

1 JOSEPH H. HUNT  
 2 Assistant Attorney General  
 3 MICHELLE R. BENNETT  
 4 Assistant Branch Director  
 5 BRADLEY P. HUMPHREYS  
 6 ANDREW M. BERNIE  
 7 Trial Attorneys  
 8 Federal Programs Branch  
 9 U.S. Department of Justice, Civil Division  
 10 1100 L Street, N.W.  
 11 Washington, DC 20005  
 12 (202) 616-8488  
 13 Andrew.M.Bernie@usdoj.gov  
 14 *Counsel for Defendants*

10 **UNITED STATES DISTRICT COURT**  
 11 **EASTERN DISTRICT OF WASHINGTON**  
 12 **AT YAKIMA**

13 STATE OF WASHINGTON,

NO. 1:19-cv-3040-SAB

14 Plaintiff,

NOTICE

15 v.

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

20 Defendants.

21 NATIONAL FAMILY PLANNING &  
 22 REPRODUCTIVE HEALTH

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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 Defendants submit this notice to inform the Court of a letter sent to the  
2 plaintiffs in *Obria Group, Inc., et al. (collectively, Obria) v. U.S. Department of*  
3 *Health and Human Services (HHS), et al.*, No. 8:19-cv-905 (C.D. Cal.). A copy  
4 of that correspondence is attached to this notice.  
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6 In the above-referenced lawsuit, Obria challenges a provision of HHS’  
7 regulations that, in Obria’s view, requires Title X funding recipients to provide  
8 referrals for abortion. Consistent with the notice Defendants provided to this Court  
9 (and the four other Courts hearing similar challenges to the 2019 Title X Rule) on  
10 May 2, HHS’s letter to Obria explains that ““preexisting policy dating back at least  
11 to 2008 [has been not to] enforc[e] requirements of the 2000 regulations where  
12 they may conflict with the federal conscience statutes as explained in this rule.””  
13 See attached Letter (quoting *Protecting Statutory Conscience Rights in Health*  
14 *Care; Delegations of Authority*, 84 Fed. Reg. 23170, 23,191 n.64 (May 21, 2019)  
15 (Conscience Rule)).<sup>1</sup> See also ECF No. 55.  
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17 As with the Conscience Rule, HHS’s letter to Obria—setting forth HHS’s  
18 policy that long predates the 2019 Title X Rule at issue in this case—does not  
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20 <sup>1</sup> Defendants note that, although they issued the letter in connection with a pending  
21 case, Defendants did not enter a settlement agreement with Obria.  
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1 conflict with the preliminary injunction this Court issued on April 25. The Court's  
2 order, by its terms, enjoined enforcement of the 2019 Title X Rule, but did not  
3 otherwise alter the status quo ante including HHS' longstanding policy.  
4 Defendants further note that since they filed the May 2 notices, neither this Court,  
5 Plaintiffs, nor the Courts and Plaintiffs in the four other cases challenging to the  
6 2019 Title X Rule have expressed any concerns about the notices. Nonetheless, in  
7 an abundance of caution, Defendants have filed this notice to inform the Court of  
8 this development.  
9

10 Dated: June 13, 2019

Respectfully submitted,

11 JOSEPH H. HUNT  
12 Assistant Attorney General

13 MICHELLE R. BENNETT  
14 Assistant Branch Director

15 Andrew M. Bernie  
16 ANDREW M. BERNIE (DC Bar 995376)  
17 Trial Attorney  
18 U.S. Department of Justice  
19 Civil Division, Federal Programs Branch  
20 1100 L Street NW  
21 Washington, DC 20005  
22 Tel.: (202) 616-8488  
Fax: (202) 616-8470  
andrew.m.bernie@usdoj.gov

*Counsel for Defendants*

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**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 13th day of June, 2019, at Washington, D.C.

*Andrew M. Bernie*  
ANDREW M. BERNIE