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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  
ASSOCIATION OF PHYSICIANS FOR  
HUMAN RIGHTS d/b/a GLMA: HEALTH  
PROFESSIONALS ADVANCING LGBTQ  
EQUALITY, COLLEEN MCNICHOLAS,  
ROBERT BOLAN, WARD CARPENTER,  
SARAH HENN, and RANDY PUMPHREY,

Plaintiffs,

vs.

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

Defendants.

No. 19-cv-2916 NC

**DECLARATION OF SARA H. CODY,  
M.D., HEALTH OFFICER AND  
DIRECTOR OF COUNTY OF SANTA  
CLARA PUBLIC HEALTH  
DEPARTMENT, IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

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I, SARA H. CODY, M.D., declare as follows:

1. I am a resident of the State of California. I submit this declaration in support of the County of Santa Clara’s (“County”), and its co-plaintiffs’, Motion for Preliminary Injunction. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would testify competently to the matters set forth herein.

2. I am the Director of the County’s Public Health Department, as well as the Health Officer for the County and each of the 15 cities located within Santa Clara County. I have held the Health Officer position from 2013 to the present and have held the Public Health Department Director position from 2015 to the present. In these roles, I provide leadership on public health issues for all of Santa Clara County and oversee approximately 450 Public Health Department employees, who provide a wide array of services to safeguard and promote the health of the community.

3. Prior to becoming the Health Officer for the County and each of its cities, I was employed for 15 years as a Deputy Health Officer/Communicable Disease Controller at the County’s Public Health Department, where I oversaw surveillance and investigation of individual cases of communicable diseases, investigated disease outbreaks, participated in planning for public health emergencies, and responded to Severe Acute Respiratory Syndrome (SARS), influenza A virus subtype H1N1 (also known as “swine flu” or H1N1), and other public health emergencies.

4. The mission of the Public Health Department is to promote and protect the health of Santa Clara County’s entire population. None of Santa Clara County’s 15 cities have a health department. All 15 cities, and all Santa Clara County residents, rely on the Public Health Department to perform essential public health functions. The Public Health Department’s work is guided by core public health principles of equity, the value of every life, and harm prevention. The Public Health Department’s direct services primarily benefit low-income persons, children, people of color, and people living with chronic diseases, such as HIV/AIDS.

1           5.       The work of the Public Health Department is focused on three main areas: (1)  
2 infectious disease and emergency response, (2) maternal, child, and family health, and (3) healthy  
3 communities.

4           6.       The Public Health Department provides care focused on some of the County's  
5 most vulnerable populations including, but not limited to, the LGBTQ community, low-income  
6 residents, people who abuse controlled substances, and young women who are pregnant.  
7 Approximately 25% of the County's nearly two million residents are considered to be among  
8 these vulnerable populations. It is critical that Public Health Department staff be willing and able  
9 to serve these populations. For that reason, in recruitment for employment in the Public Health  
10 Department, the County inquires into job applicants' experiences with the LGBTQ community  
11 and with other vulnerable populations. This recruitment practice ensures that our Department is  
12 staffed with employees who are prepared to serve, and are experienced with serving, the needs of  
13 all County residents who may interact with the Public Health Department.

14           7.       Several specific programs would be undermined if the Public Health Department  
15 were prevented from ensuring that employees staffing those programs were willing to provide the  
16 health care services required. For example, the Public Health Department operates a needle  
17 exchange program that is critical to preventing the spread blood-borne pathogens such as HIV,  
18 hepatitis B and hepatitis C, and also helps to address substance abuse in Santa Clara County.  
19 County employees participating in this program necessarily interact with people who abuse  
20 controlled substances and typically engage in services such as providing clean needles, safer-sex  
21 kits, and referrals for substance abuse treatment. If the Department could not ensure that  
22 employees staffed on the needle exchange program are willing to provide these services, the  
23 program would not be able to operate efficiently or effectively. Similarly, if the Department  
24 could not reassign an employee who objected to providing such services, we would not be able to  
25 staff appropriately, undermining this critical program.

26           8.       The Public Health Department provides a range of STI-related services, including  
27 sexual-health counseling, STI-prevention services, STI screening, STI treatment, and HIV pre-  
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1 exposure and post-exposure prophylaxis. Through both the Crane Center, which focuses on STI  
2 screening for HIV and Hepatitis C, and the STI clinic, which provides examinations and  
3 treatment for a wide range of STIs, such as syphilis, gonorrhea and chlamydia, the Public Health  
4 Department regularly serves the LGBTQ community, women who are pregnant including those  
5 who may be considering abortion, and people who are seeking contraceptive care. If a broad  
6 swath of Public Health employees—even those not directly providing patient care—could refuse  
7 to facilitate or refer patients for certain care based on religious or moral objections, these  
8 programs would be dramatically impacted. Such refusals would interfere with the relationship of  
9 trust between our providers and our patients and result in situations where patients seeking care  
10 are turned away or provided with incomplete information regarding the health care services  
11 available.

12           9. A policy that broadly permits employees to refuse to facilitate patient care could  
13 have a serious negative impact on public health. Indeed, STIs are already a serious public health  
14 concern in Santa Clara County, which has recently experienced a rise in chlamydia, gonorrhea,  
15 and syphilis. Between 2010 and 2017, cases of chlamydia steadily increased from 271.3 cases  
16 per 100,000 people in 2010 to 392.7 cases in 2017, and gonorrhea rates increased nearly fourfold  
17 from 33.1 cases per 100,000 people in 2010 to 126.4 cases in 2017, with a 26% rapid increase  
18 from 2016 to 2017. Rates of early syphilis (i.e., primary, secondary, and early latent syphilis)  
19 diagnoses nearly tripled from 6.2 cases per 100,000 people in 2010 to 21.1 cases in 2017, with a  
20 sharp 57% increase between 2015 and 2016. HIV/AIDS is another serious public health concern  
21 in the County. In 2015, there were 2,734 people living with HIV/AIDS in the County, and in  
22 2017, that number had risen to 3,361 people living with HIV/AIDS in the County. Any  
23 requirements that obstruct patient access to treatment are likely to exacerbate these serious public  
24 health problems and thus increase the burden on the County to address and prevent the spread of  
25 these infections.

26           10. Public Health's STD/HIV Prevention and Control program distributes free  
27 condoms at its clinical sites and through outreach events to the community. If Public Health were  
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1 unable to require advance notice of religious objections or reassign objecting employees, an  
2 employee who has a religious objection to contraceptives or premarital sex could refuse to  
3 participate in and seriously undermine this program. Decreased access to, and education about,  
4 contraception is likely to increase unintended pregnancies, triggering immediate and long-term  
5 costs to the County and communities nationwide. As the safety-net healthcare provider, the  
6 County funds many of the medical services associated with preventing and treating both STIs and  
7 unintended pregnancies, which disproportionately affect young, low-income, minority women,  
8 without access to higher education, who are likely to rely on County-funded services. The  
9 County is also burdened by the long-term costs of unplanned pregnancies, which can limit  
10 individuals' ability to succeed in education and the workplace and to contribute as taxpayers and  
11 citizens.

12 11. The Public Health Department depends heavily upon federal funding from the U.S.  
13 Department of Health and Human Services. The elimination of this federal funding would be  
14 devastating for the residents of Santa Clara County. It would result in a drastic reduction of  
15 services and staff positions in Public Health Department programs providing direct services to  
16 clients, as well as other programs integral to protecting and promoting public health. Vulnerable  
17 communities would be most severely impacted by a loss of federal funding to the Public Health  
18 Department.

19 12. In the County's 2017-18 fiscal year, from July 1, 2017 through June 30, 2018, the  
20 Public Health Department's total gross expenditures amounted to approximately \$102 million.  
21 Total revenues from federal funds in the 2017-18 fiscal year amounted to approximately \$36  
22 million, or more than a third of the Department's gross expenditures. Most of these federal funds  
23 pass through the State of California to the County.

24 13. Federal funding is critical to many of the Public Health Department's programs  
25 that address infectious diseases. The Public Health Department is responsible for safeguarding  
26 the public health by preventing and controlling the spread of infectious diseases and planning for  
27 and responding to public health emergencies. Programs in this branch of the Public Health  
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1 Department receive reports on 85 different diseases and conditions; track overall trends in  
2 infectious diseases; investigate individual cases of concern; provide long-term case management  
3 for certain categories of patients (e.g., active tuberculosis cases); provide immunizations and  
4 preventive therapy; identify, investigate and control outbreaks; and plan for and respond to public  
5 health emergencies. They also ensure that all children attending school or childcare facilities in  
6 Santa Clara County comply with State immunization requirements; conduct HIV and other STI  
7 testing and education for vulnerable communities; and distribute opioid overdose prevention kits  
8 for at-risk individuals. To support its communicable disease control function, the Public Health  
9 Department has a public health laboratory, which serves as a local and regional resource which  
10 local health providers, clinics, hospitals, and even law enforcement rely on to test and identify  
11 infectious diseases, toxins, biohazards, and other substances that could pose a serious risk to  
12 public health. This branch of the Public Health Department also includes two pharmacies.

13 14. For example, in Fiscal Year 2015-2016, Public Health Department programs  
14 supported by federal funding included the following:

15 a. Under the federal government's Ryan White HIV/AIDS Program, the  
16 County received \$4.0 million in funds to provide core medical services and support services to  
17 low-income individuals living with HIV/AIDS in the County. In calendar year 2016, there were  
18 1,267 Ryan White-funded clients in Santa Clara County—nearly half of all the persons living  
19 with HIV/AIDS in Santa Clara County.

20 b. The County received approximately \$2 million for drugs provided to  
21 uninsured and underinsured HIV/AIDS patients enrolled in the AIDS Drug Assistance Program.  
22 These are patients who are at or below 500% of the Federal Poverty Level and do not qualify for  
23 no-cost Medi-Cal. The majority of this \$2 million consists of federal funds, with state funds  
24 comprising the remainder.

25 c. Through the National Hospital Preparedness Program and Public Health  
26 Emergency Preparedness Cooperative Agreement Programs, the Public Health Department has  
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1 received \$2.6 million in federal funding to prepare for emergencies, such as natural disasters,  
2 mass casualties, biological and chemical threats, radiation emergencies and terrorist attacks.

3 15. Further, in the area of maternal, child, and family health, the Public Health  
4 Department provides services for Santa Clara County's most vulnerable children and families.  
5 The following are some of the Public Health Department's federally funded programs in this area:

6 a. The California Children's Services (CCS) program provides diagnostic and  
7 treatment services, medical case management, and medically necessary physical and occupational  
8 therapy services to children under 21 years of age with CCS-eligible medical conditions, such as  
9 cystic fibrosis, hemophilia, cerebral palsy, muscular dystrophy, spina bifida, heart disease, cancer,  
10 and traumatic injuries. The CCS program serves well over 5,000 children each year, and in Fiscal  
11 Year 2015-2016, it received \$4.9 million in federal funds, not including payments from Medi-Cal.

12 b. The Special Supplemental Nutrition Program for Women, Infants and  
13 Children (WIC) program safeguards the health of low-income pregnant, postpartum, and  
14 breastfeeding women, infants, and children up to age 5 who are at nutritional risk by providing  
15 nutritious foods to supplement diets, information on healthy eating, breastfeeding promotion and  
16 support, and referrals to health care. The program has a caseload of nearly 16,000 individuals  
17 each month, and it received \$4.1 million in federal funds in Fiscal Year 2015-2016.

18 c. The Child Health and Disability Prevention (CHDP) Program, which  
19 received \$1.6 million in federal funds in Fiscal Year 2015-2016, ensures that low-income children  
20 and youth receive routine health assessments and treatment services. Within the CHDP Program,  
21 public health nurses also provide case management for foster care youth to ensure that their  
22 medical, dental, mental health, and developmental needs are met.

23 d. The Public Health Nursing Home Visitation program, which received \$1.3  
24 million in federal funds (Targeted case management) in Fiscal Year 2015-2016, provides case  
25 management services to Medi-Cal beneficiaries in specific target populations to gain access to  
26 needed medical, social educational, and other services.

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1 e. The Childhood Lead Poisoning Prevention Program, which received  
2 approximately \$88,000 in federal funds in Fiscal Year 2015-2016, provides nursing and  
3 environmental case management and follow-up for lead-poisoned children, promotes screening  
4 for lead poisoning, and provides community education regarding lead poisoning prevention.

5 16. To create and maintain healthy communities, the Department conducts localized  
6 health assessments and planning throughout Santa Clara County, and works with community  
7 partners and County leadership to promote system-wide and environmental changes to reduce the  
8 incidence of chronic diseases and injuries in Santa Clara County. In Fiscal Year 2015-2016, the  
9 chronic disease and injury prevention unit received \$1.6 million in federal funds to provide  
10 nutrition education and obesity prevention activities and interventions for low-income  
11 Californians for primary prevention of nutrition-related chronic disease.

12 17. In addition to the programs described above, the Public Health Department  
13 received \$6.1 million in Medi-Cal payments and \$2.4 million in Medicare payments in Fiscal  
14 Year 2015-2016 for health care provided to patients with Medi-Cal or Medicare coverage. The  
15 payments from Medicare, which is the federal health insurance program for elderly and disabled  
16 individuals, consist entirely of federal funds. Medi-Cal is financed by the State and federal  
17 governments, and the Medi-Cal payments therefore contain a mixture of State and federal funds.  
18 Although the apportionment of the funding is not readily known to the County, the Medi-Cal  
19 payments are dependent on receipt of federal funding from Medicaid, the federal health insurance  
20 program for low-income individuals.

21 18. The Public Health Department continues to receive comparable federal funding  
22 from the U.S. Department of Health and Human Services annually. Given increases in the  
23 population of the County, the Public Health Department likely relies on a slightly higher total  
24 amount of federal funding now than in Fiscal Year 2015-16.

25 19. Many, if not most, of the individuals served through the Public Health  
26 Department's various programs simply would not get the care and resources that they need  
27 without federally funded services. For example, without federal funding for WIC, thousands  
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1 more women would not have the appropriate nutrition to ensure healthy pregnancies, healthy  
2 birth outcomes, and healthy children, and thousands more children would suffer from poor  
3 nutrition. This would impact not only their immediate health but also their developmental  
4 readiness for kindergarten and chances for future health and success in life. As another example,  
5 loss of funding for CCS would result in reduced therapy and other necessary services for  
6 thousands of medically fragile and disabled children with expensive and complicated medical  
7 conditions. And as yet another example, loss of funding for clients with HIV/AIDS would mean  
8 that hundreds of low-income, chronically ill individuals in our community would not receive the  
9 health care, drugs, and other essential services they need to survive and enjoy a reasonable quality  
10 of life. Patients with HIV infection who are not adequately treated are also at greater risk of  
11 spreading HIV to others. The fees the STI clinic collects do not cover the costs of providing STI-  
12 related services, and if the Department's budget loses federal funding, we would not be able to  
13 continue with the same level of services going forward.

14           20. The impact of any loss in federal funding would not be limited to services  
15 traditionally funded by federal dollars. A withdrawal of federal funding for the County would  
16 require a countywide realignment of funding and priorities, and money that is currently allocated  
17 to the Public Health Department from the County's General Fund could be reduced to make up  
18 for a loss of federal funds in other departments. A loss of federal funding, combined with a  
19 reduction in the General Fund allocation for the Public Health Department, would require the  
20 Public Health Department to make difficult decisions about how to reallocate its remaining funds,  
21 which communities to prioritize, and which diseases and health conditions to focus on at the  
22 expense of others. Rather than being in a position to create and implement proactive strategies to  
23 promote health and prevent disease, the Public Health Department would almost certainly be  
24 forced into focusing on reactive services designed to address public health crises (e.g.,  
25 communicable disease control), services that the Public Health Department and Health Officer are  
26 mandated by law to provide (e.g., birth and death registration), and a modicum of services for the  
27 neediest populations.  
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1           21.     A withdrawal of federal funding would compromise the Public Health  
2 Department's ability to prevent public health emergencies and outbreaks, to prevent chronic  
3 diseases, to provide equal opportunity to vulnerable children for a healthy start and optimal  
4 health, and to foster healthy families and healthy communities.

5           22.     A sustained loss of federal funding to the County would ultimately result in a far  
6 sicker and less healthy community overall and for generations to come. The collateral costs  
7 would be many: greater health care costs for individuals, their families, their employers, and for  
8 the County itself, which is mandated by law to provide health care to the medically indigent. In  
9 addition, I am familiar with a wide body of studies and literature showing that an increase in  
10 incidents of sickness and illness can result in financial instability for families, a less productive  
11 workforce, and poorer educational and economic outcomes for children.

12           I declare under penalty of perjury under the laws of the United States of America that the  
13 foregoing is true and correct.

14 Dated: June 5, 2019

Respectfully submitted,

  
SARA H. CODY, M.D.