

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

THE FAMILY PLANNING ASSOCIATION OF)
MAINE D/B/A MAINE FAMILY PLANNING,)
on behalf of itself, its staff, and its patients;)
)
and)
)
J. DOE, DO, MPH, individually and on behalf of)
Dr. Doe’s patients,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES;)
)
ALEX M. AZAR II, in his official capacity as)
Secretary of Health and Human Services;)
)
OFFICE OF POPULATION AFFAIRS;)
)
and)
)
DIANE FOLEY, M.D., in her official capacity as)
the Deputy Assistant Secretary for Population)
Affairs,)
)
Defendants.)

Case No. 1:19-cv-00100-LEW

**MOTION FOR PRELIMINARY
INJUNCTION**

**INJUNCTIVE RELIEF
SOUGHT**

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs the Family Planning Association of Maine, doing business as Maine Family Planning, and Dr. J. Doe, by and through their undersigned counsel, hereby file this Motion for Preliminary Injunction, requesting that this Court enter an Order enjoining Defendants United States Department of Health and Human Services; Alex M. Azar II, Secretary of the Department of Health and Human

Services; Office of Population Affairs; and Diane Foley, Deputy Assistant Secretary for Population Affairs from enforcing the final rule titled *Compliance with Statutory Program Integrity Requirements*, 84 Fed. Reg. 7714, to be codified at 42 C.F.R. Part 59 (the “Rule”). The Rule imposes changes to the Title X family planning program, most of which go into effect on May 3, 2019.

As set forth in the contemporaneously filed Memorandum of Law in Support of Motion for a Preliminary Injunction, Plaintiffs satisfy the necessary requirements to establish that injunctive relief is warranted because: (1) Plaintiffs are likely to succeed on the merits of their claims that the Rule is unlawful in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2) and the Affordable Care Act, that it is unconstitutional in violation of the Fifth and First Amendments of the United States Constitution, and that it is unconstitutionally vague; (2) the Rule will cause irreparable harm to Plaintiffs and their patients; and (3) the public interest and balance of equities favor an injunction.

Accordingly, Plaintiffs request that the Rule be enjoined in full in order to provide Plaintiffs with necessary and appropriate relief. Alternatively, Plaintiffs request that the Court stay the effective date of the Rule under Section 705 of the APA pending adjudication of this case on the merits.

This Motion is supported by the contemporaneously filed Memorandum of Law, the accompanying declarations, and any additional submissions that may be considered by the Court.

Dated: March 25, 2019

Respectfully submitted,

/s/ Richard L. O'Meara

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& Dr. J. Doe*

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2019, I electronically filed the within Motion for Preliminary Injunction with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

/s/ Richard L. O'Meara
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