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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**
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 HENRY N. TUTTLE
 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, Henry N. Tuttle, declare and state as follows:

2 1. I am the President and Chief Executive Officer of Health Center Partners of
3 Southern California (“HCP”). I declare that I have personal knowledge of the facts stated herein
4 and, if called as a witness, I would testify competently thereto.

5 2. HCP provides a range of programs, resources, and advocacy support to its
6 consortium of health care organizations in the San Diego, Riverside, and Imperial County areas to
7 enrich the comprehensive services they provide.

8 3. The sixteen health centers in HCP’s consortium operate 135 clinic sites. These
9 sites provide a comprehensive range of services for children and adults, including primary care,
10 chronic disease management, oral health, pediatrics, prenatal, well-child care, behavioral health,
11 family planning, women’s health, HIV/AIDS, STI and TB testing, and a wide range of prevention
12 and education services.

13 4. In 2017, 64% of the patients served by HCP member clinics are female, 57.9% are
14 Hispanic, and 11.5% are African America, Native American or Asian/Pacific Islander. 32% of
15 HCP member clinic patients are under the age of 19. Fifty-three percent of HCP member clinic
16 patients have incomes below 100% of the federal poverty level. 31,969 of HCP patients are
17 agricultural workers and this patient population constitutes 24% of the total patient encounters.
18 89.1% of HCP patients are uninsured or underinsured.

19 5. Community health centers are the safety net for primary care services for the
20 region’s ethnically diverse, low income, under and uninsured patients. In addition, community
21 health centers serve the region’s refugee and new immigrant populations and strive for health
22 equity for these vulnerable populations. To achieve this, member health centers provide culturally
23 competent support services, such as language interpretation, transportation, job training,
24 enrollment assistance, and social services.

25 6. HCP health centers receive Title X funding through Plaintiff Essential Access
26 Health. In 2018, clinics in the San Diego, Riverside, and Imperial Counties received a total of
27 \$2,376,639 in Title X funding. Of those clinics, the nine member health centers in HPC’s network
28 received \$1,399,032 in Title X funding.

1 7. Title X funding is used to improve patient access and quality of care, through
2 outreach and community engagement, health education materials, training, and helping to cover
3 salary and benefits for clinicians. Through the use of these funds, Title X provided services to
4 180,042 patients at 65 HCP member health centers.

5 8. Many of HCP's member clinics see patients for the first time through family
6 planning visits. Once a patient comes to a clinic for family planning services, they are able to
7 access general health services as well. Such patients would not receive these general health
8 services if not for the Title X funded family planning programs that brought them into an HCP
9 health center in the first place.

10 9. If the new Title X rules promulgated by the Department of Health and Human
11 Services ("HHS") go into effect, many of the HCP member health centers will be unable to
12 participate in the Title X program. The average cost for each HCP health centers to train
13 employees on new procedures required by the new rule; create new policies, procedures,
14 workflows, and staff transcripts; and lost revenue from these activities is estimated to be about
15 \$47,000. Health centers that cannot afford these costs will be forced to forego Title X funding and
16 reduce family planning services.

17 10. The regulations interfere with the provider-patient relationship by restricting
18 referrals for abortions and effectively restricting counseling on abortion. This restriction conflicts
19 with medical providers' ethical obligations to provide comprehensive, non-directive counseling
20 regarding patients' healthcare options. They also violate a patients' right to be fully informed of
21 all of the available medical options when selecting their treatment.

22 11. In addition, the new rule's physical and financial separation requirements would
23 incur costs too great for many of HCP's health centers to bear. HCP health centers do not use
24 Title X funds for abortion procedures, as mandated by the Title X statute and longstanding
25 regulations. HCP Title X health centers provide non-directive options counseling and referrals for
26 abortion services. Under the new Title X rules, those health centers will be forced to discontinue
27 these activities or continue them in separate facilities with separate personnel, records, websites,
28 and phone numbers. The average estimated cost of implementing these requirements would be

1 almost \$40,000. Many health centers in HCP's consortium cannot bear the cost of setting up
2 separate facilities, so they will have to forego Title X funds.

3 12. HCP believes that quality care means that patients have a right to make their own
4 individual and educated choices about their health care. If an HCP member health center were to
5 accept Title X funds, under the new regulations, patients will be restricted in their ability to make
6 their own choices regarding their medical care. The new Title X rules may force a lower quality
7 of care for the nearly 1 million patients HCP member health centers serve.

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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 __, 2019 in San Diego, California.


HENRY N. TUTTLE 3/20/19