Daniel M. Weiskopf, WSBA No. 44941
McNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, WA 98101
Phone: (206) 467-1816
dweiskopf@mcnaul.com

Shannon R. Selden, *Pro Hac Vice*
DEBEVOISE & PLIMPTON, LLP
919 Third Avenue
New York, NY 10022
srselden@debevoise.com

Anna A. Moody, *Pro Hac Vice*
DEBEVOISE & PLIMPTON, LLP
801 Pennsylvania Avenue NW
Washington, DC 20004
amoody@debevoise.com

Attorneys for Amici Curiae

Hon. Stanley A. Bastian

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

STATE OF WASHINGTON,

Plaintiff,

v.

ALEX M. AZAR, II; and UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Defendants.

No. 2:19-cv-00183-SAB

BRIEF OF LEADING MEDICAL ORGANIZATIONS AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO DEFENDANTS' MOTION TO DISMISS, OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT

September 27, 2019

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LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

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LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

I. Interests of *Amici Curiae*

The following medical organizations respectfully submit this brief as *Amici Curiae* in support of Plaintiff:[1]

- The American College of Obstetricians and Gynecologists ("ACOG") is the specialty's premier professional membership organization dedicated to the improvement of women's health, with more than 58,000 members representing more than 90% of board certified ob-gyns in the United States.
- The American Medical Association ("AMA") is the largest professional association of physicians, residents, and medical students in the United States. Through state and specialty medical societies and other physician groups seated in the AMA's House of Delegates, substantially all U.S. physicians are represented in the AMA's policymaking process.
- The American Academy of Pediatrics ("AAP") is a national, not-for-profit organization dedicated to furthering the interests of child and adolescent health, representing more than 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists.
- The American College of Emergency Physicians ("ACEP") represents more than 38,000 emergency physicians, emergency

[1] All parties consent to the filing of this brief. No counsel for a party authored this brief in whole or in part, and no counsel for a party, nor any person other than the *amici curiae*, its members, or its counsel, contributed money intended to fund the preparation or submission of this brief. Pursuant to Federal Rule of Civil Procedure 7.1, the undersigned counsel certifies that none of the *amici* has a parent corporation and no publicly-held corporation owns 10% or more of their respective stock.

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Seattle, Washington 98101-3143
(206) 467-1816

medicine residents and medical students. ACEP promotes the highest quality of emergency care and is the leading advocate for emergency physicians, their patients, and the public.

- The American College of Osteopathic Obstetricians and Gynecologists ("ACOOG") is a 2,500-member organization dedicated exclusively to the physical, mental, and emotional health of women.
- The American Society for Reproductive Medicine ("ASRM") is a multidisciplinary not-for-profit organization dedicated to the advancement of the science and practice of reproductive medicine, representing approximately 8,000 professionals.
- The National Association of Nurse Practitioners in Women's Health ("NPWH") is a national professional membership organization for advanced-practice registered nurses dedicated to women and their health.
- The Society for Maternal-Fetal Medicine ("SMFM") is the medical professional society for obstetricians who have additional training in the area of high-risk, complicated pregnancies, representing over 4,000 members.
- The American College of Nurse-Midwives ("ACNM") represents approximately 7,000 certified nurse-midwives and certified members who provide primary and maternity care services to help women of all ages and their newborns attain, regain, and maintain health.
- The North American Society for Pediatric and Adolescent Gynecology ("NASPAG") is dedicated to providing multidisciplinary leadership in education, research, and gynecologic care to improve the reproductive health of youth with a diverse membership including gynecologists, adolescent medicine specialists, pediatric endocrinologists, and other medical specialties.
- The American Muslim Health Professionals ("AMHP") is a national nonprofit organization focused on professional development, health education and advocacy centered on the unique needs of American-Muslims.
- The World Professional Association for Transgender Health ("WPATH") is an interdisciplinary professional and educational organization devoted to transgender health. Its members engage

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

in clinical and academic research to develop evidence-based medicine and strive to promote a high quality of care for transsexual, transgender, and gender-nonconforming individuals internationally.

- Washington State Medical Association is the largest medical professional association in Washington, representing physicians, residents, medical students and physician assistants from nearly all specialties and practice settings throughout the state.
- Kaiser Permanente is an integrated healthcare delivery system that provides coverage for more than 12 million members, and in which 22,914 physicians, 59,127 nurses, and 217,712 employees provide the full range of necessary healthcare services for our members.

II. Introduction

Amici are the leading medical organizations representing physicians and health practitioners in the United States. *Amici* are dedicated to health care, to research, and to evidence-based health policy. *Amici* are opposed to all forms of discrimination, and are committed to preserving access to health care for all ages and populations.

All patients are entitled to prompt, complete, and unbiased health care. All patients should have access to care that is medically and scientifically sound, unaffected by the personal preferences or religious beliefs of those who provide it. *Amici* believe that respect for individual conscience is important. But personal convictions should not deprive a patient of medically sound treatment, information, or services. In medicine, the patient is paramount.

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Seattle, Washington 98101-3143
(206) 467-1816

The Department of Health and Human Services ("HHS") rule entitled "Protecting Statutory Conscience Rights in Health Care" (the "Rule") completely disregards the ethical obligations and medical standards that are the bedrock of contemporary patient-centered care. 84 Fed. Reg. 23170 (May 21, 2019) (to be codified at 45 C.F.R. pt. 88). It represents a dramatic departure from statutory standards and prior agency interpretation, is unworkably vague, and creates dangerous uncertainty.[2]

Amici are deeply concerned that the Rule will radically disrupt medical care and endanger the lives and health of patients. Where professional ethics recognize that the patient is paramount, the Rule prioritizes the personal beliefs of a person other than the patient. It permits objectors to refuse to provide care without prior notice, without disclosing that refusal, and without arranging or referring for alternative care. The Rule allows this *even when the refusal to provide care jeopardizes another's life and safety*. The Rule protects objectors and endangers patients in every conceivable context—from

[2] Defendants received comments from several *amici* during the notice and comment period detailing the particular ways the Rule endangers their primary patient constituencies, but Defendants ignored the view of the established medical community *amici* represent.

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

infancy through end-of-life, in rural clinics and urban hospitals, from preventative care to life-or-death emergencies. Patients will inevitably suffer as a result. For already-vulnerable populations, the Rule promises to be especially devastating, perpetuating racial and socioeconomic inequalities.

Amici, whose policies and guidance represent the considered judgment of the many physicians and other clinicians in this country, write in full support of Plaintiff. *Amici* believe it is imperative that the Court consider the incredibly damaging effect of the Rule on patients and the practice of medicine. *Amici* write to alert the Court to the many ways the Rule undermines principles of medical ethics, intrudes into the patient-provider relationship, compromises patient safety and wellbeing, impedes the provision of quality health care services on a non-discriminatory basis, and critically threatens the effective functioning of health care institutions, which will be subject to extreme penalties for noncompliance with vague standards they cannot parse. *Amici* urge the Court to grant Plaintiff's motion for summary judgment and vacate and set aside the Rule.

III. Principles of Medical Ethics

The moral imperative to serve the best interests of patients and alleviate suffering is the foundational principle of medical ethics. Any analysis of the Rule should compare its disregard for patient well-being with

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

the foundational ethics that govern the practice of medicine.

The ethical rules unequivocally place the patient first. The Code of Medical Ethics of the American Medical Association ("AMA Code") [3] provides that a physician is ethically required to use sound medical judgment, holding the best interests of the patient as paramount. AMA Code, Opinion 1.1.1. *See also* AMA Code, Opinion 1.1.1 ("The relationship between a patient and a physician is based on trust, which gives rise to physicians' ethical responsibility to place patients' welfare above the physician's own self-interest.") Similarly, the American College of Obstetricians and Gynecologist's Code of Professional Ethics ("ACOG Code") states that the "***welfare of the patient (beneficence) is central to all considerations in the patient–physician relationship***." ACOG Code, *December 2018*, Ch. I.[4] Under the American College of Emergency Physicians Code of Ethics for Emergency Physicians ("ACEP Code") "***physicians assume a fundamental***

[3] The federal judiciary has repeatedly cited the AMA Code. *See, e.g.*, *Roe v. Wade*, 410 U.S. 113, 144 n.39 (1973); *Ferguson v. City of Charleston*, 532 U.S. 67, 81 (2001); *Baze v. Rees*, 553 U.S. 35, 64 & 112 (2008) (Alito, J., concurring & Breyer, J., concurring).

[4] Unless otherwise stated, all emphases are added.

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

duty to serve the best interests of their patients." ACEP Code, *January 2017*, Ch. II.B.1. In pediatric care, "***[p]atient well-being should be the primary motivating factor in patient care, ahead of physicians' own interests and needs***." M. E. Fallat, J. Glover, & the Committee on Bioethics, *Professionalism in Pediatrics: Statement of Principles*, 120 Pediatrics 895, 896 (2007). Other medical professionals represented by *amici* make similar pledges to patient well-being.

The primacy of the patient reflected in the Codes derives from first principles that reflect an abiding commitment to the moral imperatives of beneficence and nonmaleficence, autonomy, and justice:

Beneficence and Nonmaleficence. Beneficence and nonmaleficence require providers to help and not hurt those they care for. Beneficence requires a physician to act in a way that is likely *to benefit* the patient. Nonmaleficence is the obligation not to harm or cause injury. ACOG Committee Opinion No. 385, *The Limits of Conscientious Refusal in Reproductive Medicine*, Nov. 2007, ("CO 385") at 3. This duty to the patient is primary, and where conscience implores physicians to deviate from standard practices, "[p]hysicians' freedom to act according to conscience is not unlimited." AMA Code, Opinion 1.1.7.

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Seattle, Washington 98101-3143
(206) 467-1816

Autonomy. Respect for patient autonomy holds that persons should be free to choose and act without controlling constraints imposed by others. *See* CO 385 at 1-3; AMA Code, Opinion 2.1.1; ACEP Code, Ch. II.B.3. Informed consent by a patient to a particular course of medical treatment "is fundamental in both ethics and law" as a necessary safeguard of patient autonomy. AMA Code, Opinion 2.1.1. "[I]t is ordinarily an ethically unacceptable violation of who and what persons are to manipulate or coerce their actions or to refuse their participation in important decisions that affect their lives." ACOG Committee Opinion No. 439, *Informed Consent,* Aug. 2009, at 3. True patient autonomy requires medical professionals also commit to scientific integrity and evidence-based practice out of respect for patients' personhood and right to free and informed choices. *Id*.

Justice. In the context of medical ethics, justice concerns both the obligation to render to a patient the care and respect that is owed to them and an affirmative ethical obligation to advocate "for patients' needs and rights[, and neither] create nor reinforce racial or socioeconomic inequalities in society." CO 385 at 4. *See also,* ACOG Committee Opinion No. 390, *Ethical Decision Making in Obstetrics and Gynecology*, Dec. 2007; AMA Code, Opinion 11.1.4 ("[P]hysicians . . . have an ethical responsibility to ensure that all persons have access to needed care regardless of their economic means.");

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

ACEP Code Ch. II.B.4. The AMA Code also prohibits physicians from "discriminating against a prospective patient on the basis of race, gender, sexual orientation or gender identity, or other personal or social characteristics that are not clinically relevant to the individual's care." AMA Code, Opinion 1.1.2; *see also* ACEP Code, Ch. II.D.3.a ("Denial of emergency care or delay in providing emergency services on the basis of race, religion, sexual orientation, gender identity, ethnic background, social status, type of illness of injury, or ability to pay is unethical.").

IV. Argument

A. The Rule Undermines Fundamental Principles of Medical Ethics.

The Rule cannot be reconciled with bedrock principles of medical ethics. The Rule turns the fundamental moral obligation to put patients first on its head, effectively permitting anyone involved in patient care to ignore patients' suffering and affirmatively refuse to assist in their care, even when that refusal endangers or harms them. It compels institutions to certify that they will prioritize the objectors over patients. The Rule puts the patient last.

The Rule's complete disregard for medical ethics is evident on its face. It expressly permits health care providers or virtually any employee working in a health care setting receiving federal funds to refuse to provide patients

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

health care services and information, without regard to medical necessity and including potentially in emergency situations, based solely on personal views. *See* 84 Fed. Reg. at 23263, § 88.2. The objecting employee need not notify his or her employer or the patient of the objection before asserting it and refusing to provide care, information, or a referral. *Id*. Instead, the Rule puts the onus on the employer to ask whether an employee is likely to lodge an objection. *Id*. By purportedly permitting doctors, nurses, emergency medical technicians, and virtually every other individual involved in health care to refuse help to those in need, without warning, the Rule eviscerates the paramount ethical commitment to respect and care for patients.

B. The Rule Is Inconsistent with Patient Wellbeing and Medical Professionals' Duty to Do No Harm and to Act to Promote the Wellbeing of the Patient.

The Rule is fundamentally irreconcilable with medical ethics because the Rule: (1) permits refusal to provide necessary services, even in cases of emergency; (2) fails to protect continuity of care for all patients; and (3) permits individuals without medical training to impede patient treatment.

1. The Rule Endangers Patients in Emergency Situations.

In a total repudiation of established medical ethics, the Rule purports to permit health care employees to deny patients access to necessary care, even in emergencies in which referral is not possible or might harm the

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(206) 467-1816

patient's health.[5] By prioritizing the religious views of employees over a patient's prompt receipt of emergency care, the Rule endangers the physical safety of patients. *See* Letter from ACOG to Sec. Azar, March 27, 2018 (on file with HHS Office for Civil Rights, *Protecting Statutory Conscience Rights in Health Care*) ("ACOG Comment Letter") at 2 ("In an emergency in which referral is not possible or might negatively impact the patient's physical or mental health, providers have an obligation to provide medically indicated and requested care."); ACEP Code Ch. I.2 ("Emergency physicians shall respond promptly and expertly, without prejudice or partiality, to the need for emergency medical care"). The Rule also appears to violate settled law: the Emergency Medical Treatment and Labor Act (EMTALA) requires clinicians to screen and stabilize patients who come to the emergency department. 42 U.S.C. § 1395dd. HHS claims the Rule is consistent with EMTALA, 84 F.R. at 23170, 23183, but the two are patently irreconcilable. An emergency department cannot anticipate every possible basis for an objection, survey its employees to ascertain on which basis they might

[5] While HHS commented that it will permit exceptions to its discrimination prohibition on a "case by case basis," this does not adequately replace a statement that one may not refuse to provide treatment in an emergency.

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

object, and staff accordingly. This is an impossible task that jeopardizes the ability to provide care, both for standard emergency room readiness and for emergency preparedness. *See* Letter from ACEP to Sec. Azar, March 27, 2018, (on file with HHS Office for Civil Rights, *Protecting Statutory Conscience Rights in Health Care*).

It is difficult to overestimate the effect of this Rule. The kind of "conscience objections" the Rule permits are objections to the completely legal and scientifically sound practice of medicine and provision of health care. For example, an ectopic pregnancy—a condition in which a fertilized egg implants outside of a woman's uterus and cannot develop normally—can be a life-threatening emergency requiring immediate surgery. ACOG Practice Bulletin No. 193: *Tubal Ectopic Pregnancy*, 131 Obstetrics & Gynecology 91 (March 2018). Yet the Rule protects a provider who refuses to terminate an ectopic pregnancy, even in an emergency. That patient's primary care doctor could, under the Rule, simply decline to inform her (or an alternate provider) of her condition. 84 Fed. Reg. at 23263, § 88.2. Experiencing extreme abdominal pain, the patient could call for an ambulance, but under the Rule, the ambulance driver could refuse to transport her to the hospital and refuse to either refer her to alternate transportation or to tell his or her supervisor of the refusal. If the patient

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

makes it to the emergency room under her own power, she will need to be admitted, which a clerk could refuse to do. The patient will then need a surgery involving multiple medical staff members, or face a high risk of death. The Rule includes each of these employees, and many more within the category of individuals who may lodge an objection and refuse to "assist in the performance of" the procedure without *any* prior notice, potentially costing the patient her life. 84 Fed. Reg. at 23263, § 88.2. HHS acknowledges that the Rule will harm patients, but promulgated the Rule anyway. 84 Fed. Reg. at 23251 ("the patient's health might be harmed if an alternative is not readily found[.]"). The harms the Rule threatens to cause are the very definition of irreparable. *Blum v. Caldwell*, 446 U.S. 1311, 1314 (1980) (Marshall, J.) ("[T]he *very survival* of these individuals and those class members . . . is threatened by a denial of medical assistance benefits."); *Harris v. Bd. of Supervisors*, 366 F.3d 754, 766 (9th Cir. 2004) (irreparable harm from pain, and other adverse effects due to delayed medical treatment).

2. The Rule Violates the Duty to Provide Continuity of Care.

Where a provider objects to the care a patient needs or desires, the Rule goes so far as to suggest that employers may not require employees to refer these patients to another health care provider who could provide such services, *or even inform other staff at the relevant institution that they have*

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(206) 467-1816

refused to provide such services. *See* 84 Fed. Reg. at 23263, § 88.2(6). Rather, the Rule relies on providers to post public notices with general indications that alternatives are available, 84 Fed. Reg. at 23192, shifting the burden of ensuring health care continuity from health care provider to patient, with potentially devastating consequences. For example, if a primary care physician objects to informing a patient, a minor woman on Medicaid, about the availability of the HPV vaccine, the doctor need not do so, and the doctor has no obligation to alert her or refer her to an alternate provider. She may never learn of the vaccine, which protects against a virus that can cause cervical cancer. Nearly 11,000 women in the United States are diagnosed with cervical cancer each year, and nearly half that number die from it. Letter from AAP to Dir. Severino, March 27, 2018, (on file with HHS Office for Civil Rights, RIN 0945-ZA03; Docket ID No. HHS-OCR-2018-0002), at 4.

This aspect of the Rule is irreconcilable with medical professionals' obligations of beneficence and nonmaleficence, because their "fiduciary responsibility to patients entails an obligation to support continuity of care for their patients." AMA Code, Opinion 1.1.5. When considering withdrawing from a case, medical ethics require that physicians notify the patient "long enough in advance to permit the patient to secure another

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

physician" and "[f]acilitate transfer of care when appropriate"). *Id*; *see also* Opinion 1.1.3 ("patients' rights" include "continuity of care").

3. The Rule Sanctions Interference in Patient Care by Non-Medically Trained Staff.

As noted above, the Rule permits virtually any employee, including clerks, laboratory technicians, and janitors, to lodge an objection that must be accommodated, without any affirmative obligation to provide notice to his or her employer in advance. That any staff member may, at any point and without any notice, halt a medical procedure or otherwise thwart the provision of appropriate care unethically endangers patients. 84 Fed. Reg. at 23264, § 88.2.

Many medical procedures require the participation of several, if not dozens, of employees. It may be impossible to perform the procedure when even one of them—for example, a scrub nurse or nurse anesthetist—lodges a last minute objection to providing care. In such an instance, the procedure may not be able to be rescheduled for weeks or months, with potentially life-threatening consequences. Thus, the Rule makes patient care subject to critical disruption by objecting employees who lack sufficient medical training to understand the gravity of a patient's need for certain services.

C. The Rule Undermines Patient Autonomy and Informed Consent.

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Seattle, Washington 98101-3143
(206) 467-1816

The protection of patient autonomy is at the very heart of the medical ethical standards. Patient autonomy requires that patients "receive information from their physicians . . . including the risks, benefits and costs of forgoing treatment." AMA Code, Opinion 1.1.3; *see also id*., Opinion 2.1.1. The Rule subverts the principle of informed consent by limiting the information heath care employees must provide to patients. Specifically, the Rule permits an objecting employee to refuse to make a "referral" for certain services, which in turn is defined to include "***the provision of information*** . . . where the purpose or reasonably foreseeable outcome of provision of the information is to assist a person in . . . obtaining . . . a particular health care service[.]" 84 Fed. Reg. at 23263-64, § 88.2. This broad mandate reaches well beyond safeguarding conscience rights, allowing anyone involved with patient care to virtually assure that a patient does not receive a particular course of treatment—or even know options exists. For example, the Rule would permit an objecting employee to decline to provide a female patient with information about her reproductive health—such as the availability of abortions or contraceptive procedures—or notify her that she is not receiving all available information. Women cannot make fundamental decisions about sexual activity or pregnancy absent that information. This is especially concerning given the time limits that many states place on the availability of

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

abortion. *See, e.g.*, Neb. Rev. Stat. §§ 28-3102 to 28-3111 (2019) (generally prohibiting abortions beyond 20 weeks of pregnancy).

D. The Rule Creates and Exacerbates Unequal Access to Care.

Justice requires medical professionals and policy makers to "treat individuals fairly and to provide medical services in a nondiscriminatory manner." CO 385 at 4. *See also* AMA Code, Opinion 1.1.2 (requiring physicians "not to discriminate against a prospective patient."). Rather than promote equal access, however, the Rule targets individuals who rely on federal funding for health care and imposes new barriers to health care.

First, the Rule imposes constraints upon medical service providers that will incentivize them to limit or eliminate certain health care services, posing additional hurdles to complete care for certain populations, such as rural women, minorities, and LGBTQIA individuals, that already lack access to adequate care. Most rural women, for example, find themselves at least a 30-minute drive from reproductive care. ACOG Committee Opinion No. 586, *Health Disparities in Rural Women*, Feb. 2014, at 2. In some states, there is as few as *one* clinic providing abortion services. Jessica Arons, *The Last Clinic Standing*, published on American Civil Liberties Union. Minority women already face significant and persistent disparities in health care as compared to the general population. ACOG Committee Opinion No. 649,

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600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

Racial and Ethnic Disparities in Obstetrics and Gynecology, Dec. 2015, at 1. For example, in 2010 in California, there were 26 black maternal deaths for every seven white maternal deaths. *Id*. at 2. In a recent study, nearly 20% of LGBTQIA people and 31% of transgender people stated it would be very difficult or impossible to receive certain needed medical services if they were unable to receive such services from their existing provider. Mirza & Rooney, *Discrimination Prevents LGBTQ People from Accessing Health Care*, published on Center for American Progress (Jan 18, 2018). The Rule will force patients to overcome increased barriers to health services, such as driving longer distances, potentially causing them to accept substandard care or forego medical services entirely.

Second, in addition to compromising patients' physical health, subjecting vulnerable populations to additional discrimination, stigma, and dignitary harm is unethical and may have life-long repercussions.[6] Patients

[6] Injuries to one's "mental health and overall well-being," including feelings of stigmatization, amount to irreparable injury. *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ*., 858 F.3d 1034, 1045 (7th Cir. 2017), cert. dismissed sub nom. *Kenosha Unified Sch. Dist. No. 1 Bd. of Educ. v. Whitaker ex rel. Whitaker*, 138 S. Ct. 1260 (2018).

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
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(206) 467-1816

who seek medical care but are turned away by an employee who objects to their sexual orientation or gender identity may feel stigmatized and be discouraged from seeking care from another provider. Human Rights Watch, *All We Want is Equality*, Administrative Record, 000538505 – 000538552.

E. The Rule Employs Language That Is Impermissibly Vague and Stymies Effective Functioning of Health Care Systems.

The Rule is irreconcilable with several core principles of medical ethics, and it is inconsistent with other federal laws. Yet, because the Rule is also internally ambiguous, it provides inadequate guidance on what conduct it prohibits and encourages arbitrary enforcement. The Rule poses broad operational and implementation challenges for providers, which must balance support for employees against patient needs. For example, the Rule's absolute accommodation standard will make it virtually impossible for providers both to comply with the Rule and ensure patient care needs are met. That standard is all the more problematic in combination with the broad definition of "discrimination" against an employee asserting an objection, which prevents an employer from knowing in advance which employees might object.

Amici are particularly concerned that the Rule uses overbroad and vague language in outlining its enforcement mechanisms. For example, HHS

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MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

has asserted it may regulate an unspecified "broader range of funds or broader categories of covered entities" for "noncompliant entities." 83 Fed. Reg. 3880, 3898 (Jan. 26, 2018). When combined with the draconian penalties for noncompliance, *see* 84 Fed. Reg. at 23180 (termination of funding); 84 Fed. Reg. at 23271, § 88.7(i) (withholding, denying, or terminating existing or new funding; suspending award activities), providers will be effectively coerced into adopting overbroad policies or cutting off certain services altogether for fear of discriminating on the basis of religion. Disruption of the patient-provider relationship is an irreparable harm. *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013). In addition to disrupting the effective functioning of health care systems, the changes to policies and personnel management practices the Rule imposes will result in financial expenditures that amount to irreparable harm. *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018) (administrative costs required by federal rules that are not recoverable amount to irreparable injury).

V. Conclusion

Amici urge the Court to grant Plaintiff's Cross-Motion for Summary Judgment and reject Defendants' Motions to Dismiss or for Summary Judgment. The Rule will cause grave harm to patients and the public health, is inconsistent with principles of medical ethics, and is impermissibly vague.

LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

Dated: September 27, 2019

Respectfully submitted,

/s/ *Shannon Rose Selden*
Shannon Rose Selden, *Pro Hac Vice*
DEBEVOISE & PLIMPTON LLP
919 Third Avenue
New York, NY 10022
srselden@debevoise.com

Anna A. Moody, *Pro Hac Vice*
DEBEVOISE & PLIMPTON LLP'
801 Pennsylvania Ave, NW
Washington, D.C. 20004
amoody@debevoise.com

/s/ *Daniel M. Weiskopf*
Daniel M. Weiskopf, WSBA No. 44941
McNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, WA 98101
dweiskopf@mcnaul.com

Attorneys for Amici Curiae

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 27th day of September, 2019, at Seattle, Washington.

/s/ Marissa Lock
Marissa Lock
Legal Assistant

LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN PLLC
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816