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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,
Plaintiff,

vs.

ALEX M. AZAR II, et al.,
Defendants.

STATE OF CALIFORNIA, by and through
ATTORNEY GENERAL XAVIER BECERRA,
Plaintiff,

vs.

ALEX M. AZAR, et al.,
Defendants.

COUNTY OF SANTA CLARA et al,
Plaintiffs,

vs.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,
Defendants.

No. C 19-02405 WHA
Related to
No. C 19-02769 WHA
No. C 19-02916 WHA

**DECLARATION OF MODESTO
VALLE, CHIEF EXECUTIVE
OFFICER OF CENTER ON
HALSTED, IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT AND IN
SUPPORT OF THEIR OPPOSITION
TO DEFENDANTS' MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, FOR SUMMARY
JUDGMENT**

Date: October 30, 2019
Time: 8:00 AM
Dept: 12
Judge: Hon. William H. Alsup
Trial Date: None Set
Action Filed: 5/2/2019

1 I, Modesto Valle, declare:

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

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

1 4. I have been the Chief Executive Officer of Center on Halsted since 2007 and have been
2 instrumental in establishing many of the programs that are offered through the Center,
3 including bringing several landmark efforts to the Center, such as the first LGBTQ-friendly
4 affordable housing project for Seniors and the HIV/AIDS and STI Program. I attended DePaul
5 University and Notre Dame's Seminary School. In addition, I hold certificates in nonprofit
6 management from Harvard Business School and Northwestern University's Kellogg School of
7 Management. I was recently appointed to the CenterLink Board of Directors and have served on
8 the board of the NAMES Project Foundation, Equality Education Project, City of Chicago LGBT
9 Health Council, Illinois Violence Prevention Authority Board, City of Chicago Employment Task
10 Force, Welcoming Committee NATO, Illinois HIV/AIDS Advisory Council, Board Member of
11 Horizons Community Services and the Chicago Children's Choir. I submit this declaration in
12 support of Plaintiffs' Motion for Summary Judgment and in support of their opposition to
13 Defendants' Motion to Dismiss or, in the alternative, for Summary Judgment.

14 5. Unless enjoined, the impact that the Denial-of-Care Rule will have on the patrons and
15 clients whom Center on Halsted serves will be profound. People across nearly every demographic
16 and along the entire spectrum from closeted to fully out come through Center on Halsted's doors
17 to be in a space where they feel safe in the entirety of their authentic selves. What Center on Halsted
18 provides is a space where judgement is not passed, nor services withheld based on personal
19 prejudice. Center on Halsted is also a place where people do not have to sacrifice safety or delay
20 healthcare out of fear of being told that who they are does not meet someone's moral or religious
21 standards. If there is one thing that the 1,400 people walking through our doors have in common,
22 it is that they know they are welcomed, whether that is to join a community group, hear a lecture,
23 receive mental-health services, participate in a family group, take in an art show, use a computer,
24 get an HIV test, or just relax. From our experiences serving our community, the Denial-of-Care
25 Rule will cause the people Center on Halsted serves to feel a greater need to hide their identities
26 and same-sex relationships when accessing healthcare services from healthcare providers outside
27 of Center on Halsted out of fear that the healthcare providers may have religious objections to
28 serving LGBT people. Causing clients to omit potentially vital parts of their life history may result

1 in a misdiagnosis and an incomplete or inappropriate treatment or recommendation. Staying in the
2 closet may also lead to greater isolation, which is harmful in itself and negatively affects an
3 individual's health and well-being.

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

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

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

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

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

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

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

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

24 14. Center on Halsted is working on opening its own health and wellness clinic that will
25 include behavioral health treatment, therapy, counseling, anti-violence and youth programming,
26 HIV-related healthcare services, PrEP services and access, additional gender-transition-related care
27 options, and referral services to outside organizations for clients seeking healthcare options that
28 Center on Halsted does not provide. This will be another investment Center on Halsted makes in

1 our community, one that is particularly important as more providers use religious-based objections
2 to providing PrEP and other medications as a way to not serve the LGBT community.

3 15. The Denial-of-Care Rule will empower broad discrimination. We have heard from
4 clients, for example, that their requests for prescriptions like PrEP were rejected because healthcare
5 providers outside of Center on Halsted stated that providing such treatment was contrary to their
6 moral beliefs and would, allegedly, promote “promiscuous” lifestyles and even ‘gay sex’ generally.
7 Such denials of care could also lead to a rise in PTSD symptoms in those who survived the AIDS
8 epidemic and watched friends and loved ones suffer and die when they were refused treatment
9 within a milieu of fear which was in part perpetuated by the federal government. For clients who
10 may have been reluctant to ask in the first place, being told that the provider morally opposes PrEP
11 may lead the client to leave without the medication and not seek out another provider. This could
12 impede realization of the state’s Getting to Zero goal with respect to HIV transmission, which has
13 been showing great promise, and increase the length of time and likelihood of seeing the end of the
14 spread of HIV. This type of discrimination will increase as a result of the Denial-of-Care Rule.

15 16. In the weeks leading up to, and in anticipation of, the issuance of the Denial-of-Care
16 Rule, Center on Halsted’s staff devoted and since then continues to devote increased resources to
17 strategize ways to combat negative effects from the Rule and to work with staff to develop
18 community education options. Center on Halsted has already conducted additional “Know Your
19 Rights” internal staff development sessions regarding discrimination against LGBT people; sent
20 and prepared staff to attend meetings and events with other LGBT stakeholders in the city; and held
21 internal training for staff to manage the added strains on the mental health of our clients. Center
22 on Halsted needs to educate its community about the Denial-of-Care Rule, which erodes their
23 confidence in the healthcare system and puts their lives and the lives of their loved ones in potential
24 jeopardy. Center on Halsted needs to continue messaging the community about Center on Halsted’s
25 commitment to serving all clients in a non-discriminatory and welcoming manner and notify its
26 clients that the Denial-of-Care Rule will not change Center on Halsted’s commitment to providing
27 exceptional healthcare services to all members of the community. Center on Halsted will continue
28 fighting for its clients’ rights, including, for example, advocating with other entities on behalf of

1 transgender clients who seek treatment for gender dysphoria, but who are denied such treatment
2 due to providers' religious or moral objections to treating transgender clients. Center on Halsted
3 must now devote more resources to working with outside providers and organizations to remind
4 them of the importance of providing healthcare to all clients on non-discriminatory terms. Center
5 on Halsted also must conduct additional internal, staff training to address and assist in managing
6 the added strains that issuance of the Rule has already caused to Center on Halsted's staff and the
7 people they serve. Further, Center on Halsted will ramp up its work at the intersections of identity
8 and health, particularly focusing on transgender people of color, who already live in areas less likely
9 to offer an array of healthcare options. The Denial-of-Care Rule thus already has required, and will
10 further require, considerable diversion and additional expenditure of Center on Halsted's resources,
11 and frustrates Center on Halsted's mission.

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

1 them to deny healthcare services to LGBT clients and refuse to even refer LGBT clients to other
2 resources. The Rule will increase Center on Halsted's operating costs and will take a toll on the
3 health and well-being of the LGBT community that it serves.

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

24 19. One of the most disconcerting aspects of the Denial-of-Care Rule is the requirement to
25 open confidential medical records to OCR upon its request and the fact that certain confidentiality
26 requirements may not operate under the Rule. OCR's access to clients' medical records, especially
27 given the recent creation of the "Conscience and Religious Freedom Division," sends a harmful
28 signal to LGBT individuals that their medical records and well-being are vulnerable to

1 discrimination and misuse. This will have a chilling effect on clients' decisions regarding whether
2 to access Center on Halsted's services. Though it is good that LGBT rights have progressed so far
3 so quickly, this means that many LGBT people remember when information was used by the
4 government to harm individuals in the community. The Denial-of-Care Rule will erode the trust of
5 our communities and could lead to a return to closeted life for some. Hiding out of fear of
6 government intrusion in one's life is a far stretch from democratic ideals.

7 20. The impact on the behavioral-health department will be significant. Each year, the
8 department receives nearly 150 applications for 8 internship positions because so many students
9 want to learn how to provide the LGBT affirming therapeutic interventions that this anchor program
10 has developed since the founding of Center on Halsted. The department also brings on new staff
11 and contract staff. As part of their therapeutic practice, the behavioral health team asks a therapist
12 if they are comfortable disclosing their sexual orientation and gender identity as this is an important
13 and crucial way to establish trust. If asking this question is no longer an option, the model will be
14 compromised.

15 21. Similarly, if the HIV/AIDS & STI department hires someone who refuses to offer
16 services by not providing HIV/HCV tests to parts of the populations served by Center on Halsted,
17 then that person's salary is in effect wasted, while other staff members, already overworked, will
18 be burdened with having to make up the tests if that objector decides to remain with Center's testing
19 services. Additionally, any reception staff that works on intake for behavioral health could try to
20 use the Denial-of-Care Rule to opt out of working with a client. Given that people making religious-
21 based objection to assisting clients may not be required to report their actions, Center on Halsted
22 may never know if a new client was turned away or why a long-term engaged client stopped
23 engaging. Furthermore, even if Center on Halsted could afford to hire duplicative staff to try to
24 protect against clients being turned away, which it cannot, there would be no way of ensuring that
25 even the duplicative, "extra" staff would not also discriminate against clients or deny them
26 medically necessary treatment.

27 22. The absence of an emergency exception is also of deep concern. If, for instance, a
28 behavioral-health client, a homeless youth, a senior from the Center's Town Hall Residence, or any

1 other patron experiences an extreme situation requiring an ambulance, operations, reception, and
2 direct-service staff are currently expected to respond immediately. Current staff understand it is
3 their obligation to respond, but the Denial-of-Care Rule threatens that understanding. The absence
4 of an emergency exception could mean that a client in crisis remains in a prolonged state of crisis,
5 potentially causing greater harm to that person or persons around them. This could be as a result of
6 emergency care services exercising religious objections to assisting clients at our Center or even
7 Center staff refusing to abide by their mandated-reporter status that requires them under the Health
8 Insurance Portability and Accountability Act to assist clients in need of emergency care, including
9 calling an ambulance when necessary.

10 23. In addition to concerns about not being able to appropriately select and supervise staff
11 who work directly with clients, we are also concerned about other personnel that we hire at Center
12 on Halsted, including, for instance, custodial staff. Center on Halsted's Code of Conduct includes
13 the requirements for anyone in the building, including staff, volunteers, interns, and patrons, to
14 provide "considerate and respectful treatment and care" (devoid of "rude, discourteous or raucous
15 behavior") from "experienced, professional, and responsive staff" who extend "participation in
16 services and programs without regard to race, color, sex, gender identity, gender expression, age,
17 religion, disability, national origin, ancestry, sexual orientation, marital status, parental status,
18 military discharge status or source of income." The Denial-of-Care Rule invites behavior that
19 would be contrary to Center on Halsted's Code of Conduct in that it invites discrimination against
20 and mistreatment of LGBT clients. Center on Halsted has built its reputation on being a place
21 where LGBT individuals can be their full, authentic selves. The Denial-of-Care Rule infringes upon
22 our reputation and mission. The Rule could damage us to the point that the LGBT community may
23 cease seeing Center on Halsted as a safe place for the community to go in clients' most vulnerable
24 times of need.

25 24. Center on Halsted's funding may also be affected. Center on Halsted receives various
26 forms of pass-through federal funding from HHS, including Ryan White funding and funding from
27 the National Institutes of Health and the Centers for Disease Control and Prevention. Center on
28 Halsted also benefits from programs governed by the Centers for Medicare through Medicare

1 reimbursements. If Center on Halsted chooses to best serve its communities and to follow its
2 mission, federal dollars, which comprise about a tenth of the budget, may be cut if we are found to
3 be out of compliance with the Denial-of-Care Rule. Center on Halsted, therefore, has a reasonable
4 fear that it could be sanctioned and lose vital federal funding as a result of our nondiscrimination
5 policies. The loss of such funding would result in massive service reduction and gut long standing
6 signature programs that are the cornerstones of our work.

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

19 I declare under penalty of perjury under the laws of the United States that the foregoing is
20 true and correct to the best of my knowledge.

21
22 Executed on September 6, 2019, in Chicago, Illinois.

23
24
25 

26 Modesto Valle
27 Chief Executive Officer