

# **Exhibit 3**

Declaration of Charles V. Robb in Support of  
Appellants' Emergency Motion to Stay  
(Dec. 21, 2020)

**In the United States Court of Appeals  
for the District of Columbia Circuit**

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No. 20-5193

AMERICAN HOSPITAL ASSOCIATION ET AL.,  
APPELLANTS

*v.*

ALEX M. AZAR II,  
SECRETARY OF HEALTH AND HUMAN SERVICES,  
APPELLEE

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**DECLARATION OF CHARLES V. ROBB IN SUPPORT OF  
APPELLANTS' EMERGENCY MOTION TO STAY**

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1. I, Charles V. Robb, am the senior vice president and chief financial officer of Saint Luke's Health System in Kansas City, Missouri.
2. Saint Luke's is a member of the American Hospital Association.
3. I make this declaration in support of Appellants' emergency motion to stay the Centers for Medicare & Medicaid Services (CMS) from enforcing the disclosure requirements set forth in the rule titled Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 Fed. Reg. 65,524 (Nov. 27, 2019).
4. The rule is scheduled to take effect on January 1, 2021.

5. Several of the Appellants sent a letter to Alex M. Azar II, secretary of the Department of Health and Human Services, and Seema Verma, administrator of CMS, on June 29, 2020, urging them “to delay the effective date of the hospital price transparency rule [] given the burden it would pose to hospitals and health systems in the midst of responding to the COVID-19 public health emergency.” Appellants did not receive a response.

6. CMS issued a notice on December 18, 2020, that it “plans to audit a sample of hospitals for compliance starting in January, in addition to investigating complaints that are submitted to CMS and reviewing analyses of non-compliance, and hospitals may face civil monetary penalties for noncompliance.” A copy of that notice may be found at <https://www.cms.gov/files/document/2020-12-18-mlnc-se.pdf>.

7. Saint Luke’s operates a network of 16 hospitals and hospital campuses in the greater Kansas City area and in rural Missouri and Kansas.

8. Since the Department of Health and Human Services published the final price transparency rule in 2019, Saint Luke’s has made preparations to publish the required information to consumers.

9. Saint Luke’s has devoted hundreds of hours to developing the list of negotiated rates for 300 “shoppable services” and checking their accuracy.

10. Separately, Saint Luke's has been building the required "machine-readable" digital file containing standard charges for each hospital item or service. This file presently contains more than seven million lines of information.

11. Notwithstanding these diligent efforts, the COVID-19 pandemic has impaired our hospital system's ability to develop the systems and infrastructure needed to comply with the rule.

12. Many of the same finance, billing, and information technology staff charged with implementing the HHS rule are also involved in addressing the manifold challenges to hospital operations created by the pandemic.

13. Saint Luke's information technology (IT) staff are building a system for tracking administration of the new COVID-19 vaccines and complying with our reporting obligations under state and federal law. That project has required significant manpower because the existing software platform Saint Luke's uses to track the administration of flu vaccines was not suitable for tracking the vaccines approved under emergency use authorizations. Saint Luke's must report its administration of the COVID-19 vaccines to two different states, Kansas and Missouri, each with distinct reporting requirements.

14. Meanwhile, the Saint Luke's revenue and billing staff are presently establishing systems for billing the federal government for the administration of COVID-19 vaccines.

15. Employees in both the revenue and IT departments are also involved in building Saint Luke's "surge capacity," that is, our ability to bring into service additional hospital beds or repurpose clinical units to handle the surge of patients infected with COVID-19.

16. Many of the same employees from the IT and billing departments involved in these projects also have responsibility for developing systems needed to comply with HHS's price transparency rule.

17. The time and resources these employees devote to implementing are time and resources diverted from responding to the COVID-19 pandemic.

18. Saint Luke's projects that demand from COVID-19 patients alone will continue to strain its supply of medical-surgical and ICU beds.

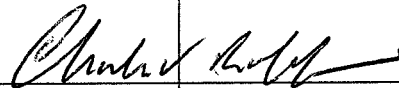
19. The hospital system continues to receive and treat patients with other serious ailments as well. Because other hospitals are also full, Saint Luke's is forced off "high volume" diversion by local authorities, and we must take care of these patients when they arrive by ambulance in our emergency departments despite strained resources.

20. Responding to this public health emergency requires all available hospital resources. Deploying Saint Luke's personnel to implementing the HHS rule is not, in my professional experience, the highest and best use of their time.

I declare under penalty of perjury that the foregoing is true and correct.  
*See* 28 U.S.C. § 1746(2).

Executed on December 21, 2020.

Respectfully submitted,



CHARLES V. ROBB

*Senior Vice President and Chief Financial Officer, Saint Luke's Health System*