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 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.

19
 20 **ALEX AZAR, IN HIS OFFICIAL CAPACITY AS**
SECRETARY OF THE U.S. DEPARTMENT OF
 21 **HEALTH & HUMAN SERVICES; U.S.**
 22 **DEPARTMENT OF HEALTH AND**
HUMAN SERVICES; DOES 1-100,

23
 24 Defendants.

**DECLARATION OF MARIE
 MCKINNEY 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, Marie McKinney, state and declare as follows:

2 1. I am the Chief Operating Officer (“COO”) of Westside Family Health Center
3 (“WFHC”). I began as COO of WFHC on December 8, 2008. I have personal knowledge of the
4 facts stated herein and, if called as a witness, I would testify competently thereto.

5 2. WFHC’s mission is to provide comprehensive, high-quality, and cost-effective
6 health care in an educational and supportive environment that empowers patients of all ages to
7 take an assertive role in caring for their well-being. Established in 1974, WFHC has gradually
8 expanded over time, adding prenatal care in 1990, pediatric services in 1992, adolescent health
9 care in 1996, and a family practice program in 1999.

10 3. WFHC serves women, men, and children at various clinic sites throughout Los
11 Angeles County (“L.A. County”). WFHC’s Santa Monica office offers a family practice,
12 reproductive health services, pediatrics, prenatal services, and it performs community outreach
13 and education. WFHC’s clinic in West Los Angeles offers a family practice for women and men.
14 WFHC also provides family planning services, sexually transmitted infections (“STI”) testing,
15 and education on contraceptives at student-only satellite sites and mobile medical unit sites
16 throughout L.A. County.

17 4. The Health Resources and Service Administration (“HRSA”) awarded WFHC a
18 Quality Improvement Award (“QIA”) in recognition of WFHC’s efforts in 2017 to provide
19 comprehensive medical care. Specifically, WFHC was designated a “Health Center Quality
20 Leader,” representing best overall clinical performance among health centers nationwide.

21 5. WFHC continued to deliver on its mission of providing high-quality and
22 comprehensive health care in 2018. That year, WFHC saw a total of 3,205 Title X patients,
23 93.1% of whom were female. 45.49% of WFHC’s female patients in 2018 were Hispanic or
24 Latina, and 13.9% were Black or African American. 65.43% of WFHC’s patients were
25 uninsured.

26 6. In 2018, WFHC received \$205,173 in Title X funds as a sub-recipient of Essential
27 Access Health. To help ensure the proper expenditure of these funds, WFHC is audited by
28 Essential Access Health every three years. Title X funds support WFHC’s family planning

1 services and public education and outreach projects. WFHC uses Title X funds to support its
2 health care providers and operational staff, including staff for WFHC’s mobile medical units.

3 7. The majority of WFHC’s primary care patients are referrals from our family
4 planning programs. These patients may not receive general health services if not for the Title X-
5 funded family planning programs that initially brought them to WFHC.

6 8. Though WFHC clinics do not provide abortions, WFHC’s clinics provide non-
7 directive pregnancy counseling and referrals for abortion when requested.

8 9. WFHC will not be able to accept Title X funding if the Department of Health and
9 Human Services (“HHS”) implements the new Title X rule. The new Title X rule’s prohibition
10 on counseling and referral for abortion would prevent WFHC’s medical providers from fulfilling
11 their ethical obligations and complying with clinical treatment standards because those standards
12 require WFHC to provide full and accurate information to its patients, including information that
13 the new Title X rule now prohibits providers from giving. Similarly, the rule will prevent WFHC
14 from fulfilling its mission of providing patients with comprehensive care and medical
15 information, including non-directive options counseling and referrals.

16 10. WFHC will not be able to comply with the new Title X rule’s physical and
17 financial separation requirements. Currently, it will not be financially possible for WFHC to rent
18 or purchase separate property to provide non-directive counseling or referrals for abortion
19 services. WFHC assesses that attempting to comply with the rule’s physical separation
20 requirements would take between six months and a year, at a cost of approximately \$250,000.
21 This estimate does not include the additional costs that hiring separate personnel and keeping
22 separate records systems would entail. WFHC does not have these funds at its disposal. WFHC
23 will thus have to forego Title X funds if the new rule is brought into effect.

24 11. WFHC will also be unable to comply with the new Rule’s limitation on the ability
25 of individuals other than physicians or “advanced practice providers”—including registered
26 nurses, health educators, licensed clinical social workers, and licensed vocational nurses—to
27 provide abortion referrals as part of family planning services and nondirective pregnancy
28 counseling. Trained staff persons who do not qualify as “advanced practice providers” conduct

1 the majority of family planning encounters. It would be financially prohibitive to transition these
2 counseling services to medical doctors or “advanced practice providers.” WFHC therefore will
3 be unable to accept Title X funds if this component of the Rule is implemented.

4 12. WFHC will not be able to compensate for a decrease in Title X funds with funding
5 from other sources. Private funding is not readily available or guaranteed. Furthermore, a
6 decrease in Title X funding will make it more difficult for WFHC to recruit and retain qualified
7 staff. This will lead to longer wait times and fewer appointments for patients.

8 The new Title X rule will touch off a downward spiral in health care. The new Title X
9 rule will mean less access to contraception, a greater number of unintended pregnancies, and an
10 increase in STIs across L.A. County. Though there are crisis pregnancy centers in L.A. County,
11 they will not be able to fill the gap left by the reduction in care resulting from WFHC’s loss of
12 Title X funding. Crisis pregnancy centers do not provide options counseling or primary care
13 services. These centers are unable to care for women who present with medical emergencies,
14 including ectopic pregnancies. Women in these situations may not receive crucial timely care as
15 a result. This reduction in the scope and quality of care is but one example of the negative effects
16 of the new Title X rule.

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 20, 2019, in Los Angeles,
3 California.

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MARIE MCKINNEY

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