

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

JOSEPH H. HUNT
Assistant Attorney General
JOSEPH H. HARRINGTON
United States Attorney
MICHELLE R. BENNETT
Assistant Branch Director
BRADLEY P. HUMPHREYS
ANDREW M. BERNIE
Trial Attorneys
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, N.W.
Washington, DC 20005
(202) 305-0878
Bradley.Humphreys@usdoj.gov
Counsel for Defendants

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

STATE OF WASHINGTON,

Plaintiff,

v.

ALEX M. AZAR II, in his official
capacity as Secretary of the United
States Department of Health and
Human Services; and UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

NO. 1:19-cv-3040-SAB

NOTICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

NATIONAL FAMILY PLANNING &
REPRODUCTIVE HEALTH
ASSOCIATION, FEMINIST
WOMEN’S HEALTH CENTER,
DEBORAH OYER, M.D., and
TERESA GALL, F.N.P.,

Plaintiffs,

v.

ALEX M. AZAR II, in his official
capacity as United States Secretary of
Health and Human Services, UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
DIANE FOLEY, M.D., in her official
capacity as Deputy Assistant Secretary
for Population Affairs, and OFFICE
OF POPULATION AFFAIRS,

Defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Defendants submit this notice to inform Plaintiffs and the Court of a new rule issued by the Office of Civil Rights (OCR) in the Department of Health and Human Services (HHS) concerning federal conscience-protection statutes. The rule was published on the website of HHS today and will be published in the Federal Register in the near future. The version that was posted on HHS’s website is included as an exhibit to this notice. The rule creates procedures for HHS to enforce twenty five federal conscience-protection statutes and anti-discrimination statutes, including the Church Amendments, the Coats-Snowe Amendments, and the Weldon Amendment. It does not amend Title X regulations, nor does it change the status quo of the Title X program as the Department implemented that program prior to publication of the 2019 Title X Final Rule, the enforcement of which this Court has preliminarily enjoined. As HHS explains in the rule issued today, the enjoined “rule did not alter HHS’s preexisting policy dating back at least to 2008 of not enforcing requirements of the 2000 regulations where they may conflict with the federal conscience statutes as explained in this rule.” Exhibit A at 92 n.64. “This rule, similarly, does not alter that status quo, but sets forth general processes for enforcement of the Federal conscience and anti-discrimination laws.” *Id.*

For these reasons, Defendants do not believe that the new rule conflicts with the preliminary injunction this Court issued on April 25. Nonetheless, in an

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

abundance of caution, Defendants are filing this notice to inform the Court of this development.

Dated: May 2, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JOSEPH H. HARRINGTON
United States Attorney

MICHELLE R. BENNETT
Assistant Branch Director

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS
(DC Bar No. 988057)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs
Branch
1100 L Street, NW
Washington, DC 20005
Tel: (202) 305-0878
Fax: (202) 616-8460
Email: Bradley.Humphreys@usdoj.gov

Counsel for Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will send notification of such filing to the attorneys for all parties.

DATED this 2nd day of May, 2019, at Washington, D.C.

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS
D.C. Bar No. 988057