I, Aaron Kheriaty, MD, declare as follows:

1. I am an adult of sound mind and make this statement voluntarily, based upon my knowledge, education, and experience.

2. I write to supplement my declaration dated October 18, 2022, and submitted in support of the motion for a preliminary injunction.

3. In my clinical practice as a psychiatrist, I often advise patients on issues related to covid mitigation measures and covid policies. For example, many of my patients have unique psychiatric circumstances that result in individualized risks of masking—risks that may not comport with those of the general population. For example, patients with anxiety disorders—especially those prone to panic attacks—often experience a worsening of their anxiety as a result of prolonged masking. This can trigger severe and sometimes incapacitating panic attacks, or can gradually, over time worsen underlying social or generalized anxiety.

4. Individualized clinical judgment following a careful psychiatric assessment is required in these circumstances, since generic recommendations on masking from public health authorities do not necessarily take such circumstances into account. And given that society-wide masking for prolonged periods is a previously untested measure, there is a dearth of robust research on the risks/benefits of masks for this patient population. Examples like this, where individualized recommendations for particular patients may reasonably deviate from public health recommendations or institutional policies/mandates, are legion.

5. Parents of young patients often also inquire about the potential developmental risks of prolonged masking of toddlers and young children: for example, they inquire about the effects on speech and language development, cognitive and emotional development, and children's early attachment relationships. Again, the particular risks and harms of masking often depend on the individual circumstances and patient's unique vulnerabilities.

6. Put bluntly, I have told patients that I believe it is in their best interests not to mask as the risks outweigh the benefits, and that they should avoid it whenever possible. I intend to continue providing such advice to patients in these circumstances in the future.

7. I am aware that such advice conflicts with that of most public health authorities in the United States, including the CDC.

8. My clinical judgment for specific patients may not necessarily square with one-size-fits all public health policies or institutional mandates. My primary duty is to the individual patient under my care.

9. Under AB 2098, I am very concerned that my ability to provide individualized care will be compromised in situations where my recommendation to a patient may be at variance with public health directives or institutional mandates.

10. As a medical ethicist who has published extensively on covid policies in peer-reviewed bioethics literature, general interest newspapers such as the Wall Street Journal, a recent book, and media interviews on TV, radio, and podcasts, I have become publicly known for my stated positions on ethical issues related to various covid policies.

11. These include the effects of school closures and lockdowns on mental health, the ethics of informed consent as this relates to vaccine mandates, and the social and ethical implications of vaccine passports. Knowing my work on these issues, many of my patients ask for my views and advice on these covid interventions and policies as they personally impact them and their families. While I am intimately familiar with the scientific literature and ethical debates on the policies for which I have offered public opinions, my own best judgments on these matters often differs from established opinions. The complex questions about each of these polices is very far from settled. Sometimes, the established opinion may have caught up with my opinions in six months or a year, as happened with the question of natural immunity and vaccines, for example.

12. Likewise, my views last year anticipated many of the current concerns this year about vaccine safety and efficacy, the overall effects of lockdowns and school closures, etc. When patients familiar with my public policy work on the ethics of public health measures ask me about these interventions, I give them my honest opinion as a physician and medical ethicist.

13. AB 2098 risks punishing forward-thinking physicians who are carefully reading the latest medical literature and discerning trends that others may not have noticed yet. The road from published medical

research to "standard of care" can often be long and complex, and those physicians who are first out of the gate can initially appear to be outliers. This fact alone does not mean they are wrong, nor does it imply that they are providing substandard care or misguided recommendations to patients. Physicians who help to establish the standard of care under conditions of uncertainty, rapidly evolving information, and new data, will often encounter resistance.

14. They may—as I was—even be accused of spreading "misinformation" only because they made claims that the CDC accepted only a year later. In my case, this happened precisely in relation to the CDC's recent guidance on natural immunity vaccine efficacy, which echoed the arguments I advanced a year prior at a time when such claims were not widely acknowledged. For example, I had a video interview temporarily removed from YouTube in late 2021 for containing alleged "misinformation" when I made these arguments—arguments endorsed a year later by the CDC. AB 2098 would prematurely close debate on these issues and punish forward-thinking physicians merely for being ahead of their time. It would also prevent doctors from acting in the best interests of their patients at that time.

Dated: 20 December 2022

Signed:

Aaron Kheriaty, MD