

1 Jeffrey T. Sprung, WSBA #23607  
 Martha Rodríguez López, WSBA #35466  
 2 Paul Crisalli, WSBA #40681  
 R. July Simpson, WSBA #45869  
 3 Jeffrey C. Grant, WSBA #11046  
*Assistant Attorneys General*  
 4 ROBERT W. FERGUSON  
 ATTORNEY GENERAL  
 5 Washington Attorney General’s Office  
 800 Fifth Avenue, Suite 2000  
 6 Seattle, WA 98104  
 (206) 464-7744

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 8 **UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF WASHINGTON**  
 9 **AT YAKIMA**

10 STATE OF WASHINGTON,

NO. 2:19-cv-00183-SAB

11 Plaintiff,

DECLARATION OF ELLEN B.  
 TAYLOR, Ph.D, IN SUPPORT OF  
 STATE OF WASHINGTON’S  
 MOTION FOR PRELIMINARY  
 INJUNCTION

12 v.

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

16 Defendants.

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 18 I, Ellen B. Taylor, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

19 1. I am over the age of 18, competent to testify as to the matters herein,  
 20 and make this declaration based on my own knowledge.

21 2. I am the Associate Vice President for Student Engagement for  
 22 Washington State University (WSU). I have held this position since July 11,

1 2018.

2 3. As Associate Vice President, I lead WSU's efforts in the areas of  
3 access and opportunity, health and wellness, and student leadership. As part of  
4 my duties, I oversee Cougar Health Services, which includes student health  
5 services and the counseling and psychology clinic on the main WSU campus in  
6 Pullman, Washington. I also have leadership responsibility for student health care  
7 system-wide. Previously, I was the Assistant/Associate Vice President for  
8 Student Life at the University of Washington for eight years, where I led  
9 institution-wide efforts related to the mental, physical, and social well-being of  
10 students. Although I am not currently licensed, I have a doctorate in clinical  
11 psychology from the University of Illinois at Urbana-Champaign and worked for  
12 twenty years as a mental health care provider in university counseling centers,  
13 including as the Director of Counseling and Psychological Services at Oregon  
14 State University.

15 4. WSU is Washington State's land grant university with a total student  
16 enrollment of 31,478 at its six campuses statewide, including its online campus.  
17 WSU also has thirty-nine county extension offices and four research and  
18 extension centers statewide. WSU's largest campus is in Pullman, Washington,  
19 with 21,022 students, the significant majority of which live on or adjacent to the  
20 campus. Pullman is located in rural Whitman County in eastern Washington. The  
21 nearest urban area is Spokane, Washington, more than seventy miles away.

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1           5.     The Washington State Department of Health, in partnership with the  
2 federal government, has determined that Whitman County is a Designated Health  
3 Professional Shortage Area, meaning its population is significantly underserved  
4 in the areas of primary medical care, mental health care, and primary dental care.  
5 ([https://www.doh.wa.gov/ForPublicHealthandHealthcareProviders/RuralHealth/  
6 PrimaryCareOffice/HealthProfessionalShortageAreas](https://www.doh.wa.gov/ForPublicHealthandHealthcareProviders/RuralHealth/PrimaryCareOffice/HealthProfessionalShortageAreas)). The lack of health care  
7 infrastructure in the surrounding community impacts the ability of WSU health  
8 care providers to refer students out for care.

9           6.     WSU has current federal grant funding from the Department of  
10 Health and Human Services (HHS) and its sub-agencies, including HHS funding  
11 flowing to WSU through other entities, totaling over \$100 million. These grants  
12 fund a wide range of research programs and projects geared toward improving  
13 human health, such as studies relating to sleep, obesity, disease, substance abuse,  
14 and suicide prevention. HHS grants also fund studies and research programs  
15 geared towards improving lives in rural areas, Native American communities,  
16 and other underserved populations.

17           7.     Other HHS funding includes third-party Medicaid reimbursements  
18 received by WSU for student health care services. During the 2018–19 academic  
19 year, approximately 11.5% of WSU students were on Medicaid, and WSU  
20 received approximately \$317,754 in Medicaid reimbursements.

21           8.     WSU also is a recipient of federal financial aid funding, such as Pell  
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1 Grants, which 32% of WSU students are eligible to receive. In addition, WSU  
2 has numerous federally-funded programs for students, such as TRIO Student  
3 Support Services and TRIO Upward Bound, which are funded by the Department  
4 of Education and provide academic tutoring, mentoring, personal counseling,  
5 financial guidance, and other services to first generation of low income students.  
6 In 2018, 778 students at WSU relied on these programs.

7 9. I am familiar with the rule entitled Protecting Statutory Conscience  
8 Rights in Health Care Delegations of Authority, published in the Federal Register  
9 on May 21, 2019 (Final Rule).

10 10. Because the Final Rule grants a categorical right to health care  
11 providers and employees to deny medical information and care on the basis of  
12 religious tenets, Cougar Health Services and student health services on WSU's  
13 other campuses will be forced to accommodate a greater number of religious  
14 objections from a broad range of employees involved in student health care. I  
15 anticipate the Final Rule will increase staffing costs for WSU and will likely have  
16 negative impacts on WSU's ability to provide needed health care services to its  
17 students, including psychological services. In addition, the Final Rule will likely  
18 create situations that make it difficult if not impossible for WSU to comply with  
19 its policies prohibiting discrimination on the basis of protected categories  
20 including sex/gender, sexual orientation, gender identity and expression, creed,  
21 and marital status.

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1           11.    WSU Pullman’s rural location makes it difficult to recruit and retain  
2 health care providers. At any given time, WSU’s Cougar Health Services has a  
3 very limited number of health care providers in all areas of care available to treat  
4 students. For example, during the academic year we have between eight and  
5 eleven health care providers working at the clinic on any given day, excluding  
6 psychologists. As noted above, these practitioners serve a student population of  
7 over 21,000.

8           12.    In addition, because of the average age of our student population, a  
9 significant percentage of our services involve those that an individual might  
10 refuse to provide based on a religious belief, such as the provision of reproductive  
11 health services, including information and referral for services not provided at  
12 WSU, and prevention, testing, and treatment of sexually transmitted infections.  
13 For example, during the one-year period from June 1, 2018, through May 31,  
14 2019, Cougar Health Services ordered over 3,000 screenings for STIs and had  
15 approximately 1,700 visits related to birth control. We also serve a large LGBTQ  
16 population and a significant number of transgender students. It is likely that if an  
17 employee refused to treat a student based on a religious objection, it would be  
18 difficult to find another individual in the local area to treat that student in a timely  
19 manner. This could force WSU to violate its anti-discrimination policies in some  
20 cases and could jeopardize student safety, particularly in an emergency situation.

21           13.    The Final Rule will impose both immediate and long-term costs on  
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1 WSU in the form of additional staffing and contractor resources to fulfill the  
2 many recordkeeping and compliance activities required, including but not limited  
3 to:

- 4 a. changes to WSU's policies, employee manuals, student handbooks,  
5 and webpages on all campuses;
- 6 b. preparation and physical posting of notices at all WSU locations for  
7 both students and for WSU employees;
- 8 c. additional oversight and training of supervisors, managers, and  
9 others both with respect to handling employee refusals to provide  
10 care and with respect to hiring practices, as the Final Rule prohibits  
11 inquiries into an applicant's potential religious objections to  
12 providing care;
- 13 d. maintaining complete and accurate records of compliance with the  
14 Final Rule;
- 15 e. tracking all accommodation requests and complaints across  
16 programs and campuses;
- 17 f. facilitating any investigation of WSU in the event of a compliance  
18 review, complaint, or any corrective action required under the Rule;  
19 and
- 20 g. increased regular and on-call staffing for all aspects of Cougar  
21 Health Services, including office and maintenance staff who may  
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1 refuse to support a particular procedure or student on the basis of a  
2 religious belief, as well as increased staffing for student health  
3 services on WSU's five other campuses, to ensure that students  
4 receive needed medical care and support functions are met.

5 14. As a preliminary estimate, I estimate that these activities will require  
6 additional personnel and administrative costs of a minimum of \$500,000 the first  
7 year, with ongoing additional costs of up to \$300,000 per year going forward for  
8 additional staffing.

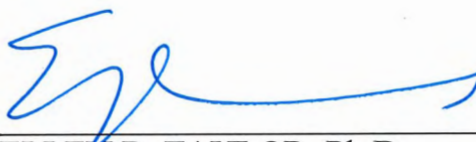
9 15. In addition to direct costs and consequences, I am deeply concerned  
10 about the impact the rule has on WSU's Vision, Mission, and Values as well as  
11 the values of Cougar Health Services specifically. WSU's values statement  
12 includes a commitment to ensuring trust and respect for all persons. In addition,  
13 WSU embraces a worldview that recognizes the importance of diversity. These  
14 values are critical to WSU's mission. In addition, Cougar Health Services works  
15 hard to create a welcoming, inclusive environment for all students. All providers  
16 participate in ongoing diversity training, and respect for diversity is expected of  
17 every provider. The Final Rule directly contravenes these efforts by empowering  
18 individuals to refuse to provide specific treatments or to even refuse to provide  
19 any treatment to entire groups, including groups that desperately need support  
20 and are particularly at risk.

21 16. The Rule also places at risk all federal funds WSU receives, in the  
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1 event there is an alleged incident of non-compliance. The loss of these funds  
2 would potentially be catastrophic for WSU given the critical importance of  
3 federal grant funding to WSU's research mission, as well as the significant  
4 number of students eligible for Medicaid reimbursement for health services.

5 I declare under penalty of perjury under the laws of the State of  
6 Washington and the United States of America that the foregoing is true and  
7 correct.

8 DATED this 18th day of June, 2019, at Pullman, Washington.

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11 ELLEN B. TAYLOR, Ph.D

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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 serve a copy of this document upon all counsel of record.

DATED this 24th day of June, 2019, at Seattle, Washington.

*s/ Paul Crisalli*  
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PAUL CRISALLI, WSBA #40681  
Assistant Attorney General