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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 COUNTY OF SANTA CLARA, TRUST
15 WOMEN SEATTLE, LOS ANGELES LGBT
16 CENTER, WHITMAN-WALKER CLINIC,
17 INC. d/b/a WHITMAN-WALKER HEALTH,
18 BRADBURY-SULLIVAN LGBT
19 COMMUNITY CENTER, CENTER ON
20 HALSTED, HARTFORD GYN CENTER,
21 MAZZONI CENTER, MEDICAL STUDENTS
22 FOR CHOICE, AGLP: THE ASSOCIATION
23 OF LGBTQ+ PSYCHIATRISTS, AMERICAN
24 ASSOCIATION OF PHYSICIANS FOR
25 HUMAN RIGHTS d/b/a GLMA: HEALTH
26 PROFESSIONALS ADVANCING LGBTQ
27 EQUALITY, COLLEEN MCNICHOLAS,
28 ROBERT BOLAN, WARD CARPENTER,
SARAH HENN, and RANDY PUMPHREY,

Plaintiffs,

vs.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES and ALEX M. AZAR, II,
in his official capacity as SECRETARY OF
HEALTH AND HUMAN SERVICES,

Defendants.

Case No. 5:19-cv-2916

**DECLARATION OF MODESTO
VALLE, CHIEF EXECUTIVE OFFICE
OF CENTER ON HALSTED, IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

1 I, Modesto Valle, declare as follows:

2 1. Center on Halsted is a 501(c)(3) non-profit organization based in Chicago and
3 incorporated in Illinois. Center on Halsted is a comprehensive community center dedicated to
4 securing the health and well-being of the LGBT people of the Chicago area. More than 1,400
5 community members walk through our doors each day for a range of social and/or direct service
6 engagements.

7
8 2. As a comprehensive community center dedicated to advancing community and
9 securing the health and well-being of LGBT people in Chicago, Center on Halsted provides
10 programs and services for the LGBT community, including case management, lunches, job
11 development, social programing, and housing for seniors; housing, meals, counseling, and
12 leadership development for youth; and anti-violence services. Center on Halsted provides a wide
13 range of behavioral-health services for all ages, including gender-transition-related counseling,
14 individual and group therapy, anti-violence crisis counseling, and HIV-related healthcare, including
15 HIV testing and linkage to Pre-Exposure Prophylaxis or PrEP, which is extremely effective at
16 preventing HIV transmission. Center on Halsted will soon be expanding the breadth of healthcare
17 services that it provides via the opening of its own Health and Wellness Clinic, likely within the
18 next year.

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20
21 3. Community members not only obtain services from Center on Halsted, they also
22 access healthcare services from a range of other community based organizations and agencies,
23 including religiously-affiliated organizations. For example, seniors who are served by Center on
24 Halsted currently access services through Catholic Charities and religiously-owned hospitals and
25 care facilities, organizations that receive federal financial support for their programs and services.
26 When these seniors encounter problems with service agencies, including denial of healthcare
27 services based on their LGBT status or identity, Center on Halsted intervenes to advocate on the
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1 patrons' behalf. Center staff communicate with agencies informing them of their legal obligation
2 to ensure that LGBT people who Center on Halsted serves have the ability to secure healthcare
3 services on equal, nondiscriminatory terms. When agencies deny services to LGBT individuals,
4 word spreads among community members, causing many of those who the Center on Halsted serves
5 to be fearful of also being discriminated against by these organizations.
6

7 4. I have been the Chief Executive Officer of Center on Halsted since 2007 and have
8 been instrumental in establishing many of the programs that are offered through the Center,
9 including bringing several landmark efforts to the Center, such as the first LGBTQ-friendly
10 affordable housing project for Seniors and the HIV/AIDS and STI Program. I attended DePaul
11 University and Notre Dame's Seminary School. In addition, I hold certificates in nonprofit
12 management from Harvard Business School and Northwestern University's Kellogg School of
13 Management. I was recently appointed to the CenterLink Board of Directors and have served on
14 the board of the NAMES Project Foundation, Equality Education Project, City of Chicago LGBT
15 Health Council, Illinois Violence Prevention Authority Board, City of Chicago Employment Task
16 Force, Welcoming Committee NATO, Illinois HIV/AIDS Advisory Council, Board Member of
17 Horizons Community Services and the Chicago Children's Choir. I am submitting this Declaration
18 in support of Plaintiffs' motion for preliminary injunction to prevent the Denial-of-Care Rule from
19 taking effect.
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22 5. Unless enjoined, the impact that the Denial-of-Care Rule will have on the patrons
23 and clients whom Center on Halsted serves will be profound. People across nearly every
24 demographic and along the entire spectrum from closeted to fully out come through Center on
25 Halsted's doors to be in a space where they feel safe in the entirety of their authentic selves. What
26 Center on Halsted provides is a space where judgement is not passed, nor services withheld based
27 on personal prejudice. Center on Halsted is also a place where people do not have to sacrifice safety
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1 or delay healthcare out of fear of being told that who they are does not meet someone's moral or
2 religious standards. If there is one thing that the 1,400 people walking through our doors have in
3 common, it is that they know they are welcomed, whether that is to join a community group, hear
4 a lecture, receive mental-health services, participate in a family group, take in an art show, use a
5 computer, get an HIV test, or just relax. From our experiences serving our community, the Denial-
6 of-Care Rule will cause the people Center on Halsted serves to feel a greater need to hide their
7 identities and same-sex relationships when accessing healthcare services from healthcare providers
8 outside of Center on Halsted out of fear that the healthcare providers may have religious objections
9 to serving LGBT people. Causing clients to omit potentially vital parts of their life history may
10 result in a misdiagnosis and an incomplete or inappropriate treatment or recommendation. Staying
11 in the closet may also lead to greater isolation, which is harmful in itself and negatively affects an
12 individual's health and well-being.

15 6. The Denial-of-Care Rule will evoke trauma and fear among members of our
16 community, resulting in increased demand for Center on Halsted's LGBT-affirming mental-health
17 counseling. This will especially impact transgender and behavioral-health services that Center on
18 Halsted currently provides. The additional demand for services and advocacy caused by
19 discrimination resulting from the Rule will strain Center on Halsted's resources.

21 7. Center on Halsted will likely see an increased need for behavioral health services,
22 especially for LGBT homeless youth who are particularly vulnerable, as many have been kicked
23 out of their homes before encountering rejection or other discriminatory treatment by a healthcare
24 provider. When at-risk youth experience additional rejections and denials of care by their
25 healthcare providers, the very people whom they reach out to for support in their most vulnerable
26 moments, they are more likely to engage in high-risk behaviors and will thus require Center on
27 Halsted's services more often and in a greater state of trauma. With the Denial-of-Care Rule in
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1 effect, Center on Halsted may have fewer ways to mentor these youth away from high-risk
2 behaviors when the availability of complementary support, such as replacing the familial and
3 community safety nets with ones using social services, is reduced by discriminatory denials of
4 service.

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6 8. The Rule will also cause added stress on LGBT clients for whom accessing social
7 services will be like stepping into a minefield. This will mean that Center on Halsted will need to
8 re-examine all referral linkages, which will become increasingly difficult as the Denial-of-Care
9 Rule will empower individuals within agencies to discriminate. In effect, this reduces the already
10 severely damaged trust that LGBT clients – especially young clients – have, which is troubling as
11 trust is necessary for a client to reach out for help. For example, if a young client fears that a once
12 trusted organization may have a healthcare provider or gatekeeper whose religious beliefs about
13 the child’s gender identity reflects those of the adults who abused and abandoned them, it keeps the
14 young person in a state of heightened vulnerability.

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16 9. Center on Halsted is also seeing a rise in the numbers of requests for gender
17 transition letters from our behavioral-health department. Transition letters are written by qualified
18 Behavioral Health staff on behalf of Transgender clients seeking gender confirmation surgery. The
19 rise in requests is likely because some transgender clients are growing more afraid of harassment,
20 denials of care, and elongated procedures intended only to obstruct their access to transition-related
21 care. Center on Halsted’s behavioral-health staff also anticipate that already disproportionately high
22 suicide rates within the transgender community will climb if there is a return to more obstacles to
23 transition-related options.

24
25 10. Center on Halsted will need to educate the community about the Denial-of-Care
26 Rule in particular in order to inform clients of the additional steps clients may need to take in order
27 to determine whether particular providers are competent and affirming. If the law takes effect, we
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1 are likely to see an increase in reports of LGBT people being denied services. Between the
2 Transgender Military Ban, the denial of gender self-determination for school children, and this
3 Rule, LGBT people are negatively affected on multiple levels, which will require designing multi-
4 level responses to address individual, interpersonal, systemic, and cultural impacts.

5
6 11. For instance, in addition to direct services, Center on Halsted provides training to
7 healthcare professionals across fields. Due to increased stigma and discrimination, a lack of LGBT
8 affirming healthcare options, and increased denials of care, the Denial-of-Care Rule will increase
9 healthcare disparities affecting the LGBT community. For over a decade, Center on Halsted has
10 invested heavily in training and providing technical assistance to the healthcare industry in Chicago
11 related to learning to work toward ensuring equitable services to the LGBT community. The
12 Denial-of-Care Rule will require us to re-write these training programs and any related materials
13 as well as require us to reach out to healthcare organizations and businesses in the Chicago region
14 to re-train their personnel. The Denial-of-Care Rule thus undermines our mission of maintaining
15 nondiscriminatory healthcare environments at these institutions and forces us to redirect resources
16 to retraining and ensuring that these healthcare organizations and businesses retain and reinforce
17 their nondiscrimination requirements. Some of the training programs we have offered were funded
18 through government grants such as the Victims of Crimes Act grant.

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21 12. As a result of the Denial-of-Care Rule, LGBT people and people living with HIV in
22 Illinois will be at a higher risk of lacking culturally competent healthcare providers who will not
23 further traumatize them or exacerbate the reasons that they sought healthcare in the first place.
24 Increased discrimination against LGBT clients creates a need for more and longer training
25 engagements. In fiscal year 2017, Center on Halsted trainers provided twenty-five trainings to
26 nearly 600 health and safety professionals. The Denial-of-Care Rule frustrates Center on Halsted's
27 work in this area as it could prevent Center on Halsted from teaching and achieving its pillar
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1 principles that are based on a client-centric, nondiscriminatory approach to healthcare, including
2 teachings that religious-based objections to treating LGBT clients, and the negative treatment of
3 LGBT clients and clients living with HIV, can significantly and adversely alter a client's health and
4 well-being without potentially violating the Rule. When healthcare providers affirm negative
5 messaging about clients' self-worth, particularly during clients' most vulnerable moments of need
6 for health-related care, clients' confidence and trust in the medical care that they receive is eroded,
7 negatively affecting their health and well-being because they are less likely to seek care for their
8 medical needs and by the time they do seek care, their conditions are often more acute.

9
10 13. Related to gender transitions, Center on Halsted is concerned about the Denial-of-
11 Care Rule's preamble that characterizes transgender-affirming care as "sterilization." Much of
12 transgender-affirming care has no impact on reproductive function or may have merely an
13 incidental impact on reproductive function. For many transgender individuals, gender confirmation
14 surgery is a treatment for gender dysphoria, but it is not done for the purpose of preventing
15 procreation. Bodily autonomy is of paramount importance to everyone, including transgender
16 individuals. While impacts on reproduction may be an incidental effect of some transgender-
17 affirming care, such treatment is *not* sterilization.

18
19 14. Center on Halsted is working on opening its own health and wellness clinic that will
20 include behavioral health treatment, therapy, counseling, anti-violence and youth programming,
21 HIV-related healthcare services, PrEP services and access, additional gender-transition-related care
22 options, and referral services to outside organizations for clients seeking healthcare options that
23 Center on Halsted does not provide. This will be another investment Center on Halsted makes in
24 our community, one that is particularly important as more providers use religious-based objections
25 to providing PrEP and other medications as a way to not serve the LGBT community.
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1 15. The Denial-of-Care Rule will empower broad discrimination. We have heard from
2 clients, for example, that their requests for prescriptions like PrEP were rejected because healthcare
3 providers outside of Center on Halsted stated that providing such treatment was contrary to their
4 moral beliefs and would, allegedly, promote “promiscuous” lifestyles and even ‘gay sex’ generally.
5 Such denials of care could also lead to a rise in PTSD symptoms in those who survived the AIDS
6 epidemic and watched friends and loved ones suffer and die when they were refused treatment
7 within a milieu of fear which was in part perpetuated by the federal government. For clients who
8 may have been reluctant to ask in the first place, being told that the provider morally opposes PrEP
9 may lead the client to leave without the medication and not seek out another provider. This could
10 impede realization of the state’s Getting to Zero goal with respect to HIV transmission, which has
11 been showing great promise, and increase the length of time and likelihood of seeing the end of the
12 spread of HIV. This type of discrimination will increase as a result of the Denial-of-Care Rule.
13

14 16. In the weeks leading up to, and in anticipation of, the issuance of the Denial-of-Care
15 Rule, Center on Halsted’s staff devoted and since then continues to devote increased resources to
16 strategize ways to combat negative effects from the Rule and to work with staff to develop
17 community education options. Center on Halsted has already conducted additional “Know Your
18 Rights” internal staff development sessions regarding discrimination against LGBT people; sent
19 and prepared staff to attend meetings and events with other LGBT stakeholders in the city; and held
20 internal training for staff to manage the added strains on the mental health of our clients. Center
21 on Halsted needs to educate its community about the Denial-of-Care Rule, which erodes their
22 confidence in the healthcare system and puts their lives and the lives of their loved ones in potential
23 jeopardy. Center on Halsted needs to continue messaging the community about Center on Halsted’s
24 commitment to serving all clients in a non-discriminatory and welcoming manner and notify its
25 clients that the Denial-of-Care Rule will not change Center on Halsted’s commitment to providing
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1 exceptional healthcare services to all members of the community. Center on Halsted will continue
2 fighting for its clients' rights, including, for example, advocating with other entities on behalf of
3 transgender clients who seek treatment for gender dysphoria, but who are denied such treatment
4 due to providers' religious or moral objections to treating transgender clients. Center on Halsted
5 must now devote more resources to working with outside providers and organizations to remind
6 them of the importance of providing healthcare to all clients on non-discriminatory terms. Center
7 on Halsted also must conduct additional internal, staff training to address and assist in managing
8 the added strains that issuance of the Rule has already caused to Center on Halsted's staff and the
9 people they serve. Further, Center on Halsted will ramp up its work at the intersections of identity
10 and health, particularly focusing on transgender people of color, who already live in areas less likely
11 to offer an array of healthcare options. The Denial-of-Care Rule thus already has required, and will
12 further require, considerable diversion and additional expenditure of Center on Halsted's resources,
13 and frustrates Center on Halsted's mission.

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16 17. The Denial-of-Care Rule further adversely impacts Center on Halsted by
17 necessitating the diversion and reallocation of resources in order to provide referrals to clients that
18 it does not have the resources to treat either because Center on Halsted has reached its capacity for
19 new clients (especially in the behavioral-health departments) or because the client requires
20 treatment in a specialty that Center on Halsted does not have. These types of referrals are routine
21 at Center on Halsted where our healthcare work focuses on behavioral health. The Denial-of-Care
22 Rule will require Center on Halsted to expend more resources vetting healthcare providers within
23 its referral network. Further, if a provider to whom we refer clients refuses to treat our referred
24 clients, such a Denial-of-Care is gravely harmful to our reputation, a reputation that Center on
25 Halsted invests heavily in with our clients, as it is essential to client trust. The Denial-of-Care Rule
26 will make it significantly more difficult and resource-intensive for us to locate and monitor
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1 appropriate referrals. With an increase in referral requests as a result of the Denial-of-Care Rule,
2 Center on Halsted will need to allocate additional staff time to pre-screen service referrals to ensure
3 that staff are sending clients to LGBT-affirming providers and not to providers who themselves or
4 whose staff would cause additional harm to Center on Halsted's clients. Moreover, Center on
5 Halsted's staff will experience the indignity of discrimination themselves as they attempt to
6 advocate for those whom Center on Halsted serves when healthcare providers interpret the Denial-
7 of-Care Rule as permitting them to deny healthcare services to LGBT clients and refuse to even
8 refer LGBT clients to other resources. The Rule will increase Center on Halsted's operating costs
9 and will take a toll on the health and well-being of the LGBT community that it serves.

11 18. Center on Halsted's job-recruitment process will be adversely affected in terms of
12 being able to best serve the LGBT communities of Chicago. Center on Halsted would have to
13 devote both programmatic and human-resources time to re-writing job descriptions and interview
14 protocols to adhere to requirements under the Denial-of-Care Rule. Center on Halsted's inability
15 under the Rule to inquire about a job applicant's willingness to treat all clients with equal dignity
16 and respect regardless of the clients' sexual orientation or gender identity will be extremely harmful
17 to Center on Halsted's reputation and mission. The LGBT community is not monolithic. Similarly,
18 for instance, to how the term "Asian" encompasses many identities and cultures, LGBT is used as
19 an expedient way to describe an otherwise incredibly diverse population. There are, for instance,
20 lesbians who deride transgender women. It is not inconceivable that such a lesbian would seek
21 employment at Center on Halsted and, without appropriate policies to inquire about her alignment
22 with Center on Halsted's mission, could be hired. This would erode the very mission of Center on
23 Halsted. To not be able to ask an applicant if they object to any part of Center on Halsted's mission
24 would leave our communities exposed to mental and physical harms, in direct opposition to Center
25 on Halsted's mission. Currently, for instance, Center on Halsted asks "what about the Center"
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1 attracts you as well as what experience the applicant may have working with LGBT communities.
2 An inability to probe in connection with such questions would send a message that Center on
3 Halsted is not interested in hiring and retaining a group of people committed to the LGBT
4 community. Explaining this to our community would also divert already stretched resources. A
5 similar issue of mission erosion would arise in working with volunteers.
6

7 19. One of the most disconcerting aspects of the Denial-of-Care Rule is the requirement
8 to open confidential medical records to OCR upon its request and the fact that certain confidentiality
9 requirements may not operate under the Rule. OCR's access to clients' medical records, especially
10 given the recent creation of the "Conscience and Religious Freedom Division," sends a harmful
11 signal to LGBT individuals that their medical records and well-being are vulnerable to
12 discrimination and misuse. This will have a chilling effect on clients' decisions regarding whether
13 to access Center on Halsted's services. Though it is good that LGBT rights have progressed so far
14 so quickly, this means that many LGBT people remember when information was used by the
15 government to harm individuals in the community. The Denial-of-Care Rule will erode the trust of
16 our communities and could lead to a return to closeted life for some. Hiding out of fear of
17 government intrusion in one's life is a far stretch from democratic ideals.
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19 20. The impact on the behavioral-health department will be significant. Each year, the
20 department receives nearly 150 applications for 8 internship positions because so many students
21 want to learn how to provide the LGBT affirming therapeutic interventions that this anchor program
22 has developed since the founding of Center on Halsted. The department also brings on new staff
23 and contract staff. As part of their therapeutic practice, the behavioral health team asks a therapist
24 if they are comfortable disclosing their sexual orientation and gender identity as this is an important
25 and crucial way to establish trust. If asking this question is no longer an option, the model will be
26 compromised.
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1 21. Similarly, if the HIV/AIDS & STI department hires someone who refuses to offer
2 services by not providing HIV/HCV tests to parts of the populations served by Center on Halsted,
3 then that person’s salary is in effect wasted, while other staff members, already overworked, will
4 be burdened with having to make up the tests if that objector decides to remain with Center’s testing
5 services. Additionally, any reception staff that works on intake for behavioral health could try to
6 use the Denial-of-Care Rule to opt out of working with a client. Given that people making religious-
7 based objection to assisting clients may not be required to report their actions, Center on Halsted
8 may never know if a new client was turned away or why a long-term engaged client stopped
9 engaging. Furthermore, even if Center on Halsted could afford to hire duplicative staff to try to
10 protect against clients being turned away, which it cannot, there would be no way of ensuring that
11 even the duplicative, “extra” staff would not also discriminate against clients or deny them
12 medically necessary treatment.

15 22. The absence of an emergency exception is also of deep concern. If, for instance, a
16 behavioral-health client, a homeless youth, a senior from the Center’s Town Hall Residence, or any
17 other patron experiences an extreme situation requiring an ambulance, operations, reception, and
18 direct-service staff are currently expected to respond immediately. Current staff understand it is
19 their obligation to respond, but the Denial-of-Care Rule threatens that understanding. The absence
20 of an emergency exception could mean that a client in crisis remains in a prolonged state of crisis,
21 potentially causing greater harm to that person or persons around them. This could be as a result of
22 emergency care services exercising religious objections to assisting clients at our Center or even
23 Center staff refusing to abide by their mandated-reporter status that requires them under the Health
24 Insurance Portability and Accountability Act to assist clients in need of emergency care, including
25 calling an ambulance when necessary.
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1 23. In addition to concerns about not being able to appropriately select and supervise
2 staff who work directly with clients, we are also concerned about other personnel that we hire at
3 Center on Halsted, including, for instance, custodial staff. Center on Halsted’s Code of Conduct
4 includes the requirements for anyone in the building, including staff, volunteers, interns, and
5 patrons, to provide “considerate and respectful treatment and care” (devoid of “rude, discourteous
6 or raucous behavior”) from “experienced, professional, and responsive staff” who extend
7 “participation in services and programs without regard to race, color, sex, gender identity, gender
8 expression, age, religion, disability, national origin, ancestry, sexual orientation, marital status,
9 parental status, military discharge status or source of income.” The Denial-of-Care Rule invites
10 behavior that would be contrary to Center on Halsted’s Code of Conduct in that it invites
11 discrimination against and mistreatment of LGBT clients. Center on Halsted has built its reputation
12 on being a place where LGBT individuals can be their full, authentic selves. The Denial-of-Care
13 Rule infringes upon our reputation and mission. The Rule could damage us to the point that the
14 LGBT community may cease seeing Center on Halsted as a safe place for the community to go in
15 clients’ most vulnerable times of need.

18 24. Center on Halsted’s funding may also be affected. Center on Halsted receives
19 various forms of pass-through federal funding from HHS, including Ryan White funding and
20 funding from the National Institutes of Health and the Centers for Disease Control and Prevention.
21 Center on Halsted also benefits from programs governed by the Centers for Medicare through
22 Medicare reimbursements. If Center on Halsted chooses to best serve its communities and to follow
23 its mission, federal dollars, which comprise about a tenth of the budget, may be cut if we are found
24 to be out of compliance with the Denial-of-Care Rule. Center on Halsted, therefore, has a
25 reasonable fear that it could be sanctioned and lose vital federal funding as a result of our
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1 nondiscrimination policies. The loss of such funding would result in massive service reduction and
2 gut long standing signature programs that are the cornerstones of our work.

3 25. The daily administration of Center on Halsted will also be affected. When it started
4 to become clear at the beginning of the current administration that LGBT people would experience
5 a shift toward less support, fear and apprehension-based tensions within the community rose,
6 particularly regarding safety concerns. At Center on Halsted, active shooter trainings have become
7 part of all of our staff training rotations as well as part of the onboarding process for all new staff
8 and interns. Not only are LGBT staff feeling the threat that accompanies the loss of support, they
9 are also now on heightened alert because active shooter training is a reminder that they could very
10 well be in harm's way if a shooter targets Center on Halsted. This, coupled with the growing number
11 of ways that the federal government is creating laws that harm the LGBT community and
12 dismantling the protections we worked so hard for, is creating the need for increased staff-
13 supervision time and strategy sessions to help everyone at Center on Halsted understand, cope with,
14 and handle the negative effects of the Denial-of-Care Rule.
15
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17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19 Dated: June 9, 2019

Respectfully submitted,

21 /s/ Modesto Valle
22 Modesto Valle