EXHIBIT U

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA and STATE OF NEW JERSEY, Plaintiffs, v. DONALD J. TRUMP, *et al.* Defendants.	**Civil Action No: 2:17-cv-04540-WB**

DECLARATION OF ELIZABETH COULTER

I, Elizabeth Coulter, declare and state as follows:

1. I serve as Deputy Director of the Office of Women's Health ("OWH") within the New Jersey Department of Health ("DOH"). I make this affidavit based on my personal knowledge and information provided to me in my official capacity.

2. DOH's priority is to strengthen New Jersey's health system by investing in population health, promoting equity, and achieving better health outcomes for all residents. DOH is committed to providing access to high quality, affordable, culturally competent, and trauma-informed care, as well as reducing and eliminating disparities in health outcomes across all healthcare services.

3. OWH is charged with eradicating health disparities and fostering women's equity and equality in healthcare and health outcomes. The office works closely with local, state, and federal government agencies, as well as private-sector partners, to oversee programs and services that, among other things, provide family planning and reproductive healthcare and provide science-backed sexual and reproductive health information and education.

I. New Jersey's Family Planning Clinics

4. The non-profit New Jersey Family Planning League ("NJFPL") has ten sub-grantee agencies that provide health services, including family planning services, through 47 service sites ("Family Planning Clinics") covering all 21 counties in the state.

5. New Jersey's Family Planning Clinics provide women and men with access to family planning services. These services include contraceptive services and counseling, HIV and STD testing, pregnancy testing, certain infertility services, and breast and cervical cancer screening. The Family Planning Clinics are integral to the family planning provider supply in New Jersey. Indeed, in 2017, NJFPL provided family planning and reproductive health care services to 99,844 New Jersey residents, including 89,945 female patients.

a. Funding to New Jersey's Family Planning Clinics

6. DOH awards family planning funds within New Jersey. These funds are aggregated from the following sources: Social Services Block Grant ("SSBG") funds, Maternal and Child Health ("MCH") Block Grant funds (administered within DOH's Maternal and Child Health Division), the State of New Jersey's budgeted family planning funds. DOH has awarded these funds to NJFPL.

7. OWH sets the programmatic, data reporting, and budget priorities with the NJFPL through the annual grant application process and oversees those priorities through quarterly reporting requirements.

8. In addition to receiving DOH-awarded funding, NJFPL receives funds from patient service revenues (which include Medicaid, private insurance, and patient self-pay) and from federal Title X grants, as the sole New Jersey grantee.[1]

[1] Although the Family Planning Clinics are sometimes colloquially referred to as "Title X clinics," Title X accounts for only about one-quarter of NJFPL's funding.

9. Title X of the Public Health Service Act[2] provides federal grants to both public and private agencies for family planning services. Specifically, Title X authorizes grant money "to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services."

10. Since 2010, Title X funding has decreased by $31 million, nationally. In 2010, the nationwide program received $317.5 million; in 2017, it received $286.5 million.[3] In addition, there are frequent efforts by some in Congress to eliminate funding for the program entirely.

11. According to the 2016 Title X Family Planning Annual Report, the top three sources of revenue for Family Planning Clinics nationwide were Medicaid and CHIP (the Children's Health Insurance Program) (39% of revenue); Title X (19%); and state government funding (10%).[4]

12. OWH is not involved with the application for or administration of federal Title X funds.

b. Provision of Services and Payment at New Jersey's Family Planning Clinics

13. NJFPL's mission is to provide high quality comprehensive family planning and accompanying preventative reproductive health care to every person seeking services. All patients, regardless of income or insurance coverage, are offered a full range of contraceptive methods and services.

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[2] 42 U.S.C. § 300, *et seq.*

[3] National Family Planning & Reproductive Health Association Title X Budget & Appropriations, *available at* https://www.nationalfamilyplanning.org/title-x_budget-appropriations.

[4] Department of Health and Human Services Office of Population Affairs, *Title X Family Planning Annual Report, 2016 National Summary* (August 2017), *available at* https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2016-national.pdf.

14. Family Planning Clinics bill private insurance or Medicaid if the patient presents such coverage. If the patient does not present coverage, family planning services are provided based on a sliding fee scale depending on the individual/family income level.

15. In 2017, NJFPL provided family planning and reproductive health care services to 99,844 New Jersey residents, including 89,945 female patients.

16. In 2017, approximately 51.9% of NJFPL patients had some form of insurance coverage (35.5% had insurance coverage through Medicaid or another government-funded program and 16.4% had private insurance coverage).

17. Many Family Planning Clinic patients are currently employed or have a family member who is currently employed. Many of these patients receive insurance through their employer or as dependents on coverage provided by their family member's employer.

18. In some cases, Family Planning Clinics are reimbursed by a patient's insurance plan, however, private insurance may not provide sufficient coverage. Thus, while 18% of all such clinic users nationwide have private insurance, private third-party sources of funding account for only 10% of clinic revenue (2016 National Report at B-7).

II. The Effects of the New Exemption Rules

19. The Affordable Care Act ("ACA"), together with its implementing regulations, requires coverage for all FDA-approved methods of contraception. As a result, New Jersey women have enjoyed widespread contraceptive coverage beyond that required by New Jersey's state contraceptive coverage requirement

20. I understand that the Trump Administration has issued new regulations ("Exemption Rules") that will make it easier for employers and others to opt out of the Affordable Care Act's contraceptive mandate.

21. My colleagues at DOH and I are very concerned that the Exemption Rules will reduce access to family planning care for New Jerseyans because there will be an increase in the number of New Jersey employers that do not provide their employees with adequate insurance coverage for contraceptive care.

22. Women whose employers opt out of providing contraceptive coverage face a dilemma: forego using contraception or find a way to pay for contraception without insurance coverage. This decision will be most challenging for lower income women. Without private insurance coverage and without the means to pay for contraception out of pocket, many such women will turn to assistance from government funded contraceptive care to prevent pregnancy.

23. Women who lose coverage for contraceptive care and therefore seek publicly-funded services at a Family Planning Clinic, rather than pay out of pocket for contraceptives, are more likely to be high need, lower-income patients. Many such women would likely utilize the Family Planning Clinics' sliding fee scale, drawing more heavily on the limited public funds for reproductive services.

24. In fact, for many low-income women in this situation, government-funded care will be the only viable option for obtaining contraceptive care.

25. Therefore, we expect that many women in New Jersey who lose their contraceptive coverage will seek care from one of the 47 New Jersey Family Planning Clinics. In order to ensure continued access to the most effective (and most expensive) forms of contraception, limited public funds, *state funds in particular,* would need to be expended.

26. Notably, the most effective methods of contraception are typically the most expensive.

27. If the increased need for contraceptive care were to exceed capacity without accompanying increases to funding, service reductions would be likely -- with clinic closures, decreased clinic hours of operation, and staff reductions as potential outcomes.

28. We are also concerned that New Jersey women who lose coverage (as a result of their employers opting out of the ACA's contraceptive mandate) will stop using contraception altogether. Women who stop using or never use contraception are more likely to have unplanned pregnancies and to require additional medical attention. According the Guttmacher Institute, 68% of unplanned births are paid for by public insurance programs, including Medicaid, while 38% of planned births are paid for by these programs. In New Jersey in 2010, the federal and state governments spent a combined $477.1 million on unintended births; of this, $186.1 million was paid by the State.[5]

29. Because women experiencing unintended pregnancies are less likely to receive timely prenatal care (or any prenatal care at all), access to contraception is vital to New Jersey's efforts to reduce both infant and maternal mortality. Lack of access to prenatal care yields poor outcomes for mother and baby.

30. Pregnancy carries significant risk, especially in New Jersey. Currently, New Jersey is ranked 45th worst nationally in maternal mortality, and the maternal mortality rate for black women is more than double the national average.[6] New Jersey women are more likely than women in other states to suffer injury and death related to pregnancy. Many costs associated with New

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[5] Guttmacher Institute, *Public Costs from Unintended Pregnancies and the Role of Public Insurance Programs in Paying for Pregnancy-Related Care: National and State Estimates for 2010* (Feb. 2015), *available at* https://www.guttmacher.org/report/public-costs-unintended-pregnancies-and-role-public-insurance-programs-paying-pregnancy.

[6] United Health Foundation, America's Health Rankings, *2018 Health of Women and Children Report, New Jersey in 2018*, *available at* https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/overall_mch/state/NJ.

Jersey's high rate of maternal mortality are paid for using public funding. Planned pregnancies, through the use of contraception, are essential to curbing the tide of maternal mortality and morbidity in the State.

31. Other negative outcomes associated with unintended pregnancy include reduced likelihood of breastfeeding, increased risk of maternal depression, and increased risk of physical violence during pregnancy, in addition to severe limitations on participation in the economy.

32. Children born from unintended pregnancies are more likely to experience poor mental and physical health during childhood and, as teenagers, are more likely to experience lower rates of educational attainment and higher rates of behavioral issues. Many of these outcomes lead to conditions and circumstances for which social supports are publicly funded.

33. For all these reasons, I believe that the Exemption Rules to the contraceptive coverage mandate will have a negative effect on the health of New Jersey women; that they will increase the number of women who receive contraceptive coverage through NJFPL; and that they will impose additional economic and other burdens on the State.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Elizabeth Coulter

Dated: 12/12/2018