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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA, BY AND THROUGH ATTORNEY GENERAL XAVIER BECERRA,

Plaintiff,

v.

ALEX AZAR, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; DOES 1-100,

Defendants.

DECLARATION OF CARMELA CASTELLANO-GARCIA IN SUPPORT OF A MOTION FOR A PRELIMINARY INJUNCTION

Date:	April 18, 2019
Time:	12:30 p.m.
Dept:	Courtroom 5, 17th Floor
Judge:	The Honorable Edward M. Chen
Trial Date:	Not set
Action Filed:	March 4, 2019

I, Carmela Castellano-Garcia, declare and state as follows:

1. I am the President and Chief Executive Officer of the California Primary Care Association ("CPCA"). I declare that I have personal knowledge of the facts stated herein and, if called as a witness, I would testify competently thereto.

2. CPCA represents more than 1,330 non-profit community health centers who provide care to nearly 7 million patients each year. Community health centers (CHCs) are committed to providing comprehensive, high quality health care to everyone that walks through their doors, in a compassionate and culturally sensitive manner.

3. CHCs include federally qualified health centers (FQHCs), community clinics, free clinics, rural health clinics, migrant health centers, Indian health service clinics, and family planning clinics. Services include comprehensive primary and preventive care, women's health, dental, mental health, substance use treatment, health education, outreach and enrollment, pharmacy and more.

4. CPCA provides technical assistance, training, and policy and advocacy support to CHCs across California. CPCA assists CHCs in improving clinical quality, care team integration, enhanced patient support and wrap around services. CPCA also supports members in navigating and understanding the licensure process in California as well as rate setting and audits. The organization hosts and staffs numerous workgroups, peer networks, and committees to promulgate information as well as to facilitate best practice sharing.

5. In 2018, CPCA's CHCs served almost seven million patients and had about 22 million patient encounters. Of those patients, 4,262,714 were female, over 5 million patients have income levels under 200% of the federal poverty level and over 4.8 million are under the age of 19. Fifty-six percent of CPCA's patient population is Hispanic, 9% is Asian-Pacific Islander, and 7% is Black. Thirty-five percent of CPCA's patient population has a primary language which is not English and about 9% are agricultural or migratory workers. Sixty percent of CPCA's patient population is insured by Medi-Cal.

6. CPCA's CHCs provide a comprehensive range of services for children and adults, including primary care, chronic disease management, oral health, pediatrics, prenatal, well-child

care, behavioral health, family planning, women's health, HIV/AIDS, STI and TB testing, and a wide range of prevention and education services. In addition, community health centers are culturally competent and offer services such as language interpretation, transportation, enrollment assistance, and social services. Community health centers are the safety net for primary care services for the region's ethnically diverse, low income, under and uninsured patients. In addition, community health centers serve the region's refugee and new immigrant populations and strive for health equity for these vulnerable populations.

7. In 2018, CPCA CHCs received $13,594,278 in Title X funding from Essential Access. CPCA community health clinics make up 84% of all Title X clinics in CA (306/366 clinics), serving more than 900,000 patients. CPCA is represented in 37 of the 38 Title X counties in CA.

8. If the new Title X rules promulgated by the Department of Health and Human Services ("HHS") go into effect, many of CPCA's community health centers will be unable to participate in the Title X program and will be forced to reduce family planning services, because the regulations impose requirements with which the health centers cannot comply.

9. The regulations interfere with the provider-patient relationship by restricting referrals for abortions and effectively limiting counseling on all medically accepted options available to a pregnant patient. This restriction conflicts with medical providers' ethical obligations to provide comprehensive counseling regarding patients' healthcare options. CPCA considers the provider-patient relationship to be of tantamount importance to the care its health centers provide.

10. In addition, the new rule's physical and financial separation requirements would incur costs too great for many of CPCA's health centers to bear. CPCA Title X health centers provide non-directive options counseling and referrals for abortion services. Under the new Title X rules, those health centers will be forced to discontinue referrals for abortions or continue them in separate facilities with separate personnel, records, websites, and phone numbers. Many CHCs cannot assume the cost of setting up separate facilities, so they will have to forego Title X funds and reduce family planning services.

11. Finally, the new rules allow a provider to provide non-directive pregnancy counseling, but only if the provider is a physician or advanced practice provider. In CPCA's experience, there exists a severe crisis in physician and nurse practitioner availability. We believe at current utilization, California will need an estimated 8,243 additional primary care physicians by 2030, a 32% increase compared to its current workforce.[1] Two regions (Inland Empire and the San Joaquin Valley) have ratios of primary care physicians to population that are below the ratio of primary care physicians to beneficiaries that the California law requires managed care plans to meet (50 primary care physicians per 100,000 population).[2] Only 9% of the physicians in California practice in a FQHC, community clinic, or public clinic. This physician shortage makes it even more difficult for CHCs to provide family planning services and counseling under Title X's new requirements.

12. CPCA's CHCs compete with large health care systems for physicians and nurse practitioners. If the new rules go into effect, physicians at CPCA's CHCs will be gagged and prohibited from honestly and comprehensively counseling their patients about their reproductive healthcare options. This limitation will likely push providers out of the Title X network because they will prefer working at non-Title X funded facilities where they are not subject to Title X's restrictions. CPCA's patient population will be left with fewer physicians and advanced practice providers to care for them.

[1] Kevin Barnett & Jeff Oxendine, "Horizon 2030: Meeting California's Primary Care Workforce Needs," CALIFORNIA PRIMARY CARE ASSOCIATION (January 2016) at 3, https://www.cpca.org/CPCA/CPCA/Health_Center_Resources/Workforce/CPCA/HEALTH_CENTER_RESOURCES/Workforce/Workforce.aspx?hkey=658a5950-0062-4b24-ba90-486c2bf66e8a

[2] Jannet Coffman, Igor Geyn, and Kristine A. Himmerick "California's Primary Care Workforce: Current Supple, Characteristics, and Pipeline of Trainees," HEALTHFORCE CENTER AT UCSF (February 2017), https://healthforce.ucsf.edu/sites/healthforce.ucsf.edu/files/publication-pdf/Executive%20Summary-%20CA%20primary%20care.pdf

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct and that this declaration was executed on March 21, 2019 in Sacramento,
3 California.
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CARMELA CASTELLANO-GARCIA
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