EXHIBIT 59

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., et al.,

Defendants.

C.A. No. 25-cv-196

DECLARATION OF ELIZABETH HERTEL (MICHIGAN)

I, ELIZABETH HERTEL, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct:

1. I am the Director of the Michigan Department of Health and Human Services (MDHHS).

2. Through my role, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.

3. MDHHS is responsible for providing services and administering programs to improve the health, safety, and prosperity of the residents of the State of Michigan.

4. MDHHS partners with federal agencies on 130 different programs. In 2024, federal funds helped support 3 million people in Michigan receiving assistance to put food on the table, cover childcare costs, get needed medical attention and keep utilities on in homes. Federal funds allowed MDHHS to be able

to respond to 205,383 calls, texts, and chats from individuals needing behavioral health crisis support as well as providing health care coverage for 3.3 million people, including 1.2 million children in Michigan.

5. MDHHS receives federal funds from multiple federal agencies, including the United States Department of Health and Human Services (HHS), United States Department of Agriculture (USDA), Environmental Protection Agency (EPA), among others.

6. I submit this declaration in support of Plaintiffs' motion for preliminary injunction and to explain the impacts on MDHHS of the cuts to HHS, including cuts to the Centers for Disease Control and Prevention (CDC).

I. Infectious Diseases Laboratory Testing

7. The CDC has operated a network of specialized laboratories to test for a wide range of health threats, including Hepatitis C, influenza, HIV/AIDS, among others. With this network of laboratories, the CDC has long provided testing capacity to state and local public health agencies. The CDC's lab testing infrastructure has been critical in identifying diseases, monitoring outbreaks, and guiding public health interventions.

8. Beginning on April 1, 2025, the CDC initiated the closure of several critical laboratories and ceased testing for various diseases, including shuttering the CDC's Division of Viral Hepatitis laboratory and the STD Laboratory Reference and Research Branch, and ceased tests for Hepatitis C. The closures and sudden loss of capacity have raised significant concerns among public health officials,

including those at MDHHS. These closures and losses disrupt essential disease surveillance and outbreak response capabilities. In turn, these disruptions have required state agencies to fill in the sudden gaps in testing capacity in order to prevent disease outbreaks.

9. MDHHS runs a network of laboratories through its Bureau of Laboratories. The MDHHS Bureau of Laboratories is enmeshed within the network of laboratories run by the CDC and those run by other states' public health agencies. MDHHS relies on CDC laboratories to test for various diseases.

10. The MDHHS Bureau of Laboratories relies on CDC laboratories because their capacity enables them to provide information about infectious diseases across the country and within Michigan, as well as diseases spreading across state lines.

11. Since April 1, 2025, the MDHHS Bureau of Laboratories has been impacted by the reduction-in-force at the CDC in multiple ways. First, the Bureau of Laboratories has been directly impacted by the closure of the CDC Viral Hepatitis Laboratory Branch, which discontinued hepatitis testing. Additionally, the MDHHS Bureau of Laboratories has not received consistent communication from the CDC regarding test discontinuations. At this time, it is unclear which tests the remaining CDC laboratories prioritize because the CDC's website documentation has conflicting information. The MDHHS Bureau of Laboratories reports that Hepatitis A Nucleic Acid Test (NAT) and Genotyping were recently listed as unavailable, but, without any notice, were suddenly made available again.

As a result of sporadic changes to test offerings by CDC laboratories, the MDHHS Bureau of Laboratories has been unable to determine which tests to prioritize with confidence.

12. Additionally, the MDHHS Bureau of Laboratories anticipates higher submission rates to its labs because of the CDC's recent discontinuation of testing for Hepatitis C. The MDHHS Bureau of Laboratories serves as the National HIV and Hepatitis C virus NAT Reference Center in cooperation with the CDC and the Association of Public Health Laboratories (APHL). Test volumes submitted to MDHHS have increased steadily since 2021. The MDHHS Bureau of Laboratories anticipates submission rates to further increase due to the CDC's recent discontinuation of testing for Hepatitis C. But if MDHHS shifts its lab capacity to Hepatitis C testing, the MDHHS Bureau of Laboratories staff will have less capacity to respond to other public health emergencies.

13. Additionally, the MDHHS Bureau of Laboratories has also been impacted by the CDC's announcements of other specimens that it can no longer process, such as trypanosoma cruzi and botulism rule out molecular testing. Testing samples submitted to the CDC, if untested, must go to another lab for testing. Some of these specimens are now being sent to the New York state public health laboratory. The MDHHS Bureau of Laboratories is currently evaluating where to shift its capacity in order to compensate for the loss of CDC lab testing. The MDHHS Bureau of Laboratories reports that immediate testing needs are Hepatitis A NAT, viruses that cause genital ulcers, as well as varicella zoster virus

and Herpes Simplex Virus NAT testing. Adjusting MDHHS's testing capacity to meet needs in these areas is necessary to ensure that public health officials can track outbreaks and that residents of Michigan have access to these important tests.

14. The MDHHS Bureau of Laboratories has also experienced a lack of central coordination for the testing that was discontinued by the CDC. Without the CDC's full capacity, there will be no central coordinating agency for outbreak response.

15. Moreover, the MDHHS Bureau of Laboratories has also reported difficulty contacting CDC staff. CDC personnel have attended fewer of MDHHS's state-to-state calls and APHL activities. The CDC's Laboratory Outreach Communication System calls are being canceled more frequently than in the past.

16. Additionally, the MDHHS Bureau of Laboratories is experiencing response issues with the CDC's Federal Select Agent Program (FSAP). For example, the MDHHS Bureau of Laboratories reached out to the CDC's FSAP program two times to try to schedule an inspection for a renovated laboratory space. Several weeks have passed, but the FSAP program has not responded.

17. Moreover, the delays have also impacted guidance documents. For example, the CDC's staff reductions delayed the rollout of an updated testing strategy, the CDC Hospital Acquired Infection (HAI) group's tiered testing strategy.

II. Public Health

18. In addition to the impacts to laboratory testing, the CDC cuts have had significant impacts on MDHHS' public health work.

19. MDHHS relies on a partnership with many CDC program areas for infectious disease detection and response activities across many unique conditions. Federal staffing changes at the CDC since April 1 have disrupted and impacted that work significantly. MDHHS staff report that communications with CDC subject matter experts is now slow, reduced, or sometimes non-existent. There is also confusion regarding points of contact and a reduced knowledge base, as key program staff are no longer with the CDC. As a result, the CDC has failed to provide timely response to inquiries of urgent nature, reduced or eliminated national calls, and can no longer effectively serve as a national coordinator of infectious diseases efforts.

20. MDHHS staff report multiple examples of the CDC's loss in capacity. First, the CDC no longer sends out-of-state travel notifications about potential disease exposures to Michigan residents. This includes diseases with critical timelines, like measles. Second, MDHHS staff reports that the CDC was not available to coordinate a recent multi-state effort to investigate a complex and urgent case of human rabies. Third, the CDC is no longer hosting 50-state calls on the Highly Pathogenic Avian Influenza response, and CDC staff have expressed uncertainty about whether they will be able to host calls that focus on the critical

intersection of animal and human health. These changes risk significant harm to public health in Michigan.

21. Overall, the mass termination of CDC personnel appears to have created a climate of fear for remaining staff, thereby undermining the ability of remaining CDC staff to effectively carry out their jobs by supporting state health departments like MDHHS.

A. Reliance on HHS Data and Technical Expertise

22. For decades, state and local health departments have relied on HHS for critical data systems and technical expertise. HHS's data systems and expertise cover a wide range of topics, including maternal health, lead detection, HIV/AIDS and STIs, and environmental public health.

23. Prior to April 1, 2025, MDHHS relied on HHS for public health data, data systems, and technical expertise in all of these areas and more. But beginning with the staff cuts on April 1, HHS's systems and expertise began to unravel. The sudden staff terminations at HHS left MDHHS without access to updated health data, data systems, and the technical assistance necessary to make informed decisions about public health. Timely, high-quality data is necessary to identify emerging health crises and address disparities in care. But the sweeping workforce reductions at HHS undermine MDHHS's ability to serve the people of Michigan effectively.

i. HIV/AIDS, Viral Hepatitis, STIs, and Tuberculosis.

24. MDHHS also relies on the CDC for its assistance in preventing HIV/AIDS, viral hepatitis, STIs, and tuberculosis. Since April 1, 2025, MDHHS has been impacted by the CDC's staff cuts in these areas. Some of the MDHHS Bureau of HIV and STI Programs' regular meetings with the CDC have been cancelled, and communication from the CDC related to notices of grant awards has been very delayed. The CDC's inability to answer direct questions related to funding and how to navigate executive orders has made things difficult for MDHHS and its funded partners. For example, presidential executive orders concerning "diversity, equity, and inclusion" affect contract language, work plans, and the work of MDHHS grant subrecipients, but MDHHS has not received adequate guidance from the CDC about how to interpret this executive order.

25. Communications from the CDC have become infrequent in recent months, to the detriment of MDHHS's efforts to reduce the threat of HIV and other STIs. The CDC terminated the division that funds three survey projects in the Bureau of HIV/STI programs. One survey program has already been terminated, and the status of two others remains uncertain. The CDC manages all functions related to the National HIV Behavioral Surveillance, including data collection software and training on the survey methodology. The HIV/STI program uses data from this survey to identify prevention needs of people in the Detroit area. In the absence of those CDC staff, MDHHS no longer receives communications or guidance about the system, survey, protocols, or training. MDHHS staff had planned to

attend the 2025 field training at the CDC from May 15 to May 19. All travel has been paid for, but the CDC has provided no information about the field training. Further, MDHHS has not received guidance on evaluation requirements for the HIV prevention, surveillance, and Ending the Epidemic grant (OMB 0920-0696). MDHHS staff have reported that multiple grantee and subrecipient meetings at the CDC have been cancelled, depriving MDHHS staff of the opportunity to hear from experts on emerging topics in the field and to discuss how other states are operationalizing new or emerging issues in HIV prevention and surveillance.

26. MDHHS staff also report that HHS has failed to formalize certain guidance documents in a timely manner. Notably, the CDC has not formalized guidance on the use of doxycycline for postexposure prophylaxis, which has reduced provider adoption of that practice in Michigan. Failure to enable providers to adopt new practices will diminish those providers' ability to more effectively control STIs.

ii. CDC Division of Reproductive Health

27. The CDC Division of Reproductive Health was eliminated on April 1.

28. MDHHS relied on the CDC Division of Reproductive Health for data relating to the health and well-being of mothers and children, including the Pregnancy Risk Assessment Monitoring System (PRAMS). PRAMS is a joint surveillance project of the CDC Division of Reproductive Health and state health departments.

29. The termination of the entire CDC PRAMS team has impacted MDHHS's PRAMS activities quite significantly. The CDC shut down its PRAMS

Integrated Data Collection System (PIDS), which made PRAMS data usable. MDHHS received access to Michigan's 2024 PRAMS data prior to the PIDS being shut down. But MDHHS staff would normally rely on the CDC PRAMS team to statistically weight the Michigan PRAMS data to render the data useable. Because the 2024 Michigan PRAMS data is not currently weighted, it is unusable. To use the data, MDHHS would be required to contract with a survey statistician to properly weight this data, expending significant resources that would otherwise have been available from CDC staff.

30. Furthermore, without access to the CDC-supported PIDS data management system, MDHHS has been forced to develop its own in-house data management system to continue its 2025 Michigan PRAMS data collection activities. This effort required significant resources and expense. MDHHS also does not have the expertise needed to develop a data management system like the CDC PIDS platform. As a result, MDHHS's PRAMS efforts will be worse without having the CDC PRAMS team available to maintain the PIDS data management system.

31. In addition, the MDHHS Division of Maternal & Infant Health, which regularly relied on staff at CDC Division of Reproductive Health, has experienced delayed responses on time-sensitive issues, including the availability of grants and funds. And there has been no official communication on federal grants management staff turnover, and no new contacts have been provided.

iii. Lead Monitoring Programs

32. MDHHS relied on the CDC for its assistance in monitoring for and responding to lead poisoning, especially in children. The MDHHS Environmental Health Bureau handles lead monitoring and has been impacted by CDC staff cuts. From MDHHS's understanding, there have been significant staff cuts at the CDC Childhood Lead Poisoning Prevention Program (CLPPP). Since then, the MDHHS Environmental Health Bureau has received zero communication from CLPPP. The MDHHS Environmental Health Bureau used to have monthly meetings with its CLPPP project officer, but these meetings have been cancelled.

33. Additionally, the CDC used to send regular email notices about newly identified food and consumer products containing lead, which informed public health officials about lead hazards of concern to the public. These email notices have stopped.

iv. Environmental Public Health Programs

34. The MDHHS's staff working on the Modernizing Environmental Public Health Tracking to Advance Environmental Health Surveillance program has received less frequent communication from CDC staff since April 1. MDHHS staff used to have monthly calls with their CDC Project Officer; those calls have ended. MDHHS had been participating with the CDC and other funded states in a number of workgroups focusing on public health programming in the states; those workgroups have halted. MDHHS had a Data Call and a Continuation Application due in April, but the CDC provided limited and inconsistent guidance as to how to

proceed and whether to submit that application. Workgroups typically develop guidance documents (e.g., the Census Transition Workgroup), but groups have not been meeting and thus products could not be finalized and disseminated. Because the Spring Data Call was canceled, the CDC Tracking Data Explorer will not be updated with state-level data on drinking water, biomonitoring, or radon.

B. Chronic Disease and Injury Control programs

35. MDHHS also relies on CDC staff to assist its chronic disease and injury control programs. On April 1, 2025, many of the CDC staff responsible for assisting MDHHS were placed on administrative leave through June 2. These CDC staff assist MDHHS administer the following CDC programs in Michigan: (1) State Public Health Approaches to Addressing Arthritis, (2) Advancing Health Equity in Asthma Control through EXHALE Strategies, and (3) Improving the Health of People with Mobility Limitations and Intellectual/Developmental Disabilities through State-Based Public Health Programs, (4) Building Our Largest Dementia (BOLD) Infrastructure, (5) Michigan Overdose Data to Action (MODA), (6) Preventing Suicide in Michigan Men (PRiSMM), (7) Rape Prevention and Education Program, and (8) Violent Death Reporting System (VDRS). These significant staffing shortages and loss (or potential loss) of CDC contracts have left MDHHS with little or no guidance, caused cancellations of scheduled technical assistance calls, and created uncertainty regarding the future of these programs.

36. The MDHHS Division of Child and Adolescent Health has also been impacted by staff cuts at HHS. The annual training for Personal Responsibility

Education Program (PREP) teen pregnancy prevention grantees has been postponed indefinitely by the Administration for Children and Families (ACF) within HHS.

III. Tobacco Monitoring

A. Office on Smoking and Health (OSH)

37. Cigarette smoking is the leading cause of preventable disease, disability, and death in the United States. The Office on Smoking and Health (OSH) within the CDC was the lead federal agency for comprehensive tobacco prevention and control. But on April 1, 2025, OSH was effectively shuttered by HHS in the March 27 Directive.

38. Before it was shuttered, OSH worked to prevent and reduce cigarette smoking by collecting, studying, and sharing information on cigarette smoking and its effects on health, as mandated by Congress. 15 U.S.C. § 1341 ("Smoking, research, education and information"). Its functions include regulating smoking, vaping, and other nicotine products, and helping adults to quit smoking. And it played a critical role in preventing youth tobacco use.

39. OSH managed a tobacco use data portal, which provided access to the latest tobacco prevention and control data, graphs, and maps, as well as the State Tobacco Activities Tracking and Evaluation (STATE) System, which presented data on traditional Medicaid coverage of tobacco cessation treatments in every state and the District of Columbia. This dataset was used by MDHHS to assess tobacco cessation policies and served as a national clearinghouse of information for the public.

40. OSH also managed annual submissions of cigarette and smokeless tobacco ingredient reports from manufacturers, packagers, and importers. OSH monitored tobacco use trends and health impacts in part to inform FDA regulations and enforcement.

41. Further, OSH played an important role in surveillance and surveys, including the state-based Behavioral Risk Factor Surveillance System, National Health and Nutrition Examination Survey, and National Youth Tobacco Survey (NYTS). OSH's national surveillance system provided reliable, consistent, and cost-effective data collection that MDHHS used to evaluate its work and monitor progress in tobacco use prevention. OSH additionally published state-level data on tobacco prevention use in the STATE System.

42. OSH committed to educating the public about the harms of tobacco use, including media campaigns such as Tips from Former Smokers (Tips Campaign) and publications derived from the Publication Catalog and Ordering System. The Tips Campaign ads, which were placed on television, radio, and billboards, encouraged smokers to quit by featuring real people with serious health conditions caused by smoking and secondhand smoke exposure. The 2012–2018 Tips Campaign had a significant positive impact on Americans' health. The CDC estimated that over 16.4 million smokers attempted to quit and approximately one million successfully quit because of the Tips Campaign. Smokers who saw Tips Campaign videos reported greater intentions to quit smoking, and former smokers with higher exposure to the ads were associated with lower odds of relapse. The

Tips Campaign was credited with helping to prevent early deaths and save precious government resources.

43. OSH scientists published high-quality reports on tobacco use trends that states utilized to prioritize interventions, monitor progress, and reduce disparities. OSH's Best Practices for Comprehensive Tobacco Control Program Guide advises states on how to develop, implement, and fund an evidence-based tobacco control program. OSH likewise dedicated its publications and resources to the "Publication Catalog and Ordering System" where state agencies and other users could access campaign materials and Surgeon General's reports.

44. OSH maintained the national network of tobacco cessation quitlines to encourage people to quit tobacco use by supporting quitline services in fifty states, two U.S. territories, and Washington, D.C. OSH funded state quitlines to deliver resources such as counseling and medications. The Tips Campaign resulted in a sustained and dramatic increase in calls to quitlines.

45. OSH also provided millions in funding to the National and State Tobacco Control Program. Participating states used OSH funds to prevent kids from using tobacco, reduce secondhand smoke exposure, help people quit smoking, and address disparities in tobacco use.

B. Center for Tobacco Products (CTP)

46. The Center for Tobacco Products (CTP) within the FDA oversaw the implementation of the Family Smoking Prevention and Tobacco Control Act by setting performance standards for tobacco products, reviewing premarket applications for new and modified risk tobacco products, requiring new warning

labels, and establishing and enforcing advertising and promotion restrictions. But on April 1, 2025, HHS terminated the staff at the CTP, effectively shuttering it.

47. Among other duties, CTP conducted compliance checks on vendors and retailers to ensure that tobacco products are not sold to those under the age of twenty-one, reviewed premarket applications for new tobacco products before they can be marketed in the United States, enforced advertising and promotion restrictions, and educated the public about the risks of tobacco use including the dangers of e-cigarettes and other tobacco products.

C. Effect on MDHHS's Tobacco Program

48. MDHHS relies on both OSH and CTP for its tobacco regulation programs. As a result, MDHHS will be significantly affected by the staff cuts at OSH and CTP described above. The functional elimination of these two subagencies will lessen MDHHS's ability to protect its citizens, especially its youth, from the dangers of smoking and tobacco products. The reduction of surveillance data of tobacco use will harm MDHHS's ability to efficiently and effectively deploy its tobacco control tools and resources. Fewer compliance checks by the CTP will lead to more sales of tobacco products, exposing the youth of Michigan to a risk of becoming addicted to nicotine products and suffering known health harms.

49. The MDHHS Division of Chronic Disease and Injury Control has already been impacted by the shuttering of OSH. In April, MDHHS expected a $2,347,639 annual grant extension from OSH. The MDHHS's Tobacco Section sent many emails and made many calls that had not been answered about its OSH grant and extensions. In late April, the Tobacco Section was informed by federal grant

administrators that it would merely receive the remaining funds that had been previously allocated, approximately $69,000 through October 2025, which is far less than the approximately $2.3M dollar annual grant award that is needed to continue operations. Thus, no new funding from the CDC OSH will be allocated to MDHHS starting after April 29.

50. In addition, the MDHHS Tobacco Section received significant support and resources from the CDC OSH that was critical to its successful Tobacco Control Program. Those resources and forms of support included monthly meetings with an OSH project officer for technical assistance; monthly OSH State Tobacco Control Program Webinars with updates, educational presentations, resources, media resources, and technical assistance; monthly OSH Media and Education Webinars with technical assistance; new education campaign ideas and resources, and TIPS campaign updates and resources; meetings with the OSH communication staff for technical assistance on communication strategies, including Media Campaign Resource Center (MCRC) campaigns; weekly OSH newsletters with trainings, webinars, journal articles, data, state program highlights, and other resources to support state Tobacco Control Program programs; regular meetings between OSH and Michigan's Tobacco Control Program evaluators on technical assistance, data, and program evaluation strategies; and any additional meetings with MDHHS's OSH project officer, communications staff, policy staff, and evaluators, as requested. Michigan's Tobacco Control Program and communities often utilized these resources to help guide program efforts and develop new programs.

51. Collectively, if MDHHS does not receive both support and funds from OSH, it will lose $2,347,639 in grant funding and other resources from OSH. These funds and resources support several things.

52. First, the OSH grant supports most of the Michigan Quitlink, which provides services to all Michigan residents for tobacco dependence treatment at a cost of $1,290,511 annually. The Quitlink provides tobacco dependence treatment to all residents and will be difficult to maintain without the CDC OSH funding. This may result in higher rates of tobacco use among youth and adults and higher health care costs. Michigan currently spends $4.55 billion on smoking-related health care costs annually and $1.33 billion on smoking-related Medicaid health care with Quitlink services. With fewer Quitlink services, these costs could rise in Michigan.

53. Second, the OSH grant funding allowed the MDHHS Tobacco Control Program to fund local communities, including local health departments, to prevent commercial tobacco use among youth, promote and provide tobacco dependence treatment among youth and adults, conduct public education campaigns, reduce smoking-related disparities among communities with high tobacco use rates, and evaluate effectiveness of programs in local communities. It also provided funding for healthcare provider trainings on tobacco dependence treatment and increasing resources for schools to address vaping among students. Without the OSH grant, MDHHS's activities in these areas will cease, potentially increasing tobacco use rates and decreasing cessation rates.

54. Third, OSH provided "Tips from Former Smokers" campaigns, media technical assistance, and a large array of free media print/radio/TV/social media creative through the Media Campaign Resource Center (MCRC). Without these resources, fewer people will have awareness of and utilize tobacco dependence treatment, including the Michigan Quitlink.

55. Fourth, OSH provided regular data and peer reviewed articles to support the MDHHS Tobacco Control Program's work to prevent initiation and treat tobacco dependence. Without this data and these resources, data-driven program decisions will be limited, and MDHHS will have decreased information of populations with high tobacco use rates and less access to effective strategies to reduce tobacco use.

56. Fifth, the OSH grant funded 11 positions and six grants, including the $1.3 million Quitlink. As of April 29, 2025, state funding is the sole source for staffing, program, and services. Without federal funds or increased state funding, reductions in community contracts, enforcement, and staffing will occur.

57. Beyond those impacts, MDHHS's day-to-day operations will be impacted by terminations at OSH and CTP. Prior to April 1, 2025, MDHHS regularly relied on OSH and CTP staff for many aspects of the day-to-day operation of the state's tobacco program.

58. MDHHS depends on the FDA's CTP compliance checks to restrict tobacco sales to minors. Michigan's FDA Tobacco Retailer Inspection Program is the only statewide program to monitor retailer compliance with federal law

prohibiting the sale of tobacco products to underage youth. It currently supports eight full-time staff. Inspections conducted under this program have shown a decrease in tobacco sales to youth from 34.5% in FY 2021/22 to 23.8% in FY2024/25. Since April 1, 2025, the FDA has been unable to provide the following services to MDHHS: (1) approve and process MDHHS's request for additional funds to remain fully operational during the 2-month contract extension on the normal approval timeline, resulting in no inspection activity during the first two weeks of May (inspection staff were temporarily transferred to other funding); and (2) issue a solicitation for new state funding (FY2025/26 beginning May 30, 2025). The impacts of these losses could result in the dismantling of Michigan's inspection program, laying off of eight full-time staff, and the loss of $1.485m/annually.

59. In sum, the changes at OSH and CTP will directly impact MDHHS's tobacco programs and risk significant harm to young children and their families in Michigan.

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

Dated: May 9, 2025

Elizabeth Hertel, Director
Michigan Department of Health and Human Services