- “the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;”
- “the entity refuses to make arrangements for any of the [above] activities . . . ;” or
- “the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.” 42 U.S.C. § 238n(a).

⁴ See Committee Opinion No. 612 at 2–3, American College of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women (Nov. 2014), <https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co612.pdf?dmc=1&ts=20170926T2329467312> (last visited June 10, 2019).

50. The Coats-Snowe Amendment defines the term “health care entity” to “include[] an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.” 42 U.S.C. § 238n(c)(2).

51. The substance of the Coats-Snowe Amendment has remained unchanged since 1996.

c) *The Weldon Amendment (2004)*

52. The Weldon Amendment refers to a rider that has been attached to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act every year since 2004.

53. It provides that none of the funds appropriated in that Act

may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019, Div. B, § 507(d), Pub. L. No. 115-245, 132 Stat. 2981, 3118 (2018).

54. The Weldon Amendment defines the term “health care entity” to “include[] an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.” *Id.*

55. The substance of the Weldon Amendment has remained unchanged since 2004.

2. Relevant Rulemaking History

a) *The 2008 Rule*

56. The current Refusal of Care Rule is not the Department’s first rulemaking in this field. In 2008, the Department promulgated a regulation that also purported to implement the

Church, Weldon, and Coats-Snowe Amendments. *See* Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law, 73 Fed. Reg. 78,072 (Dec. 19, 2008) (the “2008 Rule”). The 2008 Rule broadened the reach of the underlying federal refusal laws by, for example, extending the right to refuse to a vastly greater number of individuals involved in health care and authorizing those individuals to refuse to provide information to patients about treatment options. Despite widespread public condemnation, HHS finalized the 2008 Rule in December 2008, and it became effective on January 20, 2009.

57. Within months of its effective date, HHS proposed⁵ rescinding the 2008 Rule and in 2011 issued a final rule⁶ rescinding the 2008 Rule almost entirely. In the 2011 Rule, HHS noted several reasons for the rescission including, “the 2008 Final Rule may negatively affect the ability of patients to access care if interpreted broadly.” *Id.* at 9,974; *see also infra* Part IV.B.2. In the end, HHS left in place only the limited provision designating OCR to receive and coordinate the handling of complaints based on the federal refusal statutes. *Id.* at 9,976–77.

B. The 2019 Refusal of Care Rule

58. On January 18, 2018, the day before the annual “March for Life” was scheduled, HHS announced the creation of a new “Conscience and Religious Freedom Division” within OCR charged with protecting health care providers who refuse to provide health care.⁷ On the same day, HHS also announced that OCR planned to amend its mission statement to abandon its

⁵ *See* Rescission of the Regulation Entitled “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law,” 74 Fed. Reg. 10,207, 10,209 (proposed Mar. 10, 2009).

⁶ Regulation for the Enforcement of Federal Health Care Provider Conscience Protection Laws, 76 Fed. Reg. 9,968-02, 9,971 (Feb. 23, 2011) (the “2011 Rule”).

⁷ *HHS Announces New Conscience and Religious Freedom Division*, HHS Office for Civil Rights (Jan. 18, 2018), <https://www.hhs.gov/about/news/2018/01/18/hhs-ocr-announces-new-conscience-and-religious-freedom-division.html> (last visited June 10, 2019).

historic focus on protecting and improving patient health and instead to prioritize enforcing the federal refusal statutes.

59. The next day (the day of the March for Life), the Office of Information and Regulatory Affairs (“OIRA”) released the proposed Refusal of Care Rule to the public.⁸ HHS apparently sent the proposed Refusal of Care Rule to OIRA on January 12. But HHS did not first notify the public by publishing notice in its Unified Regulatory Agenda, as required by Executive Order 12,866.⁹ Although the proposed Rule was hundreds of pages long, it cleared OIRA review in just one week.

60. In response to the proposed Rule, HHS received over 242,000 comments. More than 200,000 of those comments were from organizations and individuals who voiced staunch opposition to the Rule. Among the commenters were:

- Medical professional associations, including the American Medical Association, the American College of Emergency Physicians, the American Association of Medical Colleges, the American College of Obstetricians and Gynecologists, and the American Psychological Association;
- Other health care providers, including Planned Parenthood;
- Former leadership at the Equal Employment Opportunity Commission, the federal agency charged with administering and enforcing Title VII;
- State officials, including at least 20 State Attorneys General;

⁸ OIRA Conclusion of E.O. 12866 Regulatory Review, Ensuring Compliance with Certain Statutory Provisions in Health Care; Delegations of Authority. HHS/OCR. RIN: 0945-ZA03. Received date: 01/12/18. Concluded date: 01/19/18, <https://www.reginfo.gov/public/do/eoDetails?rrid=127838> (last visited June 10, 2019).

⁹ Exec. Order No. 12866 at Sec. 4(b)–(c) (Sept. 30, 1993); OIRA, *Agency Rule List – Fall 2017, Dep’t of Health Human Servs.*, https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPubId=201710&showStage=active&agencyCd=0900&Image58.x=35&Image58.y=13 (last visited June 10, 2019).

- Associations of state health officials, such as the National Alliance of State & Territorial AIDS Directors and the National Association of County and City Health Officials, as well as numerous state public health departments;
- Federal officials, including at least 106 members of the House of Representatives and 18 Senators;
- Religious groups, such as the Unitarian Universalist Association of Congregations, the United Methodist Church, Catholics for Choice and the Religious Action Center of Reform Judaism; and
- Advocates representing many of those groups of people most likely to be harmed by the Rule.

61. More than one year later, the day before the National Day of Prayer, on May 1, 2019, OCR revised its website to include a new mission statement. As previously signaled, the new statement abandoned OCR's long-held mission to "improve the health and well-being of people across the nation" and "to ensure that people have equal access to and the opportunity to participate in and receive services from HHS programs without facing unlawful discrimination." OCR's new mission statement declares that OCR intends to operate as a "law enforcement agency" that prioritizes enforcing the federal refusal statutes, as well as civil rights laws and privacy and security laws.¹⁰

62. HHS posted a nearly final version of the Refusal of Care Rule on OCR's website on May 2, 2019, to coincide with the National Day of Prayer. That same day, President Trump

¹⁰ Dep't of Health & Human Servs., OCR Mission and Vision, <https://www.hhs.gov/ocr/about-us/leadership/index.html> (last visited June 10, 2019) (listing as one of three OCR priorities "Ensuring that HHS, state and local governments, health care providers, health plans, and others comply with federal laws that guarantee the protection of conscience and free exercise of religion and prohibit coercion and religious discrimination in HHS-conducted or funded programs.").

held a “National Day of Prayer Service” and press conference at the White House. In his remarks, President Trump confirmed that the Administration’s intent in promulgating the Refusal of Care Rule was to expand existing federal refusal laws: “[J]ust today, we finalized new protections of conscience rights for physicians, pharmacists, nurses, teachers, students, and faith-based charities. . . . Together, we are building a culture that cherishes the dignity and worth of human life. Every child, born and unborn, is a sacred gift from God.”

63. The final rule was published in the Federal Register on May 21, 2019.

1. The Refusal of Care Rule’s Provisions

64. The Rule states that its purpose is to “provide for the implementation and enforcement of the Federal conscience and anti-discrimination laws.” 84 Fed. Reg. at 23,263 (to be codified at 45 C.F.R. § 88.1). In fact, the Rule dramatically expands the right to refuse to provide health care, even in emergency situations, beyond the plain language and intent of the underlying federal refusal statutes. It further appropriates anti-discrimination language from civil rights statutes to enable discrimination by health care providers. The Rule demands that it be interpreted and implemented broadly in order to achieve its stated purpose. *Id.* at 23,263, 23,272 (to be codified at 45 C.F.R. §§ 88.1, 88.9).

65. The Rule sets forth various requirements and prohibitions related to each of the statutes it purports to interpret and implement, including the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, the Medicare Advantage Program, and multiple sections of the Affordable Care Act, among others. *Id.* at 23,264–69 (to be codified at 45 C.F.R. § 88.3). As demonstrated by the examples below, while the Rule claims fidelity to the underlying laws, it in fact creates new rights to deny care that far exceed those Congress has provided—just as President Trump stated in his speech on May 2, 2019.

66. The Rule creates a broad exemption that purports to permit any health care provider or individual that works in the health care setting—from hospitals to clinicians to receptionists to technicians who clean instruments—to deny patients basic healthcare, including reproductive and emergency care, on the basis of “religious, moral, ethical or other reasons.” 84 Fed. Reg. at 23,264

67. In addition, the Rule provides expansive definitions of the statutory and regulatory terms, which inject new meaning into defined statutory terms and stretch undefined terms beyond their plain meaning. *Id.* at 23,263–64 (to be codified at 45 C.F.R. § 88.2). A few of the most notable terms are discussed below.

68. The Rule defines the term “**Assist in the performance**” in the Church Amendments to include actions that have a “specific, reasonable, and articulable connection” to “furthering” a procedure otherwise performed by someone else, including but not limited to “counseling, referral, training, or otherwise making arrangements” for the procedure or service, “depending on whether aid is provided by such actions.” *Id.* at 23,263.

69. This new definition is so broad that it means, for example, that simply scheduling an appointment, admitting a patient to a health care facility, filing a patient’s chart, transporting a patient from one part of the facility to another, cleaning medical instruments, providing referrals, or even taking a person’s temperature could conceivably be considered “assist[ing] in the performance” of a health care service, as any of those activities could have a “connection” to “furthering” the service. That individual could then impede the patient’s access to care by refusing to perform those functions.

70. This extends the reach of the Church Amendments to employees and activities far beyond those that Congress intended. During debate on the original Church Amendment, the

amendment's sponsor, Senator Church, made clear that it was not his intent to permit "a nurse or an attendant somewhere in the hospital who objected" to an abortion or sterilization to "veto the rights of a physician and the rights of patients to have a procedure which the Supreme Court has upheld," nor was there any "intention here to permit a frivolous objection from someone unconnected with the procedure to be the basis for a refusal to perform what would otherwise be a legal operation." 119 Cong. Rec. 9597 (Mar. 27, 1973).

71. The Rule also defines "**Referral**" or "**refer for**" broadly to include the provision of "information in oral, written, or electric form" if "the purpose or reasonably foreseeable outcome" of providing that information is "to assist a person in receiving funding or financing for, training in, obtaining, or performing" a health care service or procedure. 84 Fed. Reg. at 23,264. However, this definition of "referral" or "refer for," which would include even telling a patient that abortion is an option they have, contravenes the ordinary understanding of the term. And because "referral" is included in the definition of "assist in the performance," addressed above, the Rule would allow any of the extremely broad range of individuals ostensibly covered by the Rule to refuse not only to participate in services to which they object directly, but also to withhold information from patients without the patients' knowledge.

72. The new definition of "referral" or "refer for" also means that an individual could withhold critical information about a patient's health care options, even if those options are the standard of care. For example, a provider could refuse to inform a patient that the standard of care for an ectopic pregnancy is to terminate the pregnancy. Nor is there any requirement to inform patients about what services and information are being withheld. Thus, an individual working for a health care provider subject to the Rule (such as Planned Parenthood's member-

affiliates) could single-handedly decide that a patient should not *even know* about a life-saving procedure.

73. The Coats-Snowe Amendment and the Weldon Amendment each have their own distinct and precise definition of “**Health care entity**” to establish the universe of individuals and entities who can claim a right to refuse care under each respective statute. The Rule, however, expands the term for both Amendments to permit refusals by new individuals and entities not sanctioned by Congress. 84 Fed. Reg. at 23,264. For example, the new definition of “health care entity” expands the universe of individuals who can claim a right to refuse beyond physicians and nurses to include any health care “personnel” and pharmacists. Additionally, it expands the term in ways that would allow employers to deny abortion coverage to their employees and would allow third-party administrators whose only function is to process benefits claims to deny claims based on personal objections under the Weldon Amendment. None of this is authorized by Weldon or Coats-Snowe.

74. The Rule defines “**Entity**”—which is used in the Church Amendments to define, under subsection (b), those protected by its provisions, and under subsections (c) and (e), those who must comply with its requirements—to now include “person[s]” (which in turn is defined to include corporations, associations, firms, and partnerships, among other organizations, as well as individuals), HHS, states, political subdivisions or instrumentalities of states, public agencies, public institutions, public organizations, and other public entities—including public hospitals—and foreign governments and organizations, 84 Fed. Reg. at 23,263. But during debate on the original Church Amendment, Senator Church made clear that “this amendment would not in any way affect sterilizations or abortions in publicly owned hospitals.” 119 Cong. Rec. 9600 (Mar. 27, 1973).

75. The Rule creates a definition of “**Discriminate**” or “**Discrimination**,” terms used in the Weldon, Coats-Snowe, and some of the Church Amendments, to define what actions an employer may take vis-à-vis its employees (or others). The final Rule includes three provisions that were not included in the definition of “discriminate” or “discrimination” that was in the proposed rule, and thus no comments were solicited as to these provisions. These provisions drastically alter the employment practices of covered entities by *inter alia*:

- prohibiting health care providers from asking prospective employees whether they are willing to perform the essential functions of the job they are seeking;
- prohibiting providers from asking employees if they object to the performance of any of their job functions more than once per calendar year absent an undefined “persuasive justification”—even in the event of an emergency; and
- prohibiting providers from taking steps to protect patient access to the objected-to health services unless the objecting employee “voluntarily accepts” an undefined “effective accommodation” that does not amount to an “adverse action” or otherwise “exclude” the employee from a “field[] of practice.” 84 Fed. Reg. at 23,263.

76. The Department explicitly declined to state that covered entities like Planned Parenthood are permitted to reject job candidates who refuse to perform or assist in the performance of a health service that comprises “the primary or substantial majority of the duties of the position.” *Id.* at 23,192.

77. The Rule is in stark contrast to Title VII, which has operated side by side with the underlying refusal statutes until now. For decades, Title VII has provided a functional framework to protect employees’ religious beliefs. Employers must provide reasonable accommodations of

employees' or applicants' sincerely held religious beliefs, observances, and practices when requested, unless the accommodation would impose an "undue hardship" on an employer in performing business operations. *See* 42 U.S.C. §§ 2000e, 2000e-2. Under Title VII, when an individual requests an accommodation on the basis of religion, the employer may consider the potential effect such an accommodation would have on patients, coworkers, public safety, and other legal obligations, for example. *Id.*

78. The aggregate effect of these definitions and statements made in the Rule is to require covered entities like Planned Parenthood's member-affiliates that receive funds from HHS to permit any employee, intern, volunteer, or contractor—from a receptionist to a sanitation worker to medical staff—to refuse to do anything with a "specific, reasonable, and articulable connection to furthering" abortion, sterilization, or other health service or research activity based on their personal objections, regardless of whether this means patients will be able to obtain critical care or information. 84 Fed. Reg. at 23,263. In other words, the personal beliefs of employees (and others)—even those with no medical training whatsoever and who have only the most attenuated connection to the health care being provided—could be dispositive as to whether a patient receives needed care.

79. The Rule also contains numerous vague statements about the breadth of the Rule, and the obligations of covered entities under the Rule. For example, buried within the Rule's 440-page preamble is a single, confusing sentence about the Weldon Amendment that states the actions of (undefined) "contractors engaged by the Department, a Departmental program, or a State or local government [are] attributable to such Department, program, or government for purposes of enforcement or liability." 84 Fed. Reg. at 23,207. Yet, the preamble also recognizes that by its plain terms Weldon does not apply to private entities. Thus, it is unclear whether the

Department expects private entities that are subrecipients to a state or local government to de facto comply with the Weldon Amendment.

80. The Rule encourages all covered entities to post a notice informing readers of their right to refuse to “perform, assist in the performance of, refer for, undergo, or pay for certain health care-related treatments, research, or services (such as abortion or assisted suicide, among others)” based on their “conscience, religious beliefs, or moral convictions,” and how to file a complaint with OCR. *Id.* at 23,272 (to be codified at 45 C.F.R. pt. 88, App. A). In evaluating a covered entity’s compliance with the Rule, OCR will take into account whether the covered entity has provided such notice, including, *inter alia*, on its website, in a personnel manual, and in a “prominent and conspicuous physical location” where notices to the public and workforce are posted. 84 Fed. Reg. 23,270 (to be codified at 45 C.F.R. § 88.5).

81. In contrast, where a health care provider refuses to provide certain care, the Rule does not require that a similar notice be posted informing patients of this refusal and their right to receive full information about all of their options. Indeed, the Rule may actually prevent a health care employer from posting such a notice to patients, as the Rule states this could be deemed “discrimination” against the objecting employee.

82. The Rule imposes various compliance requirements, including that each covered entity (or applicant to become a recipient of HHS funds), with limited exceptions, provide both an assurance of compliance and a certification of compliance with the various federal statutes on which it relies. 84 Fed. Reg. at 23,269–70 (to be codified at 45 C.F.R. § 88.4). Failure to submit the required assurance and certification subjects covered entities to any of the enforcement mechanisms set forth in the Rule, including termination and potentially even clawback of all HHS funding. *Id.* at 23,271–72 (to be codified at 45 C.F.R. § 88.7).

83. The Rule makes a covered entity liable for violations by a subrecipient. *Id.* at 23,270–71 (to be codified at 45 C.F.R. § 88.6). This is pertinent to Planned Parenthood as some PPFA member-affiliates delegate HHS funds to subrecipients and, thus, under the Rule, are responsible not only for their compliance but also the compliance of their subrecipients. In addition, some PPFA member-affiliates are subgrantees—along with other providers—of HHS funds distributed by a State, which means that if any other subgrantee is found to be out of compliance with the Rule, the State could lose all of its HHS funding, thereby causing the PPFA member-affiliate to lose its funding through no fault of its own.

84. Additionally, the Rule requires covered entities to maintain records “evidencing compliance”; provide OCR access to its books, records, accounts, facilities, and information upon request, and without regard for privacy or confidentiality concerns; cooperate with OCR investigations; report determinations of noncompliance in applications for new or renewed funding; and refrain from intimidating or retaliatory acts. *Id.*

85. The Rule purports to grant broad enforcement authority to OCR, including authority to receive and handle complaints; initiate compliance reviews; conduct investigations; coordinate compliance within HHS; seek voluntary resolutions of complaints; coordinate with other HHS components to make enforcement referrals to the Department of Justice; utilize existing regulations for involuntary enforcement applicable to grants, contracts, or Centers for Medicare and Medicaid Services programs; and “coordinate other appropriate remedial action as the Department deems necessary.” *Id.* at 23,271–72 (to be codified at 45 C.F.R. § 88.7).

86. The Rule permits OCR to restrict funding to recipients, including by terminating or potentially even clawing back all HHS funding to the recipient, when the Department determines there is a failure to comply with the relevant statutes or the Rule itself. As a general

matter, it does not require any nexus between the funding subject to termination and the alleged violation nor does it specify procedures or factors for evaluating what sanction would be appropriate for a violation. *See id.*

87. The Rule states that it does not preempt federal, state, or local laws that are “equally or more protective of religious freedom and moral convictions.” *Id.* at 23,272 (to be codified at 45 C.F.R. § 88.8).

88. The Rule states that it must be “construed in favor of a broad protection of the free exercise of religious beliefs and moral convictions, to the maximum extent permitted by the” underlying refusal laws and the Constitution. *Id.* at 23,272 (to be codified at 45 C.F.R. § 88.9).

2. The Refusal of Care Rule Exceeds Statutory Authority, Is Not in Accordance with Law, and Is Arbitrary and Capricious

89. None of the underlying federal refusal statutes—nor any other federal law—delegated authority to the Department to promulgate the final Rule, which carries the force of law. Nor has Congress delegated the broad enforcement authority that the Department claims for itself in the Rule.

90. Even if the Department had the authority to issue the final Rule, it impermissibly expanded the universe of individuals and entities who can claim protections and broadens what can be refused under the Church, Weldon, and Coats-Snowe Amendments by defining terms such as “assist in the performance,” “referral,” “health care entity,” “entity,” and “discrimination” contrary to their plain meaning and Congressional intent;

91. The Rule also conflicts with numerous other federal laws. For example, EMTALA requires covered hospitals, including public, private, and religiously affiliated hospitals, to provide an appropriate medical screening to any patient requesting treatment to determine whether an emergency medical condition exists, and either to stabilize the condition or

transfer the patient if medically indicated to another facility. *See* 42 U.S.C. § 1395dd(a)–(c). Yet the Refusal of Care Rule contains no emergency exception, and thus to the extent it applies to enable individuals and entities to refuse to provide proper medical care to patients facing medical emergencies (even in public hospitals), it conflicts with EMTALA.

92. The Rule also conflicts with requirements under the Title X program, the nation’s family planning assistance program established by Title X of the Public Health Service Act. Every year from 1996 to the present, Congress has mandated that within the Title X program, health care providers must provide pregnant women with counseling on all pregnancy options. *See* Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2019, Pub. L. No. 115-245, 132 Stat. 2981, 3070–71 (2018) (requiring that “all pregnancy counseling shall be nondirective”). Moreover, while Title X projects do “[n]ot provide, promote, refer for, or support abortion as a method of family planning,” a project must offer pregnant women the opportunity to be provided information and counseling regarding all of their options, including abortion, and provide a referral, if requested. 42 C.F.R. § 59.5(a)(5). Yet the Rule appears to impose an absolute requirement that Title X providers accommodate individuals who refuse to carry out the requirements of the program, and thus allow such individuals to refuse to provide counseling about all pregnancy options or to refer for abortion, upon request. Indeed, HHS admitted that the Rule conflicts with current Title X regulations. 84 Fed. Reg. at 23,190. The Rule could also reshape the Title X program by prohibiting direct grant recipients from rejecting prospective subrecipients that refuse to provide such counseling or to refer for abortion when a patient requests a referral.

93. The Rule also runs contrary to Section 1554 of the ACA, which prohibits HHS from promulgating any regulation that “(1) creates any unreasonable barriers to the ability of

individuals to obtain appropriate medical care; (2) impedes timely access to health care services; (3) interferes with communications regarding a full range of treatment options between the patient and the provider; (4) restricts the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions; (5) violates the principles of informed consent and the ethical standards of health care professionals; or (6) limits the availability of health care treatment for the full duration of a patient's medical needs." 42 U.S.C. § 18114. By empowering individuals in the health care setting and health institutions to restrict access to health services and withhold medical information, the Refusal of Care Rule is irreconcilable with the plain language of 42 U.S.C. § 18114.

94. In promulgating the final Rule, the Department utterly failed to account for the Rule's devastating impact on patients and public health. *See infra* Part IV.B.3. Despite being presented with extensive information from commenters regarding the Rule's expected negative impact on access to health care services and health outcomes, including the Rule's disproportionate impact on already underserved communities, HHS simply refused to incorporate this information into its analysis. *See, e.g.*, 84 Fed. Reg. at 23,252 (refusing to consider the Rule's impact on access to health care services because the Department determined that it could not quantify the expected impact).

95. HHS similarly failed to account for the Rule's negative impact on the provider-patient relationship or that patients will lose the ability to provide full informed consent when a provider refuses to provide a patient with information about all of their options. Instead, HHS stated simply and without explanation that it does not believe informed consent would be impaired. Similarly, HHS did not acknowledge that, in some circumstances, abortion,

sterilization, and other services are medically recommended, but may now be refused carte blanche.

96. Indeed, the Department has chosen to make a complete reversal of its earlier position finding that the 2008 rule, which contains many of the same fundamental flaws as the challenged Rule here, “may negatively affect the ability of patients to access care if interpreted broadly.” 76 Fed. Reg. at 9,974. The Department justified the partial rescission of the 2008 Rule on several grounds, including:

- The ambiguities that the 2008 Rule may have caused with respect to its interaction with other statutes, including Title X and EMTALA, among others. 76 Fed. Reg. at 9,973.
- The 2008 Rule may undermine informed consent, which is crucial to the provision of quality health care services. *Id.*
- The underlying statutes were never intended to allow providers to refuse to provide medical care to an individual because the individual engaged in behavior the health care provider found objectionable. *Id.* at 9,973–74.
- The 2008 Rule had the potential to reduce patient access to health care without a basis in the underlying statutes. *Id.* at 9,974.
- Even after the partial rescission, “the Federal health care provider conscience statutes . . . will continue to protect health care providers”; and the 2011 Rule’s retention of the 2008 Rule’s establishment of a complaint process within OCR “provides a clear process to enforce those laws.” *Id.*

- The certification requirements in the 2008 Rule were unnecessary to ensure compliance with the underlying statutes and “created unnecessary additional financial and administrative burdens on health care entities.” *Id.*

97. HHS now claims that a rule with the same ambiguities and potential to reduce patient access to care will improve access to care by preventing a shortage of health care professionals who HHS believes are not participating in providing health care due to their religious beliefs. To support this claim, HHS relied on stale survey data of health care providers who self-selected into particular religiously-affiliated medical associations.¹¹ However, the rescission of the 2008 Rule in 2011 did *not* result in an exodus of health providers from the profession as predicted by these surveys; on the contrary, “the health care profession has continued to grow since; physicians’ offices have added 400,000 jobs in the interim, for instance.”¹²

98. As discussed above, in addition to the federal refusal statutes, Title VII already protects individuals from employment discrimination based on religion, including, as relevant here, by providing health care workers with the right to an accommodation of their religious beliefs. Health care workers have successfully relied on Title VII to protect their religiously-based refusal to provide care.¹³ The Department did not explain why Title VII is inadequate to protect the interests it purports to be protecting with the Refusal of Care Rule or why religious

¹¹ Dan Diamond & Andrew Restuccia, *How Kellyanne Conway influenced a new Trump rule cheered by religious conservatives*, Politico.com (May 9, 2019), <https://www.politico.com/story/2019/05/09/kellyanne-conway-anti-abortion-doctors-1312316> (“The 440-page rule cites Conway’s years-old polling, including another she conducted in 2011, a dozen times. No other surveys are cited more frequently—and no other data is more central to the Trump administration’s arguments.”) (last visited June 10, 2019).

¹² *Id.*

¹³ *See, e.g.*, Comment of Peggy Mastroianni and Jenny R. Yang, at 2, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71178> (last visited June 10, 2019).

discrimination should get a higher level of protection than all other categories protected by Title VII.

99. Nor did the Department identify a significant number of health care providers who claim to have suffered from violations of federal refusal laws. Indeed, OCR received fewer than fifty complaints alleging violations of federal refusal laws between 2008 and January 2018. The Department identified an uptick in complaints immediately after publication of the proposed Rule, but it does not provide analysis of the veracity of these complaints or explain whether the complainants were able to obtain relief from existing legal protections. Instead, the Department has refused to respond to FOIA requests seeking records of these purported complaints to OCR. *See, e.g., Compl., Ctr. for Reproductive Rights & Nat'l Women's Law Ctr. v. Dep't of Health & Human Servs.*, No. 1:18-cv-1688 (D.D.C. July 19, 2018), ECF No. 1. Moreover, the Department does not explain why existing protections are not adequate to redress any of those complaints, to the extent that they are legitimate.

100. Finally, Pursuant to Executive Order 12,866, the Office of Management and Budget classified the Rule as a "significant regulatory action," thus requiring the Department to conduct a regulatory impact analysis. The Department's regulatory impact analysis disregards significant indirect and direct costs highlighted by commenters in violation of Executive Order 12,866. HHS also ignores instructions from both the Office of Management and Budget's Circular A-4 on Regulatory Analysis (2003) and HHS's own Guidelines for Regulatory Impact Analysis (2016) which detail best practices for assessing costs and benefits under regulatory

impact analyses and require that agencies account for and quantify direct and indirect health costs to the fullest extent practicable.¹⁴

101. First, HHS significantly underestimated the direct costs imposed by the Rule. For example, HHS underestimated the number of covered entities that must submit written assurances and certifications of compliance because, among other reasons, the estimated total excludes all physicians' offices. 84 Fed. Reg. at 23,236. But not all physicians who accept HHS funding will be subject to the criteria for exemption (*i.e.* they accept Medicare Part B), making the total number of covered entities much higher than HHS's estimate. 45 C.F.R. § 88.4(c)(1).¹⁵ Moreover, given the complexity of the Rule, and its drastic departure from what federal law currently requires with respect to accommodation of employees' religious beliefs, HHS failed to provide a realistic estimate of the compliance costs of covered entities, resulting from the need to retain legal counsel, to modify policies and procedures, and to retain additional personnel to make up for personnel that refuse to provide care.

102. Second, HHS ignored the Rule's indirect costs. These costs include costs resulting from adverse health outcomes for patients who are denied information about and/or access to care, as well as costs related to these patients having to find and obtain care from another source, often at increased expense. They also include costs resulting from patients declining to seek health care because they fear refusal by a provider. But HHS has failed to acknowledge that

¹⁴ Office of Mgmt. & Budget, Circular A-4 (Sept. 17, 2003), <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf>; Office of the Ass't Sec'y for Planning and Evaluation, Dep't of Health & Human Servs., *Guidelines for Regulatory Impact Analysis* (2016), https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf; *see, e.g.*, Comment of Institute for Policy Integrity, at 4-5, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-72071> (last visited June 10, 2019).

¹⁵ The Department states incorrectly that it received no comments on the methods used to estimate the scope of exempted recipients. 84 Fed. Reg. at 23,236; *see, e.g.*, Comment of Institute for Policy Integrity, at 8-9, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-72071> (last visited June 10, 2019).

these are legitimate and actual costs of the Rule and failed to incorporate these costs into its cost-benefit analysis.

3. The Rule Will Cause Substantial and Multifaceted Harms, Including to Planned Parenthood and Its Patients

103. The Refusal of Care Rule marks a radical departure from the work the Department should be doing: protecting patient access to care, eliminating health disparities, and combating discrimination against patients. The Rule's broadening of the right to refuse will harm many people, most significantly by limiting access to essential health services and information and by severely burdening those health care providers, like Planned Parenthood, that wish to provide such services.

104. While the underlying federal refusal laws—the Church, Coats-Snowe, and Weldon Amendments—are narrowly targeted and focus primarily on abortion, sterilization, and research, the Rule will invite refusals of other health care services. Services likely to be refused (in addition to abortion and sterilization) include contraceptive care and counseling, HIV and STI testing and treatment, gender-affirming care for transgender individuals, fertility treatment, and information about these services. Patients who seek family planning services at federally-funded Title X clinics, including at Planned Parenthood health centers across the country, may no longer be assured that they will receive counseling on all pregnancy and contraceptive options. Nor will they necessarily be guaranteed that they can obtain a referral for an abortion or other needed care if they request one.

105. The Refusal of Care Rule allows health care providers (both individuals and institutions) to ignore medical standards of care, particularly surrounding reproductive and sexual health. Medical practice guidelines and standards of care establish the boundaries of medical services that patients can expect to receive and that providers should be expected to

deliver. For example, the referral and provision of contraceptive and abortion services, and providing information and counseling concerning such services, can be a part of the standard of care for individuals experiencing a range of medical conditions.¹⁶ Yet the Rule could be used as an excuse to disregard these standards of care regardless of the impact on patient health and access to information.

106. The Refusal of Care Rule undermines the provider-patient relationship and the principles of informed consent. In order for patients to provide informed consent a provider must disclose relevant and medically accurate information about all treatment choices and alternatives so that patients can competently and voluntarily make decisions about their medical treatment. Indeed, Planned Parenthood’s Medical Standards & Guidelines require that patients be provided information about all their options so they can provide informed consent. Yet, the Rule enables health care workers to refuse to provide patients with full information; it thus facilitates the violation of medical ethics and creates the risk that patients will not have full information regarding their care.¹⁷

107. The lack of protections in the Refusal of Care Rule to ensure informed consent is exacerbated by the Rule’s disparate notice standards, as nothing in the Rule ensures patients receive notice of the services or information that may be denied and may even penalize a covered entity for attempting to provide such notice. *See supra* ¶¶ 80–81. This is particularly dangerous in emergency situations. The Rule purports to protect refusals even where a patient is experiencing a health emergency. For example, a woman undergoing pregnancy complications

¹⁶ *See, e.g.*, Comment of Physicians for Reproductive Health at 10, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71284> (last visited June 10, 2019).

¹⁷ *See, e.g.*, Comment of AMA at 2 (stating that the AMA Code of Medical Ethics directs physicians to “[u]phold standards of informed consent and inform the patient about all relevant options for treatment, including options to which the physician morally objects.”); Comment of American College of Obstetricians and Gynecologists at 2, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70647> (last visited June 10, 2019).

requiring emergency care, such as abortion services to protect her life or health, could be denied such care when she arrives at the emergency room—even at a public hospital. The Rule would further permit such a provider not to inform the woman that terminating the pregnancy would be the safest course.¹⁸ In many circumstances, the failure to provide this information amounts to a denial of care because the patient does not know that option exists, and thus cannot seek care at a different medical facility. In addition, while abortion itself is a very safe medical procedure, a small percentage of abortion patients at Planned Parenthood’s clinics will seek follow-up care at hospitals in the rare event of a complication. If the Refusal of Care Rule takes effect, such patients may be denied necessary care. For some, the denial of emergency care could threaten their lives, health, or future fertility.

108. Further, although the Rule purports to protect the conscience rights of health care providers, the Rule allows an institutional health care provider, such as a hospital, to *prohibit* individual providers from providing various health care services—even when doing so would contradict those providers’ medical judgment and conscience, violate the standard of care, and put their patients’ health and lives in danger.

109. Reduced access to health care services and information will be borne disproportionately by individuals who already face severe health disparities and systemic barriers to care, including women, people of color, patients living in rural areas, lesbian, gay, bisexual, transgender, and queer individuals, people with low incomes, immigrants, and people living with disabilities. The Rule will be especially harmful to those facing multiple and intersecting barriers to care, *e.g.*, low-income women of color or people living with disabilities in rural areas.¹⁹ Many

¹⁸ 84 Fed. Reg. 23,170, 23,264 (May 21, 2018) (to be codified at 45 C.F.R. pt. 88).

¹⁹ *See, e.g.*, Comment of American Medical Association (“AMA”) at 6, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70564> (“In the past, HHS and OCR have played (continued...)”).

such individuals are Planned Parenthood patients, because of Planned Parenthood's commitment to providing broadly accessible and non-judgmental care.

110. Women—particularly women of color—already face significant barriers to obtaining health care, especially reproductive health care.²⁰ These barriers will increase as a result of the Rule, which expands the ability of providers to refuse essential health care services disproportionately relied on by women. Pregnant women experiencing a miscarriage or who are suffering other serious pregnancy-related health conditions for which the standard and medically appropriate treatment is immediate pregnancy termination will be more likely to find themselves at a hospital—including even a public hospital—where either the institution or the provider may refuse to provide them with the emergency care they need. Such a refusal jeopardizes women's lives, health, and future fertility.

111. People living in rural communities have limited health care options available to them, making them especially vulnerable to the harmful effects of the Rule.²¹ If a patient is denied care at one facility, there may be no other facilities in their rural area where they can access the care they need. Many of Planned Parenthood's smaller health centers serve such rural areas. The Rule prevents such clinics from ensuring that their patients receive comprehensive reproductive health care because the single clinician who may be on staff at any given time may now refuse to provide such services or information. Plaintiff PPNNE, for example, has eighteen

an important role in protecting patient access to care, reducing and eliminating health disparities, and fighting discrimination. There is still much more work to be done in these areas given disparities in racial and gender health outcomes and high rates of discrimination in health care experienced by LGBTQ patients. The Proposed Rule is a step in the wrong direction and will harm patients.”); Comment of National Health Law Program (“NHHeLP”) at 3–6, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70692> (last visited June 10, 2019).

²⁰ See, e.g., Comment of National Women's Law Center at 10–11, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71477> (last visited June 10, 2019).

²¹ See, e.g., Comment of NHHeLP at 4–6, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70692> (last visited June 10, 2019).

health centers where there is only one licensed clinician at any given time, who is expected to provide a full range of reproductive health care, including contraception, emergency contraception, and medication abortion.

112. In addition, if the only local pharmacy in a rural area refuses to dispense medication to manage a miscarriage, for example, rural patients may be left without access to such medication. If the only regional hospital follows religious directives—an increasingly common scenario given hospital consolidation—essential health services may simply be unavailable.

113. Lesbian, gay, bisexual, transgender, and queer people already face significant health disparities, a finding HHS itself has made.²² These disparities include denials of care based on patients' gender identity and sexual orientation. For example, providers have refused access to treatment, including fertility treatments, for members of same-sex couples and have refused to provide standard day-to-day care for lesbian, gay, bisexual, transgender, and queer patients in assisted living facilities.²³ Given the Rule's broad definitions and confusing requirements, it is foreseeable that some providers will improperly invoke the Rule to refuse basic care to patients simply because of their gender identity or sexual orientation.²⁴

114. Immigrants and people with limited English proficiency are already among the most disproportionately uninsured people in the United States and often face cultural and linguistic barriers to care, especially in rural areas. These individuals often lack access to transportation and may have to travel great distances to get the care they need. Planned

²² Healthy People 2020, *Disparities*, <https://www.healthypeople.gov/2020/about/foundation-health-measures/disparities> (last visited June 10, 2019).

²³ See, e.g., Comment of Human Rights Campaign at 2, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70848>; Comment of Justice in Aging at 4, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71292> (last visited June 10, 2019).

²⁴ See *id.*

Parenthood’s provision of culturally competent care and its ability to provide a “one stop shop” for services (*e.g.*, an office visit, testing, and pharmaceutical products in one location) is essential for ensuring that such individuals are able to access health care services. By inviting individuals involved in health care and health institutions to refuse care to these individuals, the Rule will exacerbate existing systemic barriers to care among immigrant communities.²⁵

115. The Rule also poses a particular threat to the health of people with disabilities, many of whom live or spend much of their day in provider-controlled settings where they receive support and services. They may rely on a case manager to coordinate services, a transportation provider, and/or a personal care attendant. The Rule invites the refusal of care by any of these individuals, resulting in significant negative effects on people with disabilities.²⁶

116. Such denials of care violate patients’ dignity, risk adverse health outcomes, and sometimes require costly and time-consuming alternatives. Patients may be forced to delay or forgo necessary care, harming those patients and creating external social costs.²⁷

117. The Rule’s harm to patients is exacerbated by its attack on state and local governments’ attempts to protect access to care and prevent discrimination in health care services. For example, New York and Vermont both have laws requiring provision of emergency and medically necessary care. *See* N.Y. Pub. Health Law § 2805-b; Vt. Stat. Ann. tit. 12, § 519. Maine, New York, and Vermont have laws prohibiting health care professionals from abandoning a patient in need. *See* 02-380 Me. Code R. ch. 4 § 3; 8 NYCRR § 29.2; Vt. Stat. Ann. tit. 26 § 1354(a)(4), Vt. Stat. Ann. tit. 18 § 1852(a). And New Hampshire, New York, and

²⁵ *See, e.g.*, Comment of National Immigration Law Center at 3–5, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71248> (last visited June 10, 2019).

²⁶ *See, e.g.*, Comment of Consortium for Citizens with Disabilities Rights Task Force at 2–3, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-71813> (last visited June 10, 2019).

²⁷ *See, e.g.*, Comment of Nat’l Women’s Law Ctr. at 12; Comment of Institute for Policy Integrity at 4–5, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-72071> (last visited June 10, 2019).

Vermont have laws protecting patients’ right to informed consent. *See* N.H. Rev. Stat. § 151:21, N.Y. Pub. Health Law § 2805-d, Vt. Stat. Ann. tit. 12 § 1909(d), Vt. Stat. Ann. tit. 18 § 1871(a) & (b), Vt. Stat. Ann. tit. 18 §§ 1852 & 1854, Vt. Stat. Ann. tit. 18 §§ 5281–5293. Numerous states, including New York, 11 N.Y.C.R.R. 52.16, have laws requiring insurance coverage of abortion;²⁸ Planned Parenthood’s patients rely on these laws. But the Rule does not disclaim preemption of them. 84 Fed. Reg. at 23,272 (to be codified at 45 C.F.R. § 88.8). Indeed, in illustrating the purported need for the Rule, the preamble specifically points to efforts by New York and California to enforce their laws requiring insurance coverage of abortion. *Id.* at 23,171, 23,177. As such, the Rule jeopardizes the ability of states to enforce laws that prioritize patients’ rights to access care.²⁹

118. Moreover, at least four states require pharmacies or pharmacists to dispense all validly prescribed drugs and devices.³⁰ By unlawfully expanding the term “health care entity” to include pharmacists, the Rule jeopardizes the ability of states to enforce these laws, which exist to ensure that people can access the medications they need. Some individuals and entities incorrectly believe that medication prescribed for certain types of miscarriage management constitutes an abortion. There have been several reports of pharmacists turning away women seeking miscarriage management medication in recent years, including since Defendants issued

²⁸ *See* Nat’l Women’s Law Ctr., *State Laws Regulating Insurance Coverage of Abortion Have Serious Consequences for Women’s Equality, Health, and Economic Stability* 1, <https://nwlc.org/wp-content/uploads/2017/08/50-State-Insurance-Coverage-of-Abortion-1.pdf> (Aug. 2017) (noting that “[t]hree states—California, New York and Oregon—require nearly all insurance plans to provide coverage of abortion) (last visited June 10, 2019).

²⁹ *See, e.g.*, Comment of the Attorneys General of New York, et al., at 13, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-70188> (last visited June 10, 2019).

³⁰ Guttmacher Inst., *Emergency Contraception* (May 1, 2019), <https://www.guttmacher.org/state-policy/explore/emergency-contraception> (last visited June 10, 2019).

the proposed Rule.³¹ The Rule thus threatens to exacerbate the incidence of pharmacy refusals, threatening the health and lives of patients.

119. In addition, the Rule's enforcement measures, which permit the termination of all HHS funding based on a failure to comply with the Rule, or even with a subrecipient's failure to comply, could compel state and local governments, which receive significant levels of funding from HHS, to forgo their efforts to protect their citizens' access to care for fear that any small violation would cripple the state's budget.

120. The Rule creates significant legal confusion for covered entities like Planned Parenthood. The Rule not only conflicts with various state and federal laws, including EMTALA, Title X, and 42 U.S.C. § 18114, and imposes different requirements for religious accommodation than does Title VII, but in many critical ways the Department refused to provide clear guidelines about how to avoid running afoul of the Rule. Instead, covered entities are left with confusing, vague, and contradictory legal requirements.

121. In addition, the Rule puts health care employers like Planned Parenthood, whose mission it is to provide comprehensive reproductive health care in a non-judgmental manner, in an impossible situation. The Rule explicitly refuses to incorporate an "undue hardship" limitation on accommodations it requires, yet it does not consider the impact of this decision on employers and their ability to perform operations that are core to their business. The expansive definition of "discrimination" prohibits Planned Parenthood from asking applicants about whether they object

³¹ See, e.g., Christina Caron, *Michigan Pharmacist Refused to Dispense Miscarriage Medication, Citing Religious Beliefs*, N.Y. TIMES (Oct. 18, 2018), <https://www.nytimes.com/2018/10/18/us/catholic-pharmacist-miscarriage.html> (last visited June 10, 2019); Louis Lucero II, *Walgreens Pharmacist Denies Woman With Unviable Pregnancy the Medication Needed to End It*, N.Y. TIMES (June 25, 2018), <https://www.nytimes.com/2018/06/25/us/walgreens-pharmacist-pregnancy-miscarriage.html> (last visited June 10, 2019).

to Planned Parenthood's mission or the core services it provides, thereby threatening its ability to provide care to patients.

122. In addition, the Rule hampers Planned Parenthood's ability to identify individuals who may seek positions with affiliates in order to infiltrate Planned Parenthood and use the information they gather or their access to Planned Parenthood's facilities to harm its staff, providers, and patients. The Rule could force Planned Parenthood to open its doors—and even *to compensate*—anti-abortion protestors who, posing as job applicants, seek to sabotage Planned Parenthood's operations. That anti-abortion groups would seek to do so is hardly hypothetical; it is already the case that anti-abortion individuals seek positions at Planned Parenthood affiliates in order to obtain information about Planned Parenthood and its patients. And once these individuals have been hired, Planned Parenthood is constrained in its ability to terminate or transfer an employee who refuses to perform job functions and make sure that patients get the care they need.

123. And, as explained above, HHS refused to disclaim that the Rule would require an employer to hire an individual who objects to the primary or substantial majority of a position's duties. Nor does the Rule explain what is a "persuasive" enough justification for inquiring about employee objections more than "once per calendar year," what constitutes an "effective accommodation" of an objecting employee that would be permissible under the Rule, or how an employer like Planned Parenthood can ensure its patients receive the care they need in the event an employee objects and refuses a proposed accommodation.

124. The Rule's imposition of an absolute requirement to accommodate objecting employees will also raise personnel costs. If Planned Parenthood's staff (or staff at another provider) refuse to perform certain services or treat certain patients, Planned Parenthood will be

forced, where financially possible, to hire additional staff, at additional cost, to meet the same level of demand or forgo providing essential health services.³²

125. Planned Parenthood will also have to expend a significant amount of time and, in turn, money in order to ensure compliance with the Rule, including by revising employment practices, manuals, and handbooks; training staff with supervisory responsibilities on hiring and accommodation requests; and reviewing all job descriptions, applications, and other employment recruitment materials. And in states where there are potentially conflicting state laws, member-affiliates may need legal counsel to decipher how the Rule and state laws interact.

126. Compounding the burden on providers caused by the vagueness of the Rule's requirements, the Rule gives OCR unprecedented authority to investigate complaints and terminate federal funding based on arbitrary criteria.³³ For Planned Parenthood, the threat of losing federal funding is real. President Trump has made public statements that he would strip Planned Parenthood of federal funding³⁴ and has sought to do just that by including language in his proposed budgets that specifically "prohibits any funding in the Labor-HHS appropriations bill for certain entities that provide abortions, including Planned Parenthood."³⁵ The Rule empowers OCR to defund Planned Parenthood based on arbitrary criteria, which is consistent with President Trump's stated policy goals.

³² See, e.g., Comment of Institute for Policy Integrity at 6, <https://www.regulations.gov/document?D=HHS-OCR-2018-0002-72071> (last visited June 10, 2019).

³³ See, e.g., Comment of PPFA at 15–17.

³⁴ <https://www.nytimes.com/2017/03/06/us/politics/planned-parenthood.html> ("I would defund it because I'm pro-life, but millions of women are helped by Planned Parenthood."); <https://www.politifact.com/truth-o-meter/promises/trumpometer/promise/1357/defund-planned-parenthood/> ("I would defund [Planned Parenthood] because of the abortion factor").

³⁵ For three years in a row, the President's budget proposal prohibits Planned Parenthood from participating in all HHS Programs, including Medicaid and Title X. Specifically, the budget "prohibits any funding in the Labor-HHS appropriations bill for certain entities that provide abortions, including Planned Parenthood," which applies to "all funds in the [Labor-HHS] bill, including Medicaid." See Press Release, Planned Parenthood, Trump Budget Singles Out Planned Parenthood for First Time in History (May 23, 2017), <https://www.plannedparenthood.org/about-us/newsroom/press-releases/trump-budget-singles-out-planned-parenthood-for-first-time-in-history>.

127. Were Planned Parenthood to lose its federal funding, it would be forced to close health centers or cut services, thereby threatening the health of the millions of patients who rely on Planned Parenthood for their health care. In many areas, Planned Parenthood is the only provider of comprehensive reproductive health care services for low-income individuals.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF **APA, 5 U.S.C. § 706(2)(C), Exceeds Statutory Authority**

128. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

129. The Refusal of Care Rule, including its mandatory assurance and certification requirements, is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” in violation of the Administrative Procedure Act. 5 U.S.C. § 706(2)(C).

130. While the Refusal of Care Rule purports to interpret and rely for its authority on (primarily) the Church, Coates-Snowe, and Weldon Amendments, Congress has not delegated authority to the Department to promulgate this force of law regulation interpreting those Amendments.

131. The Rule also purports to grant OCR expansive authority to enforce its provisions, *see* 84 Fed. Reg. at 23,271 (to be codified at 45 C.F.R. § 88.7), including by terminating federal financial assistance to entities found to be in violation of the Rule’s requirements, *see* 45 C.F.R. § 88.7(i)(3)(iv). But unlike other statutes where Congress has authorized—and carefully restricted—such enforcement authorities, *see, e.g.*, 42 U.S.C. § 2000d-1 (Title VI of the Civil Rights Act of 1964), none of the statutory authorities upon which the Rule relies delegate the broad enforcement authority that the Department claims for itself in the Rule.

SECOND CLAIM FOR RELIEF
APA, 5 U.S.C. § 706(2)(A), Not in Accordance with Law

132. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

133. The Refusal of Care Rule is not in accordance with the Church, Weldon, and Coats-Snowe Amendments, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), because, among other reasons:

- it impermissibly expands the universe of individuals and entities who can claim protections and broadens what can be refused under the Church, Weldon, and Coats-Snowe Amendments by defining terms such as “assist in the performance,” “referral,” “health care entity,” “entity,” and “discrimination” contrary to their plain meaning and Congressional intent;
- its reference to “contractors” in the preamble could be read to expand the Weldon Amendment’s restrictions to apply to individuals and private entities;
- it extends the application of the Coats-Snowe Amendment beyond the abortion training context.

134. The Refusal of Care Rule is not in accordance with EMTALA, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). EMTALA requires covered hospitals, including public, private, and religiously affiliated hospitals, to provide an appropriate medical screening to any patient requesting treatment to determine whether an emergency medical condition exists, and either to stabilize the condition or transfer the patient if medically indicated to another facility. *See* 42 U.S.C. § 1395dd(a)-(c). The Refusal of Care Rule contains no emergency exception, and thus to the extent it applies to enable individuals and entities to refuse

to provide proper medical care to patients facing medical emergencies (even in public hospitals), it conflicts with EMTALA.

135. The Refusal of Care Rule is not in accordance with the Title X program, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). The Refusal of Care Rule directly conflicts with the terms and purpose of Title X by imposing an absolute requirement on Title X providers to accommodate employees who refuse to comply with the statutory requirement of nondirective options counseling.³⁶ HHS has also overridden Title X regulations that are currently in effect, which require Title X providers to offer pregnant women the opportunity to be provided information and counseling regarding all of their options, including abortion, and, a referral, if requested. 42 C.F.R. §59.5(a)(5).

136. The Refusal of Care Rule is not in accordance with 42 U.S.C. § 18114, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). 42 U.S.C. § 18114 prohibits HHS from promulgating any regulation that “(1) creates any unreasonable barriers to the ability of individuals to obtain appropriate medical care; (2) impedes timely access to health care services; (3) interferes with communications regarding a full range of treatment options between the patient and the provider; (4) restricts the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions; (5) violates the principles of informed consent and the ethical standards of health care professionals; or (6) limits the availability of health care treatment for the full duration of a patient’s medical needs.” By empowering individuals in the health care setting and health institutions to restrict access to health services and withhold medical information, the Refusal of Care Rule is irreconcilable with the plain language of 42 U.S.C. § 18114.

³⁶ 84 Fed. Reg. 23,170, 23,265 (May 21, 2018) (to be codified at 45 C.F.R. pt. 88).

THIRD CLAIM FOR RELIEF

APA, 5 U.S.C. § 706(2)(A), Arbitrary, Capricious, and Abuse of Discretion

137. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

138. The Refusal of Care Rule, including its definition of key terms, is arbitrary, capricious, and an abuse of discretion in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), because, among other reasons, the Department failed to:

- consider the Rule’s deleterious effects on patient health, informed consent, and the patient-provider relationship, as well as the burden on providers;
- adequately reconcile the Rule with other federal laws;
- clarify the Rule’s vague terms and unworkable requirements;
- provide any reasoned explanation for its dramatic reversal of policy from 2011;
- show that existing legal protections for providers are inadequate;
- conduct an adequate regulatory impact analysis that incorporates the considerable costs to patients and providers; and
- respond to significant comments regarding the Rule’s detrimental impact on health care access; exacerbation of existing inequities in health care and barriers to health care; the Rule’s interference with the patient-provider relationship and patients’ inabilities to provide informed consent; burdens imposed by the Rule on health care providers like Planned Parenthood; the vague, overly broad, and unduly punitive enforcement authority assumed by OCR.

139. As a result, the Department failed to “consider an important aspect of the problem,” “examine the relevant data,” or “articulate a satisfactory explanation for its action

including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation omitted).

FOURTH CLAIM FOR RELIEF

APA, 5 U.S.C. § 706(2)(D), Without Observance of Procedure Required by Law

140. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

141. The Refusal of Care Rule was promulgated without observance of procedure required by law in violation of the Administrative Procedure Act. Regulations adopted without the notice-and-comment procedure required by 5 U.S.C. § 553 of the APA are invalid. *See* 5 U.S.C. § 706(2)(D).

142. The final Rule includes three key subsections within the definition of “discrimination”—subsections (4), (5), and (6)—that were not contained in the proposed Rule and for which no comments were solicited. *See* 84 Fed. Reg. at 23,263 (to be codified at 45 C.F.R. § 88.2). Planned Parenthood did not have fair notice of HHS’ intent to add these new subsections into the definition of “discrimination,” and had no reasonable opportunity to comment on them. Moreover, had they known that HHS was considering defining the term “discrimination” in this manner, they would have made clear to HHS that these subsections are onerous, vague, and unworkable and constrain the ability of Planned Parenthood to ensure that its patients receive necessary care.

143. This error infects multiple provisions of the Rule, as the singular definition of “discrimination” applies to subsections of the Rule implementing parts of the Church Amendments, the Weldon Amendment, and the Coats-Snowe Amendment.

144. Accordingly, the Rule violates the APA’s procedural requirements and must be set aside.

FIFTH CLAIM FOR RELIEF
APA, 5 U.S.C. § 706(2)(B), Contrary to Constitutional Right
U.S. Constitution, Establishment Clause

145. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

146. The Establishment Clause of the First Amendment of the United States Constitution prohibits the government from making any “law respecting an establishment of religion.” U.S. Const., amend. I. To pass constitutional muster, government action must not only have a secular purpose and not foster excessive entanglement of government with religion, its primary effect must not advance or inhibit religion. A law that imposes on employers and employees an absolute duty to conform their business practices to the particular religious practices of the employee constitutes an impermissible religious preference.

147. By imposing on Plaintiffs an absolute duty to accommodate the religious objections of their employees, even at the expense of the health of their patients and their desire to provide care in accordance with medical ethics and the standard of care, the Refusal of Care Rule violates the Establishment Clause of the First Amendment of the United States Constitution.

SIXTH CLAIM FOR RELIEF
APA, 5 U.S.C. § 706(2)(B), Contrary to Constitutional Right
U.S. Constitution, Void for Vagueness

148. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

149. It is “[a] fundamental principle in our legal system . . . that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). “This requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment.” *Id.*

150. Because of its many ambiguities, and its inconsistency with other federal laws , the Rule does not provide Planned Parenthood with adequate guidance as to what conduct is prohibited and encourages arbitrary enforcement. The Rule is impermissibly vague in violation of the Due Process Clause of the Fifth Amendment of the United States Constitution.

SEVENTH CLAIM FOR RELIEF
APA, 5 U.S.C. § 706(2)(B), Contrary to Constitutional Right
U.S. Constitution, Rights to Privacy and Liberty

151. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

152. By interfering with patients' ability to obtain abortions necessary to preserve their health or life, the Refusal of Care Rule violates Planned Parenthood's patients' rights to privacy and liberty guaranteed by the Fifth Amendment of the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court:

- a. Enter a declaratory judgment that the Refusal of Care Rule is invalid;
- b. Set aside and vacate the Refusal of Care Rule;
- c. Issue preliminary and permanent injunctive relief, without bond, restraining the enforcement, operation, and execution of the Refusal of Care Rule, by enjoining Defendants, their agents, employees, appointees, or successors, from enforcing, threatening to enforce, or otherwise applying the provisions of the Refusal of Care Rule;
- d. Award Plaintiffs attorney's fees and costs of bringing this action under 28 U.S.C. § 2412; and
- e. Grant Plaintiffs such other relief as is just and appropriate.

Dated: June 11, 2019

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* Motion to appear *pro hac vice* forthcoming.

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/ Leif Overvold

Leif Overvold