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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**
 21 **SECRETARY OF THE U.S. DEPARTMENT OF**
 22 **HEALTH & HUMAN SERVICES; U.S.**
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; DOES 1-100,

24 Defendants.

**DECLARATION OF JOSEPH MORRIS
 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

1 I, Joseph Morris, PhD, MSN, RN, declare and state as follows:

2 1. I am the Executive Officer of the California Board of Registered Nursing (the
3 Board) and an active licensed Registered Nurse in the State of California. I make this declaration
4 in my official capacity as the Executive Officer of the Board and make this declaration of my own
5 personal knowledge.

6 2. The Board is a state governmental agency established to protect the public by
7 regulating the practice of registered nurses, among other things as described below, and is
8 organized under the California Department of Consumer Affairs. Cal. Bus. & Prof. Code §§ 101,
9 2701. The Board is responsible for implementing and enforcing the Nursing Practice Act. The
10 Board's authorizing statutes designate protection of the public as its highest priority. Cal. Bus. &
11 10 Prof. Code § 2708.1.

12 3. To carry out its mission to protect the public, the Board performs a number of
13 functions, including but not limited to:

- 14 • Establishing educational standards for nursing programs which prepare individuals
15 to become licensed as registered nurses, and certified as nurse-midwives, public
16 health nurses, nurse anesthetists, nurse practitioners, and clinical nurse specialists;
- 17 • Evaluating license and certificate applications to determine whether the applicant
18 meets the criteria for licensure or certification;
- 19 • Enforcing state law by taking appropriate disciplinary action against nurses who
20 violate the Nursing Practice Act and relevant provisions of the Business &
21 Professions Code;
- 22 • Adopting regulations to clarify the performance, practice, and disciplinary
23 standards for its licensees and certificate holders.

24 4. The Board's Enforcement Division protects consumers from licensees and
25 certificate holders who practice in a manner that may be unsafe or unprofessional. The Board has
26 authority to revoke, suspend, or place on probation any license and/or certificate if the licensee or
27 certificate holder has violated a provision of the law governing the profession. Cal. Bus. & Prof.
28 Code § 2759.

1 5. I am familiar with the final rule “Compliance with Statutory Program Integrity
2 Requirements” (the Rule), published in the Federal Register on March 4, 2019.

3 6. As part of its mission to protect California’s consumers and promote quality
4 nursing care, the Board adopts regulations and develops standards related to nurses’ scope of
5 practice. The Board aims to establish a scope of care that is consistent with consumer safety in
6 order to ensure efficient, quality care. The Rule undermines the scope of practice for registered
7 nurses by allowing only doctors or nurses with at least a graduate level degree to provide
8 counseling regarding options for pregnancy, including providing pregnant patients with a list of
9 available health services providers. All registered nurses can safely and effectively participate in
10 the provision of advice and counseling regarding women’s reproductive healthcare choices,
11 including providing referral lists of available health services providers. Any law or regulation
12 that allows only doctors or nurses with graduate degrees to provide counseling regarding options
13 for pregnancy, including providing pregnant patients with a list of available health services
14 providers, undermines the scope of practice for registered nurses. See Cal. Bus. & Prof. Code §§
15 2725, 2725.2.

16 7. Furthermore, I believe that the Rule if implemented may impact the work of the
17 Board.

18 8. If, as a result of the Rule’s requirements, patients file complaints against nurses
19 who fail to provide them with timely, accurate, and complete information, including misleading
20 referral lists, then the Board will be required to investigate such complaints.

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1 9. Furthermore, the Board is responsible for enforcing the Nursing Practice Act and
2 its implementing regulations through disciplinary proceedings. Thus, the Board may face an
3 increase in disciplinary matters for nurses who fail to abide by the Nursing Practice Act and its
4 implementing regulations, including unprofessional conduct, as a result of adhering to new
5 federal Title X funding requirements.

6 I declare under penalty of perjury that the foregoing is true and correct and of my own
7 personal knowledge.

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Executed on 3/20/19, Sacramento, California



Joseph Morris, Executive Officer
California Board of Registered Nursing