

1 XAVIER BECERRA  
 Attorney General of California  
 2 MICHAEL L. NEWMAN  
 Senior Assistant Attorney General  
 3 KATHLEEN BOERGERS  
 Supervising Deputy Attorney General  
 4 ANNA RICH, State Bar No. 230195  
 KARLI EISENBERG  
 5 BRENDA AYON VERDUZCO  
 Deputy Attorneys General  
 6 1515 Clay Street, 20th Floor  
 P.O. Box 70550  
 7 Oakland, CA 94612-0550  
 Telephone: 510-879-0296  
 8 Fax: 510-622-2270  
 E-mail: Anna.Rich@doj.ca.gov  
 9 *Attorneys for Plaintiff State of California, by and  
 through Attorney General Xavier Becerra*

11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 **STATE OF CALIFORNIA, BY AND THROUGH**  
 16 **ATTORNEY GENERAL XAVIER BECERRA,**

17 Plaintiff,

18 v.

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

24 Defendants.

**DECLARATION OF JANE THOMAS IN  
 SUPPORT OF A MOTION FOR A  
 PRELIMINARY INJUNCTION**

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

1 I, Jane Thomas, declare and state as follows:

2 1. I am the Director of the Community Health Center clinic at Fresno Economic  
3 Opportunities Commission (“Fresno EOC”). I have served in my capacity as Director of Fresno  
4 EOC’s Community Health Center for eight years. I have personal knowledge of the facts stated  
5 herein and, if called as a witness, I would testify competently thereto.

6 2. Fresno EOC’s Community Health Center is one of three Title X-funded health  
7 centers in Fresno County. Fresno EOC offers high standard, confidential, and comprehensive  
8 health care services primarily to low-income, uninsured, and underinsured adults and adolescents.  
9 These services include medical exams, like screenings for breast and cervical cancer; obstetric  
10 services; family planning and reproductive services, offering a wide range of FDA-approved  
11 contraceptive methods; pregnancy testing and counseling; and fertility counseling and referrals,  
12 including counseling on preconception and interconception, natural family planning, and fertility  
13 awareness methods.

14 3. In addition to our health center’s family planning services, we also provide a small  
15 amount of primary services critical to the immediate community. A majority of our patients are  
16 low-income, mostly Medi-Cal eligible individuals, who rely on the trusted relationships built by  
17 Fresno EOC’s range of programs available through our agency. These programs include the  
18 administration of food and nutrition benefits, such as the Women, Infants, and Children program,  
19 dental services, workforce development opportunities, energy assistance, and financial support  
20 services. In our experience, the relationships established through any one of our programs benefit  
21 the administration of all the services Fresno EOC offers, including our clinical services.

22 4. Overall, Fresno EOC’s Community Health Center served 1,463 Title X patients in  
23 2018. Of these patients, approximately ninety-five percent were uninsured, approximately sixty-  
24 six percent were women, and thirty-four percent were men. Seventy-seven percent of Fresno  
25 EOC’s female patients in 2018 were Hispanic or Latina. Approximately twenty-nine percent of  
26 Fresno EOC’s patients were 15 to 19 years old. Fresno EOC saw a total of 882 patients with  
27 limited-English proficiency in 2018.  
28

1           5.       Fresno EOC performed significant medical examinations and screening activities  
2 in 2018. Approximately four percent of Fresno EOC’s female patients obtained Papanicolaou  
3 (“Pap”) tests from Fresno EOC. Pap tests are a method of cervical screening used to detect cervix  
4 cancer. Approximately four percent of Fresno EOC’s female patients received a clinical breast  
5 exam from Fresno EOC. Fresno EOC performed 1,531 gonorrhea tests, 752 syphilis tests, and  
6 724 HIV tests. Fresno EOC physicians and clinical service providers conducted 2,873 total  
7 family planning encounters.

8           6.       Fresno EOC also provides education, counseling, and treatment services targeted  
9 towards adolescent men, women, and teens at risk for unintended pregnancy and sexually  
10 transmitted infections (“STIs”). Fresno EOC’s education and counseling services cover topics  
11 including delaying the initiation of sexual activities, how to resist coercive attempts to engage in  
12 sexual activities; and strategies for involving youth’s families in decisions related to family  
13 planning services.

14           7.       As part of its mission to provide inclusive and comprehensive counseling and care,  
15 Fresno EOC prides itself on being an LGBTQ “safe space” and teen-friendly clinic. Fresno EOC  
16 guarantees all teens seeking confidential services that they will not be turned away. Fresno EOC  
17 serves several at-risk youth populations including adolescents who are LGBTQ, low-income,  
18 native, homeless, or migrants, as well as adolescents in rural areas, adolescents with limited-  
19 English proficiency, and adolescents who have experience in the juvenile justice system.

20           8.       Fresno EOC receives Title X funding through Plaintiff Essential Access Health. In  
21 2018, Fresno EOC received approximately \$147,290 in Title X funding. As a sub-recipient of  
22 Essential Access, Fresno EOC has been audited by Essential Access staff. Essential Access staff  
23 perform site visits every three years to ensure that Title X funds are correctly managed and  
24 disbursed. Fresno EOC uses Title X funds to support its clinical staff, family planning services,  
25 and related public education and outreach projects.

26           9.       Fresno EOC will not accept Title X funding if the Department of Health and  
27 Human Services implements the new Title X rule. In particular, the new Title X rule would  
28 effectively prevent Fresno EOC from providing non-directive pregnancy options counseling and

1 referrals for abortion. A core component of Fresno EOC’s outreach and training efforts is the  
2 message that adolescents should make the best reproductive and contraceptive choices based on  
3 their individual needs and circumstances. The new Title X rule prohibits Fresno EOC providers  
4 and counselors from communicating this message, because staff members will no longer be able  
5 to provide meaningful counseling and referrals for abortion, even if this is the best option for a  
6 particular patient. For similar reasons, the new Title X rule’s restrictions on non-directive options  
7 counseling and ban on abortion referrals would undermine patient trust in the clinic’s staff.  
8 Fresno EOC therefore will be forced to forego Title X funds as long as the new Title X rule is in  
9 effect.

10 10. Without Title X funds, Fresno EOC’s patient population will not have access to  
11 the same quality and quantity of reproductive and health care services. Some Fresno County  
12 residents may not have access to any of the services that Fresno EOC currently provides if our  
13 clinic’s operating capacity declines.

14 11. For instance, in the absence of Title X funding, Fresno EOC will not be able to  
15 operate its Health Education and Recruitment Transportation Team (“HEARTT”). HEARTT is a  
16 free transportation service for youth, ages 12 to 19, who are in school or local youth programs and  
17 who wish to receive confidential family planning and reproductive health care services from  
18 Fresno EOC, without fear of shame or stigma.

19 12. As part of HEARTT, Fresno EOC partners with school districts in Fresno County  
20 to transport teens in their communities to and from clinic appointments. In 2018, HEARTT  
21 provided roughly 600 school-to-clinic transportation services, often ensuring that students  
22 returned to school within an hour to an hour and a half. Through HEARTT, at-risk teens receive  
23 confidential STI prevention training and screening, as well as pregnancy counseling. HEARTT  
24 has helped prevent the spread of STIs, like gonorrhea and chlamydia, in Fresno County.  
25 Gonorrhea and chlamydia are a substantial health issue in Fresno County. HEARTT has also  
26 helped prevent unintended pregnancies.

27 13. There is no other program like HEARTT in Fresno County. Though Fresno  
28 County has crisis pregnancy centers, those centers do not provide direct outreach to school

1 districts, confidential family planning and STI services, or the accurate and unbiased counseling  
2 that our patients depend on.

3 14. The confidential nature of Fresno EOC's services is very important to adolescents,  
4 who place particular emphasis on trusting relationships when seeking care. Many of Fresno  
5 EOC's teen patients will not seek services if they cannot trust their health care providers, believe  
6 their information will be communicated to their family members without their permission, or if  
7 they fear they will be stigmatized for seeking services. The new Title X rule directly impedes  
8 these relationships that are based on trust and confidentiality, especially by imposing new  
9 requirements that obligate health centers to document the age of minor clients and the age of  
10 minor clients' sexual partners under certain circumstances. In addition, patients will not trust our  
11 clinic's staff if they believe our staff is misleading them with respect to their pregnancy options.

12 15. Fresno EOC uses Title X funds to support the salaries of staff who provide options  
13 counseling and referrals. Each staff member is integral to the operation of Fresno EOC's  
14 Community Health Center. Our staff members are known and trusted in the Fresno community,  
15 to the extent that some parents even encourage their teens to seek out our transportation services  
16 to visit our clinic when they are unable to do so due to distance, lack of transportation resources,  
17 or interference with their jobs. This level of trust was slowly gained through the high quality of  
18 services Fresno EOC is known for, and the rule's changes would undermine these key community  
19 relationships.

20 16. In the absence of Title X funds, Fresno EOC will likely have to cut medical  
21 providers and support staff. Fresno EOC has had to cut employees in the past due to decreases in  
22 federal funding. The elimination of Title X funds would mean further staff reductions, which will  
23 reduce the quality and quantity of health services that are currently provided in Fresno County. It  
24 will be difficult for Fresno EOC's Community Health Center clinic to continue operating in the  
25 absence of Title X funds. Without our clinic's family planning services, many of our  
26 community's youth and patients will have nowhere else to turn. Rates of STIs and unintended  
27 pregnancies in our neighborhoods are likely to rise if HEARTT is no longer offered.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on March 20, 2019, in Washington, D.C.

Jane Thomas  
JANE THOMAS