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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 Z.A., a minor, by and through their parent,
A.A.; Z.B., a minor, by and through their
18 parent, B.B.; Z.C., a minor, by and through
their parent, C.C.; Z.D., a minor, by and
19 through their parent, D.D.; Z.E., a minor,
by and through their parent, E.E.; F.F.; and
20 Z.G., a minor, by and through their parents,
G.G. and A.G., on behalf of themselves
21 and all those similarly situated,

22 Plaintiffs,

23 v.

24 TODD BLANCHE, in his official capacity
as Acting Attorney General of the United
States; U.S. DEPARTMENT OF
25 JUSTICE; and LUCILE SALTER
PACKARD CHILDREN’S HOSPITAL
26 AT STANFORD, a California nonprofit
public benefit corporation,

27 Defendants.
28

Case No. 5:26-cv-04998-PCP

**PLAINTIFFS’ EX PARTE MOTION
FOR A TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT**

PROPOSED CLASS ACTION

Assigned to: Hon. P. Casey Pitts

**RELIEF REQUESTED BY JUNE 9,
2026, AT 5:00PM**

Trial Date: None Set

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INTRODUCTION

1
2 Plaintiffs and proposed class members are minors, young adults, and their parents who are
3 being harassed by the U.S. Department of Justice (“DOJ”) as a result of medical care they
4 received, care that the State of California regards as medically necessary, but to which the DOJ
5 has repeatedly declared its opposition. DOJ has served substantially identical administrative
6 subpoenas on providers across the country. All such subpoenas seek deeply personal protected
7 health information (“PHI”) including: (1) documents identifying each minor patient who received
8 transgender healthcare, (2) documents relating to indications, diagnoses, or assessments that
9 formed the basis for that care, and (3) informed consents and parental authorizations signed in
10 connection with that care. Courts have held that those subpoenas serve no legitimate investigative
11 need, impermissibly intrude on patients’ privacy, and were designed for no purpose other than to
12 intimidate and harass hospitals, patients, and providers. As these subpoenas failed, DOJ has now
13 issued grand jury subpoenas—seeking substantially the same information—to Defendant Lucile
14 Salter Packard Children’s Hospital at Stanford (“LPCH”), and on information and belief, to other
15 hospitals providing pediatric transgender healthcare in California.

16 Plaintiffs bring this action to prevent DOJ from obtaining their PHI, and that of other,
17 similarly situated patients, in violation of the First and Fifth Amendments. The Fifth Amendment
18 bars DOJ from obtaining Plaintiffs’ sensitive PHI without any legitimate interest in doing so. The
19 PHI sought has no relation to any investigative need, as courts have repeatedly found. It is being
20 sought to harass. That harassment also violates the First Amendment, which bars DOJ from using
21 a subpoena to chill protected speech and association by requiring disclosure of records reflecting
22 medical and mental health consultations on subjects DOJ dislikes. Plaintiffs respectfully move this
23 Court *ex parte* for a temporary restraining order maintaining the *status quo* by temporarily barring
24 DOJ from seeking their PHI while these issues are fully litigated. Because the subpoenas to LPCH
25 and other hospitals demand compliance by June 10, 2026, immediate relief is necessary.

26 This Court previously denied a request for injunctive relief against LPCH “without
27 prejudice to the filing of a renewed motion for a preliminary injunction in the event of materially
28 changed facts or further development of the record.” ECF 40 at 16. The Court did not “doubt the

1 strength of plaintiffs’ constitutional interest in the preservation of their privacy or the gravity of
2 harm that might result from unauthorized disclosure of their medical information (or their inability
3 to access medically indicated care going forward).” *Id.* at 15. But it held that the “sparse record”
4 before it did not support a finding that LPCH, the sole Defendant at the time, could be deemed a
5 “government actor” for purposes of Plaintiffs’ constitutional claims. *Id.* at 14-15. Plaintiffs’
6 amendment of their complaint to add DOJ and the Acting Attorney General as Defendants is a
7 material change for purposes of the Court’s analysis. The same constitutional interests are at stake.
8 The same harm is threatened. And now, DOJ is indisputably a state actor the Court can enjoin
9 from violating Plaintiffs’ and the proposed class’s constitutional rights.

10 STATEMENT OF FACTS

11 I. The Trump Administration Attempts to End Pediatric Transgender Medical Care

12 The Trump Administration has pledged to end pediatric transgender medical care. On
13 January 28, 2025, the President issued Executive Order 14187, “Protecting Children from
14 Chemical and Surgical Mutilation,” which declared “it is the policy of the United States that it will
15 not fund, sponsor, promote, assist, or support” any child’s “transition,” branded such care for
16 minors a “stain on our Nation’s history” that “must end,” and directed the Attorney General to
17 “prioritize enforcement of protections against” such care. Exec. Order No. 14187, 90 Fed. Reg.
18 8771 (Jan. 28. 2025). Within days, the White House announced that the order was “already having
19 its intended effect,” listing hospitals that had paused or ended treatment.¹ DOJ promptly took
20 action to effectuate the President’s mandate. In April 2025, the Attorney General issued a
21 memorandum, “Preventing the Mutilation of American Children,” directing U.S. Attorneys to
22 “partner with state attorneys general to identify leads, share intelligence, and build cases against
23 hospitals and practitioners,” and warning DOJ would “hold accountable those who mutilate [our
24 children] under the guise of care.”²

25
26 ¹ President Trump Is Delivering on His Commitment to Protect Our Kids, The White House (Feb.
27 3, 2025), [https://www.whitehouse.gov/releases/2025/02/president-trump-is-delivering-on-his-](https://www.whitehouse.gov/releases/2025/02/president-trump-is-delivering-on-his-commitment-to-protect-our-kids/)
[commitment-to-protect-our-kids/](https://www.whitehouse.gov/releases/2025/02/president-trump-is-delivering-on-his-commitment-to-protect-our-kids/).

28 ² Memorandum for Select Component Heads: Preventing the Mutilation of American Children at
3, 5, U.S. Off. of the Att’y Gen. (Apr. 22, 2025), <https://www.justice.gov/ag/media/1402396/dl>
(DOJ April 2025 Memorandum).

1 **II. DOJ Issues 20 Substantively Identical HIPAA Subpoenas Seeking the Same PHI**

2 The Administration initially pursued only civil investigations in its campaign to compel
 3 providers to stop offering and patients to stop seeking medically necessary transgender healthcare.
 4 On June 11, 2025, DOJ served more than 20 “substantively identical” administrative subpoenas
 5 under 18 U.S.C. § 3486 “to doctors and clinics involved in performing transgender medical
 6 procedures on children.”³ Six weeks later, the White House declared victory.⁴ But federal district
 7 courts around the country swiftly halted many of DOJ’s improper PHI demands, quashing the
 8 administrative subpoenas seeking patients’ identifying information and PHI. *In re CNH Subpoena*,
 9 *No. 25-cv-03780-JRR*, 2026 WL 160792, at *9 (D. Md. Jan. 21, 2026) (quashing subpoena for
 10 improper purpose); *In re Admin. Subpoena No. 25-1431-019*, 800 F. Supp. 3d 229, 236-39 (D.
 11 Mass. 2025) (quashing Boston Children’s Hospital subpoena as issued for an improper purpose
 12 and “virtually unlimited in scope”); *QueerDoc, PLLC v. U.S. Dep’t of Just.*, 807 F. Supp. 3d 1295,
 13 1303-04 (W.D. Wash. 2025), *appeal argued*, No. 25-7384 (9th Cir. Mar. 6, 2026); *In re Subpoena*
 14 *No. 25-1431-014*, 810 F. Supp. 3d 555, 578-81, 588-607 (E.D. Pa. 2025) (striking requests to
 15 Children’s Hospital of Philadelphia (“CHOP”) seeking patients’ identities and medical data as
 16 beyond statutory authority and outweighed by minors’ privacy interests); *In re Subpoena Duces*
 17 *Tecum No. 25-1431-016*, No. 2:25-mc-00041, 2025 WL 3562151, at *13 (W.D. Wash. Sept. 3,
 18 2025) (rejecting enforcement based on “DOJ’s threadbare justification” and “strong evidence” of
 19 “improper purpose”); *In re 2025 UPMC Subpoena*, No. 2:25-mc-01069, 2025 WL 3724705, at *2-
 20 3 (W.D. Pa. Dec. 24, 2025) (granting patient movants’ request for relief); *In re Subpoena*, No.
 21 1:26-mc-0007, 2026 WL 1392565, at *8-10 (D.R.I. May 14, 2026) (quashing subpoena and
 22

23 _____
 24 ³ Department of Justice Subpoenas Doctors and Clinics Involved in Performing Transgender
 25 Medical Procedures on Children, Off. of Pub. Affs., U.S. Dep’t of Just. (July 9, 2025),
 26 [https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-](https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical)
 27 [performing-transgender-medical](https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical). See also *In re 2025 Subpoena to Children’s Nat’l Hosp.*, No.
 1:25-cv-03780, 2026 WL 160792, at *3 n.12 (D. Md. Jan. 21, 2026) (*In re CNH Subpoena*),
 26 *appeal docketed*, No. 26-1104 (4th Cir. Feb. 2, 2026). See also Email from Ross Goldstein, U.S.
 27 Dep’t of Just., to Eve Hill (Nov. 14, 2025), Mot. to Quash Ex. W, *In re CNH Subpoena*, No. 1:25-
 cv-03780 (D. Md. Nov. 17, 2025) (ECF 1-38).

28 ⁴ President Trump Promised to End Child Sexual Mutilation—and He Delivered, The White
 House (July 25, 2025), [https://www.whitehouse.gov/releases/2025/07/president-trump-promised-](https://www.whitehouse.gov/releases/2025/07/president-trump-promised-to-end-child-sexual-mutilation-and-he-delivered/)
[to-end-child-sexual-mutilation-and-he-delivered/](https://www.whitehouse.gov/releases/2025/07/president-trump-promised-to-end-child-sexual-mutilation-and-he-delivered/).

1 collecting decisions finding improper purpose).

2 These decisions did not rest on technical defects unique to any one subpoena recipient.
 3 They found DOJ had issued the subpoenas for an “improper purpose,” namely, seeking to “end the
 4 very practice it claims to be merely investigating.” *QueerDoc*, 807 F. Supp. 3d at 1303-04. They
 5 identified the same core defects: DOJ’s asserted investigative rationale—*i.e.*, potential violations
 6 of the Federal Food, Drug, and Cosmetic Act (“FDCA”) and healthcare fraud statutes—is
 7 disconnected from its demands for children’s intimate medical, psychological, and family
 8 information; and the subpoenas appear designed to advance the Administration’s stated objective
 9 of ending transgender medical care. *See In re Subpoena Duces Tecum No. 25-1431-016*, 2026 WL
 10 1102159, at *2 (noting “seven recent decisions” reached similar conclusions).

11 III. DOJ Pivots To Grand Jury Subpoenas Seeking the Same PHI

12 DOJ responded to these unfavorable court decisions by accelerating its improper efforts to
 13 obtain PHI and pivoting to criminal grand jury proceedings in the Northern District of Texas.
 14 After losing repeatedly in court after court, DOJ “out of the blue” withdrew the administrative
 15 subpoenas and replaced them with “substantially similar” grand jury subpoenas. ECF 31-1 ¶6.
 16 While the nature of any alleged criminal conduct under investigation is unknown, a statement
 17 issued by NYU Langone Hospitals (“Langone”) in New York City disclosed that on May 7, 2026,
 18 it “was one of several institutions that received a grand jury subpoena from the U.S. Attorney’s
 19 Office in the Northern District of Texas.”⁵ The statement included a copy of the subpoena.⁶ On
 20 June 3, LPCH disclosed that it had received a grand jury subpoena that is almost identical to NYU
 21 Langone’s. On June 5, Mt. Sinai Hospital revealed that it, too, had received a grand jury subpoena
 22 calling for patient PHI.⁷ So similar are the grand jury subpoenas received by LPCH and NYU
 23 Langone that both contain the *same* typo, a reference to “45 C.F.R., § 164.512 (f)(1)(ii)(C)(1)-(3),”
 24

25 _____
 26 ⁵ Information for NYU Langone Health Patients, NYU Langone Health,
<https://nyulangone.org/public-notice/TYHPsubpoena> (last visited May 26, 2026).

27 ⁶ Grand Jury Subpoena to NYU Langone Health (May 7, 2026), <https://nyulangone.org/files/nyu-gj-subpoena.pdf>.

28 ⁷ *See* Joseph Goldstein, *Trump Administration Investigating Gender Treatments at Mount Sinai*,
 N.Y. Times (June 5, 2026), <https://www.nytimes.com/2026/06/05/nyregion/trump-administration-investigating-gender-treatments-at-mount-sinai.html>.

1 with no closing parenthesis after “1.” *Compare* ECF 31-2 at 9, *with* ECF 1 at 32.

2 The grand jury subpoenas issued to LPCH and, on information and belief, other providers
3 in California, seek patient identifying information and PHI that is substantially similar to the
4 information sought by the administrative subpoenas previously quashed by multiple district courts
5 as lacking any proper investigative purpose. Specifically, the following demands from the LPCH
6 grand jury subpoena directly seek identifying information and PHI:

- 7 • Subpoena specification 12 seeks “[d]ocuments sufficient to identify each patient
8 who underwent Sex-Rejecting Procedures.”
- 9 • Subpoena specification 13 seeks, for each patient so identified, “documents relating
10 to the clinical indications, diagnoses, or assessments that formed the basis for
11 providing Sex-Rejecting Procedures, including the prescribing of puberty blockers
12 or hormones, and all documents relating to the Sex-Rejecting Procedures care
13 provided to each patient identified in Subpoena specification 12 from initial
14 consultation to the most recent treatment provided.”
- 15 • Subpoena specification 14 seeks “[a]ll documents relating to informed consent,
16 patient intake, and parent or guardian authorization for minor patients identified in
17 Subpoena specification 12, *supra*, including any disclosures about off-label use
18 (*i.e.*, uses not approved by the United States Food and Drug Administration) and
19 potential risks of puberty blockers and/or hormones.”

20 The grand jury subpoenas issued to LPCH, and, on information and belief, other providers
21 in California, define “Sex-Rejecting Procedures” covered by the subpoenas to include:

22 any medical, surgical, pharmaceutical, or clinical intervention provided to an individual
23 under eighteen years of age that is intended or reasonably expected to suppress, alter, or
24 eliminate endogenous pubertal development, or to modify primary or secondary sex
25 characteristics, for the purpose of aligning with or affirming a minor’s asserted gender
26 identity rather than the minor’s biological sex. These include, for example, puberty
27 suppression, hormone administration, surgical intervention, voice modification
28 interventions, or other medical or clinical services that are functionally integral to,
preparatory for, or undertaken in furtherance of such interventions or procedures.

The subpoenas demand information about every patient who received the such care at
LPCH and, on information and belief, other hospitals in California.

24 **IV. Procedural History**

25 On May 27, 2026, six individual patients and five parents filed this lawsuit, naming only
26 LPCH as a Defendant. The individual plaintiffs moved for a temporary restraining order barring
27 LPCH from producing their PHI to DOJ because such disclosure would violate their right to
28 informational privacy under the Fifth Amendment, constitute an unreasonable search and seizure

1 in violation of the Fourth Amendment, and deny them equal protection of the law. The Court did
2 not “doubt the strength of plaintiffs’ constitutional interest in the preservation of their privacy or
3 the gravity of harm that might result from unauthorized disclosure of their medical information (or
4 their inability to access medically indicated care going forward).” ECF 40 at 15. But it held that
5 the “sparse record” before it did not support a finding that LPCH, the sole Defendant at the time,
6 could be deemed a “government actor” for purposes of Plaintiffs’ constitutional claims. *Id.* at 14-
7 15. While the Court acknowledged that DOJ threats could result in private actors such as LPCH
8 being deemed to act on behalf of the government, and further that “DOJ has threatened providers
9 of gender-affirming care with criminal investigation,” it concluded that it needed proof of a “direct
10 tie between DOJ’s threats of prosecution and LPCH’s disclosure of patient records.” ECF 40 at
11 13-15. The “record before the Court” was undeveloped and did not have evidence of such a tie. *Id.*

12 On June 8, the 11 individual plaintiffs who filed the first complaint, plus 3 additional
13 plaintiffs, filed an amended complaint that added DOJ as a Defendant, asserted claims under the
14 First Amendment in addition to the Fourth and Fifth Amendments, and sought relief on behalf of
15 not just the individual plaintiffs, but also other similarly situated patients and parents whose
16 information has been sought from LPCH or other California hospitals. Plaintiffs now seek a
17 temporary restraining order barring DOJ from obtaining proposed class members’ PHI through the
18 grand jury subpoenas served on LPCH and, on information and belief, other California hospitals,
19 or through any other means that violate the First and Fifth Amendments of the Constitution.

20 LEGAL STANDARD

21 The standard for a temporary restraining order is generally the same as for a preliminary
22 injunction. *Stuhlberg Int’l Sales Co. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir.
23 2001). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
24 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
25 balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat.*
26 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). In the Ninth Circuit, these factors operate on a
27 sliding scale; interim relief may issue if “the likelihood of success is such that ‘serious questions
28 going to the merits were raised and the balance of hardships tips sharply in [the moving party’s]

1 favor.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Clear*
 2 *Channel Outdoor, Inc. v. City of Los Angeles*, 340 F.3d 810, 813 (9th Cir. 2003)). The threatened
 3 deprivation of constitutional rights constitutes irreparable harm. *See Melendres v. Arpaio*, 695
 4 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

5 ARGUMENT

6 **I. THIS COURT HAS JURISDICTION AND AUTHORITY TO GRANT THE REQUESTED RELIEF**

7 **A. Plaintiffs Have Article III Standing to Seek Injunctive Relief Against Defendants.**

8
 9 Plaintiffs readily satisfy Article III’s requirements of injury in fact, causation, and
 10 redressability. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992). The injury is the
 11 certain and imminent disclosure of Plaintiffs’ identifying information and constitutionally
 12 protected health information to DOJ, which will occur, on information and belief, no later than
 13 June 10. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (imminence satisfied
 14 where threatened injury is “‘certainly impending’”). Moreover, the issuance of the subpoena and
 15 the threatened disclosure of patient identities and communications has created a chilling effect on
 16 Plaintiffs’ and their providers’ protected speech, violating Plaintiffs’ First Amendment rights.
 17 *First Choice Women’s Resource Centers, Inc. v. Davenport*, 146 S. Ct. 1114, 1125 (2026). These
 18 injuries are fully redressable by an injunction preventing DOJ from obtaining such records.

19 **B. This Court May Adjudicate Plaintiffs’ Constitutional Challenge to Compliance with an Out-of-District Grand Jury Subpoena.**

20
 21 This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and authority to issue
 22 equitable relief under the All Writs Act (28 U.S.C. § 1651) and the Declaratory Judgment Act (28
 23 U.S.C. §§ 2201-2202). It has personal jurisdiction over DOJ, which operates within this District.
 24 The fact that at least one grand jury subpoena has issued from the Northern District of Texas does
 25 not divest this Court of authority to protect the constitutional rights of patients whose records are
 26 held within its jurisdiction and who reside within this State.

27
 28 The Second Circuit’s decision in *New York Times Co. v. Gonzales*, confirms that a third
 party whose own constitutional or privilege interests are threatened by a grand jury subpoena

1 seeking records held by someone else may bring a civil action for declaratory relief. 459 F.3d 160,
2 165-67 (2d Cir. 2006). There, the Times sued the United States and the Attorney General in the
3 Southern District of New York, seeking a declaration that reporters' privileges barred enforcement
4 of grand jury subpoenas seeking reporters' telephone records from third-party telephone providers.
5 The Second Circuit held that the district court did not abuse its discretion by exercising
6 jurisdiction over that declaratory judgment action, even though it concerned a grand jury
7 proceeding in another district. *Id.* Although the Second Circuit ultimately rejected the privilege
8 claim on the merits, it held jurisdiction was proper. *See id.* at 165-67, 174.

9 For the same reasons, this Court has jurisdiction to consider Plaintiffs' constitutional
10 challenges to production of their medical records. Like the New York Times in *Gonzales*, Plain-
11 tiffs are not parties to the grand jury proceeding. As in *Gonzales*, the potential subpoenas would be
12 directed to third parties, *i.e.*, LPCH and other providers located in California. And as in *Gonzales*,
13 they have filed an action seeking relief in the district where they reside and where the information
14 at issue was created. *Gonzales* confirms that it is appropriate for the Court to consider Plaintiffs'
15 challenges on the merits notwithstanding the pendency of the Texas grand jury proceeding.

16 The Court's prior decision cited *Gonzales* as "authority suggesting that a plaintiff may
17 challenge a grand jury subpoena in the plaintiff's home district instead of moving to quash the
18 subpoena in the district where it was issued (although that case involved a threatened subpoena
19 rather than an already-issued one)." ECF 40 at 15-16 n.32. But it noted that other precedent
20 appears to hold that "[o]nly the issuing court has the power to act on its subpoenas." *Id.* (quoting
21 *In re Sealed Case*, 141 F.3d 337, 341 (D.C. Cir. 1998)). *In re Sealed Case*, however, concerned
22 the issuance of a civil subpoena and relied on a textual analysis of an old version of Federal Rule
23 of Civil Procedure 45.⁸ 141 F.3d at 341 (quoting Fed. R. Civ. P. 45(c)(3)(A) (1998)). It considered
24

25 ⁸ Notably, Rule 45 was amended in 2013 to transfer jurisdiction over a motion to quash from the
26 "issuing court" to the "court for the district where compliance is required," *i.e.*, a court "within
27 100 miles of where the person resides, is employed, or regularly transacts business in person."
28 Fed. R. Civ. P. 45(c); *see also* Fed. R. Civ. P. 45(d)(3). Thus, the current version of Rule 45
explicitly permits non-issuing courts where the subpoena recipient resides to quash or modify
subpoenas. It permits transfer of a motion to quash by the "court where compliance is required" to
the "issuing court" only "if the person subject to the subpoena consents or if the court finds

1 only the rights of the law firm that received the civil subpoena, and not third parties whose
2 personal information any production might contain. *Id.* at 339. Its analysis does not control here.
3 *Gonzales* squarely addressed the rights of interested parties who did not receive a subpoena and
4 holds that a motion to quash is not Plaintiffs’ exclusive remedy. Applying the test that governs
5 declaratory judgment actions, *see Dow Jones & Co. v. Harrods Ltd.*, 346 F.3d 357, 359-60 (2d
6 Cir. 2003), the Second Circuit held that a motion to quash “would not offer the Times the same
7 relief as a declaratory action,” because such a motion “is not available if the subpoena has not
8 been issued,” as it was unknown whether the third-party recipients had been served “or not, and if
9 so, whether [they] ha[d] already complied,” and because it was “unclear whether, when a
10 subpoena has been issued to a third party and the third party has complied, a motion to quash is
11 still a viable path to a remedy.” *Gonzales*, 459 F.3d at 167.

12 That *Gonzales* “involved a threatened subpoena rather than an already-issued one,” ECF
13 40 at 15-16 n.32, does not distinguish this case. The five-factor test still favors allowing Plaintiffs
14 to proceed with a declaratory judgment action. First, a declaration of Plaintiffs’ and the proposed
15 class’s rights will “serve a useful purpose in clarifying or settling the legal issues,” which concern
16 Plaintiffs’ constitutional rights. *Gonzales*, 459 F.3d at 167. Second, a declaratory judgment action
17 offers Plaintiffs and the proposed class “relief from uncertainty,” because the threat to PHI
18 transcends any single subpoena. *Id.* And because Plaintiffs seek relief that is broader than any
19 specific subpoena, the declaratory judgment action is not merely “procedural fencing,” but instead
20 provides a “more effective remedy” for protecting their constitutional rights. *Id.* Because this case
21 does not involve a “state or foreign court,” the last factor is “inapplicable on its face.” *Id.*

22 Plaintiffs seek not merely to prevent enforcement of the grand jury subpoena to LPCH, but
23 also to prevent DOJ from obtaining the same information by other means that would violate
24 proposed class members’ First and Fifth Amendment rights. Plaintiffs reside in this District,
25

26 _____
27 exceptional circumstances.” Fed. R. Civ. P. 45(f). These changes to Rule 45 recognize that
28 subpoena recipients, and others impacted by subpoenas, face significant burdens where required to
challenge subpoenas issued far from where they live. Fed. R. Civ. P. 45, cmt. to 2013
Amendments (“The prime concern should be avoiding burdens on local nonparties subject to
subpoenas.”).

1 sought care in this District, and entrusted hospitals in this District to protect their privacy. DOJ’s
2 violation of the proposed class members’ rights, whether through the subpoena or by other
3 investigative means, would occur in this District, where the proposed class members live and their
4 information is stored. This Court has jurisdiction to declare proposed class members’ rights under
5 28 U.S.C. § 2201 and to protect those rights from infringement. *See* pp. 7-8, *supra*. The fact that
6 protecting class members’ rights from violation has implications for an existing subpoena in no
7 way deprives this Court of the jurisdiction it would otherwise have under the Constitution and the
8 Declaratory Judgment Act.

9 **C. The Grand Jury Context Does Not Foreclose Constitutional Challenge.**

10 The Supreme Court has long recognized that grand jury subpoenas are presumptively
11 reasonable and that grand juries are vested with broad investigative authority. *See generally*
12 *United States v. R. Enterprises, Inc.*, 498 U.S. 292, 297-301 (1991). But it is equally well
13 established that a grand jury subpoena may not compel production of records or testimony in
14 violation of an individual’s constitutional rights. *See, e.g., In re Grand Jury Subpoena, JK-15-029*,
15 828 F.3d 1083, 1088 (9th Cir. 2016) (quoting *Hale v. Henkel*, 201 U.S. 43, 76 (1906)). “[W]here a
16 grand jury’s subpoena . . . would *itself* violate the privacy interests protected by the Fourth
17 Amendment, ‘[j]udicial supervision is properly exercised in such cases to prevent the wrong
18 before it occurs.’” *Id.* (quoting *United States v. Calandra*, 414 U.S. 338, 346 (1974)).

19 To be sure, in ordinary grand-jury proceedings, “[n]o affidavit of relevance and need must
20 be introduced” and that “legitimate purpose may be derived from the fact that the subpoena is
21 necessary to a legitimate pursuit and the presumption that the government obeys the law.” *In re*
22 *Grand Jury Proceeding*, 721 F.2d 1221, 1223 (9th Cir. 1983). But where an improper purpose
23 appears on the face of a grand jury subpoena, a “unanimous chorus” of courts of appeals,
24 including the Ninth Circuit, “agrees that courts may quash.” *In re Grand Jury Subpoenas Nos.*
25 *[Redacted] & [Redacted]*, No. 26-mc-12 (JEB), 2026 WL 710202, at *5 (D.D.C. Mar. 13, 2026)
26 (citing *United States v. Star*, 470 F.2d 1214, 1217 (9th Cir. 1972)); *see United States v. Powell*,
27 379 U.S. 48, 58 (1964) (summons issued for “improper purpose, such as to harass,” is an “abuse”).
28 Plaintiffs do not ask this Court to supervise routine grand-jury relevance. They seek only to

1 prevent an imminent disclosure of their own constitutionally protected medical records in response
 2 to requests from DOJ that multiple courts have rejected in the context of substantially similar
 3 administrative subpoenas. Multiple federal district courts have quashed those subpoenas—many
 4 concluding that DOJ had “issued the subpoena[s] first and searched for a justification second.”
 5 *QueerDoc*, 807 F. Supp. 3d at 1303. DOJ’s response was not to articulate a legitimate
 6 investigative need for Plaintiffs’ identifying medical records, but to repackage materially similar
 7 demands as grand jury subpoenas issued from a forum with no apparent connection to LPCH,
 8 proposed class members, or their care. That pattern is strong evidence that judicial review is
 9 necessary before Plaintiffs’ constitutional rights are extinguished. *See In re Subpoena No. 25-*
 10 *1431-016*, 2025 WL 3562151, at *13. Constitutional privacy limits apply regardless of the
 11 procedural vehicle used to compel disclosure. *See, e.g., Nw. Mem’l Hosp. v. Ashcroft*, 362 F.3d
 12 923, 929-31 (7th Cir. 2004) (quashing trial subpoena for patient records on patient-privacy
 13 grounds). If anything, DOJ’s willingness to shift from one procedural mechanism to another
 14 underscores why the proposed class requires broad injunctive relief that bars DOJ from obtaining
 15 PHI by any means that would violate Plaintiffs’ rights.

16 **II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIM THAT DOJ’S**
 17 **DEMAND FOR THEIR IDENTIFYING INFORMATION AND PHI WOULD**
 18 **VIOLATE THEIR RIGHT TO INFORMATIONAL PRIVACY**

19 “[F]ederal constitutional law recognizes a ‘right to informational privacy’ stemming from
 20 ‘the individual interest in avoiding disclosure of personal matters.’” *Endy v. Cnty. of Los Angeles*,
 21 975 F.3d 757, 768 (9th Cir. 2020) (quoting *In re Crawford*, 194 F.3d 954, 958 (9th Cir. 1999));
 22 *see also Doe v. Bonta*, 101 F.4th 633, 637 (9th Cir. 2024). The Supreme Court first recognized
 23 that interest in *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977).⁹

24 The Ninth Circuit has expressly recognized the right to informational privacy and has
 25 applied it to compelled disclosures of medical information by health care providers. *See Doe v.*
 26 *Garland*, 17 F.4th 941, 947 (9th Cir. 2021); *Tucson Woman’s Clinic v. Eden*, 379 F.3d 531, 551-

27 ⁹ The Supreme Court did not reject “the right to shield information from disclosure” in *Dobbs v.*
 28 *Jackson Women’s Health Organization*, but instead found that *Roe v. Wade* had “conflated” it
 with a “very different” “right to make . . . important personal decisions.” 597 U.S. 215, 273
 (2022).

1 53 (9th Cir. 2004), *overruled in part on other grounds by Dobbs v. Jackson Women’s Health Org.*,
2 597 U.S. 215 (2022); *Endy*, 975 F.3d at 768. The Ninth Circuit’s decision in *Tucson Woman’s*
3 *Clinic* is most instructive. There, Arizona enacted a statutory and regulatory scheme requiring
4 providers of abortion health care to permit “warrantless, unbounded inspections of their offices”
5 by employees of the Department of Health Services and to provide access to patients’ unredacted
6 medical records. 379 F.3d at 537. The state also required providers to submit “ultrasound prints
7 with patient identifying information on them to a private contractor” for review. *Id.* at 553. The
8 Ninth Circuit affirmed summary judgment for the providers on their patients’ informational-
9 privacy claim. *Id.* DOJ’s demand for patient medical records pursuant to the grand jury subpoena
10 here, and broader efforts to obtain the same information by other means, violates Plaintiffs’ right
11 to informational privacy for the same reasons set forth in *Tucson Woman’s Clinic*.

12 The Ninth Circuit balances several factors “to determine whether the governmental interest
13 in obtaining information outweighs the individual’s privacy interest,” namely: “(1) the type of
14 information requested, (2) the potential for harm in any subsequent non-consensual disclosure, (3)
15 the adequacy of safeguards to prevent unauthorized disclosure, (4) the degree of need for access,
16 and (5) whether there is an express statutory mandate, articulated public policy, or other
17 recognizable public interest militating toward access.” *Id.* (citing *Planned Parenthood v. Lawall*,
18 307 F.3d 783, 790 (9th Cir. 2002)). Each factor weighs against disclosure here.

19 **A. The Information Requested Is Highly Sensitive.**

20 The first factor weighs heavily against disclosure because the information sought by the
21 subpoena “is extremely broad, and includes patient identifying information such as names and full
22 medical histories.” *Id.* at 552. The grand jury subpoena seeks information “sufficient to identify”
23 each LPCH patient who received transgender medical care, and for each such patient, all
24 “documents relating to the clinical indications, diagnoses, or assessments that formed the basis
25 for” that care. ECF 31-2 at 7-8. The records demanded for each proposed class member are among
26 the most sensitive categories of personal information,¹⁰ essentially requiring disclosure of each

27
28 ¹⁰ See, e.g., ECF 3-5 ¶ 4 (“We had very personal conversations with Stanford providers about

1 class member’s complete medical file as it relates to transgender medical care. The Ninth Circuit
 2 has repeatedly held that such medical records are “‘highly sensitive’ personal information”
 3 protected by the right to privacy. *Doe*, 101 F.4th at 637 (quoting *Garland*, 17 F.4th at 947).

4 These privacy interests are especially strong because the records at issue concern minors’
 5 medical care. Courts reviewing materially identical government subpoenas have recognized that
 6 demands for children’s identities and confidential medical records trigger heightened privacy
 7 concerns. *See In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 594 (holding that DOJ’s
 8 demands for children’s identities and clinical records implicated “intensely personal and sensitive
 9 medical information warranting the highest level of protection”); *In re CNH Subpoena*, 2026 WL
 10 160792, at *8. This factor strongly favors Plaintiffs and the proposed class.

11 **B. Nonconsensual Disclosure Would Cause Grave Harm.**

12 The second factor also weighs decisively against disclosure, as “[t]he potential for harm in
 13 any subsequent non-consensual disclosure is obviously tremendous[.]” *Tucson Woman’s Clinic*,
 14 379 F.3d at 552. That concern is especially acute where, as here, disclosure would reveal
 15 information that is stigmatizing or likely to expose a person to discrimination, harassment, or
 16 violence. *See Crawford*, 194 F.3d at 960 (disclosure of HIV status or sexual orientation can “lead
 17 directly to injury, embarrassment or stigma”); *Powell v. Schriver*, 175 F.3d 107, 111-12 (2d Cir.
 18 1999) (recognizing constitutional privacy interest in transgender status).

19 The potential for harm is not speculative. Disclosure would expose proposed class
 20 members and their families to the risk of harassment, discrimination, damage to educational and
 21 employment opportunities, loss of access to health care, government targeting, family separation,
 22 and prosecution.¹¹ Disclosure would also involuntarily reveal proposed class members’

23
 24 fertility, sexuality, mental health, depression, the long-term impacts of medical treatment, and
 25 other matters that my daughter would not want disclosed to anyone outside of her care team.”)
 26 ¹¹ *See, e.g.*, ECF 3-4 ¶ 10 (“I fear that the government wants to prosecute providers, and possibly
 27 even parents, for seeking care that is in the best interests of transgender children. My greatest fear
 28 is that the government could try to take my child away from me because I supported his care.”);
 ECF 3-6 ¶ 12 (“Disclosure would make me fear for my family’s safety. I am scared of death
 threats, harassment of my child, and professional consequences for me, including being fired from
 my job.”); ECF 3-8 ¶ 12 (“Disclosure would affect both my son’s physical safety and mental
 health. I am scared for him being outed when he has not chosen to be, especially because he is

1 transgender status and their receipt of transgender medical care to federal law-enforcement
2 officials. For several Plaintiffs, that information is not publicly known.¹² Involuntary disclosure of
3 a minor’s transgender status is itself a serious harm, exposing the child “to stigma, bullying, fear,
4 and violence.” *D.T. v. Christ*, 552 F. Supp. 3d 888, 897 & n.8 (D. Ariz. 2021).

5 That risk is magnified by the context in which DOJ has sought these records. The President
6 has declared that pediatric transgender medical care “must end,” and the Attorney General has
7 characterized that care as “mutilation” and a “warped ideology.” The Administration’s widely
8 publicized campaign, across multiple agencies, to denigrate, investigate, and deter providers from
9 offering and patients from seeking transgender medical care gives rise to a realistic concern that
10 Plaintiffs’ information will be broadly disseminated within the government and used for purposes
11 unrelated to any legitimate investigation. Courts reviewing materially identical HIPAA subpoenas
12 have credited the same concern. *See In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 599-600.
13 In this environment, compelled disclosure of Plaintiffs’ identities and medical records would
14 expose them and their families to the harms the informational-privacy doctrine exists to prevent.

15 Disclosure would also harm the doctor-patient relationship.¹³ The records at issue were
16 generated in a relationship of trust between patients, parents, physicians, and mental-health
17 providers. Compelled disclosure would breach that relationship and undermine the very conditions
18 that permit accurate diagnosis, effective treatment, and candid disclosure of sensitive information.
19 *See In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 600-01 (“Patients and families who

20
21 entering high school. His whole life would change if his medical records were disclosed.”); ECF
22 3-9 ¶ 13 (“Disclosure of my records would cause severe emotional harm.”).

23 ¹² *See, e.g.*, ECF 3-6 ¶ 5 (“My child has come out to only a couple of people. They are not publicly
24 telling people that they are transgender.”); ECF 3-7 ¶ 4 (“My son prefers not to talk about the fact
25 that he is transgender. His friends and many of the people he interacts with do not know that he is
26 transgender.”); ECF 3-8 ¶ 5 (“My son is not publicly out as transgender. His school, friends, and
27 community do not know that he is transgender. He is also a very private person generally.”).

28 ¹³ *See, e.g.*, ECF 3-4 ¶ 11 (“Disclosure would affect our family’s willingness to seek care and
share sensitive information in the future . . . If Stanford turns over our information, we would
never go back there, and it would be incredibly difficult to find providers who are as competent
and whom my son would trust.”); ECF 3-5 ¶ 5 (“Privacy was essential to my daughter’s ability to
process what she was experiencing and to speak candidly with providers. She would not have been
willing to speak openly with Stanford providers if she knew that information could be disclosed
outside the medical-care setting.”); ECF 3-7 ¶ 5 (“It was important that my son felt Stanford was a
safe place and that the providers were there to help him. Privacy was important to his ability to
participate in care.”).

1 believe their medical records can be turned over to federal investigators will understandably
2 hesitate to seek care, withhold critical information from their doctors, or avoid treatment for
3 gender-affirming concerns[.]”). If DOJ obtains records relating to the transgender medical care
4 proposed class members’ received, then proposed class members will reasonably fear that
5 information disclosed in confidence to health care providers can later be turned over to law
6 enforcement. Courts have repeatedly recognized that such fear chills access to care and
7 undermines candor in treatment. *See, e.g., Nw. Mem. Hosp.*, 362 F.3d at 929 (cautioning that
8 hospital “will lose the confidence of its patients, and persons with sensitive medical conditions
9 may be inclined to turn elsewhere for medical treatment” if it fails to “shield the medical records
10 of its abortion patients from disclosure”); *Planned Parenthood Fed’n of Am., Inc. v. Ashcroft*, No.
11 03-cv-4872, 2004 WL 432222, at *2 (N.D. Cal. Mar. 5, 2004) (“[P]otential for injury to the
12 relationship between patient and provider is significant”).

13 **C. No Adequate Safeguards Against Unauthorized Disclosure or Misuse**

14 The third factor—the adequacy of safeguards to prevent unauthorized disclosure—also
15 weighs strongly against disclosure. As in *Tucson Woman’s Clinic*, there are no adequate
16 protections “against release of information to government employees who have no need for the
17 information.” 379 F.3d at 552. “Even if a law adequately protects against public disclosure of a
18 patient’s private information, it may still violate informational privacy rights if an unbounded,
19 large number of government employees have access to the information.” *Id.* at 551-52.
20 The subpoena itself offers no safeguards or guarantees concerning the use of Plaintiffs’ identities
21 or private medical records, no information concerning the investigatory purpose for which the
22 government is seeking the records or to whom they may be disclosed, no details on which
23 government employees will have access to these records, and no assurances that these records will
24 not be used to harass or intimidate Plaintiffs or others who have received transgender health care.

25 Federal Rule of Criminal Procedure 6(e) does not cure the problem. Although Rule 6(e)
26 establishes some constraints on public disclosure of grand jury information, it contains exceptions
27 permitting disclosure to “an attorney for the government for use in performing that attorney’s
28 duty,” disclosure to federal or state government personnel “that an attorney for the government

1 considers necessary to assist in performing that attorney’s duty to enforce federal criminal law,”
2 and disclosure to another federal grand jury. Fed. R. Crim. P. 6(e)(3)(A)(i), (ii); 6(e)(3)(C). Those
3 exceptions do not meaningfully limit intra-governmental dissemination or prevent use of
4 Plaintiffs’ information for purposes far removed from any lawful need for their medical records.

5 These limitations do not prohibit the government from using information obtained from a
6 grand jury subpoena against patients in other criminal proceedings, or against patients’ parents, a
7 group of people whom the government has, in no uncertain terms, accused of child abuse, despite
8 overwhelming evidence that what these parents are doing—supporting their transgender children
9 in lawfully obtaining essential medical care—leads to positive outcomes for these youth. Indeed,
10 DOJ announced its intention to partner with state attorneys general to identify leads, share
11 intelligence, and build cases against hospitals and practitioners, and the Attorney General directed
12 all U.S. Attorneys to investigate all suspected cases of transgender medical treatment and to
13 prosecute all offenses to the fullest extent possible.¹⁴ *See In re. Subpoena No. 25-1431-014*, 810 F.
14 Supp. 3d at 603 (applying analogous factor to similar requests and concluding that DOJ “offers
15 nothing to mitigate a concern for these children and their families given these pronouncements”).
16 Such information sharing is particularly concerning to any parent who sought lawful, medically
17 recommended care for their transgender child that is now being falsely characterized as abuse.

18 Recent history also shows a disregard by DOJ for the standards that have traditionally
19 governed grand jury practice. *See United States v. Comey*, 809 F. Supp. 3d 396, 414 (E.D. Va.
20 2025) (ordering release of grand jury materials after “an FBI agent and a prosecutor” “potentially

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22
23
24 ¹⁴ *See* Memorandum for Select Component Heads re Preventing the Mutilation of American
25 Children, Off. Att’y Gen. at 3-4, 5 (Apr. 22, 2025), <https://www.justice.gov/ag/media/1402396/dl>
26 (directing all U.S. Attorneys to investigate and prosecute all suspected providers of “gender-
27 affirming care,” directing other components of DOJ to investigate FCA and FDCA claims based
28 on same, and announcing partnership with state attorneys general to support state-level
prosecution of these providers); Department of Justice Subpoenas Doctors and Clinics Involved in
Performing Transgender Medical Procedures on Children, Dep’t of Just., Off. of Pub. Affs. (July
9, 2025), [https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-
involved-performing-transgender-medical](https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical) (stating that medical professionals and organizations
who provide this care “in the service of a warped ideology will be held accountable by this
Department of Justice”).

1 undermine[d] the integrity of the grand jury proceeding”).¹⁵ Thus, even if grand jury secrecy could
 2 provide adequate protection in some context, the Court should not entrust it to do so here. The
 3 third factor strongly favors Plaintiffs.

4 **D. No Demonstrated Need for Plaintiffs’ Identities or PHI**

5 The fourth factor—the government’s degree of need for access—likewise weighs strongly
 6 against disclosure. As in *Tucson Woman’s Clinic*, “[w]eighing even further against the medical
 7 record access is the fact that there is little, if any, need for much of this information, such as the
 8 names and addresses of patients.” *Id.* at 552. The subpoena offers no indication of the purpose for
 9 which Plaintiffs’ information is being demanded. It does not state why Plaintiffs’ medical records
 10 are relevant to any investigation that may be underway, let alone offer any explanation as to why
 11 that investigation could not be conducted without that information. This mismatch between the
 12 information sought and any legitimate investigative need is fatal under the Ninth Circuit’s
 13 balancing test. In decisions quashing substantively similar DOJ administrative subpoenas seeking
 14 transgender patients’ private medical records, numerous district courts have found that DOJ failed
 15 to establish any legitimate purpose or need for seeking the identities of transgender patients and
 16 the most intimate details of their medical histories and treatment. *See In re CNH Subpoena*, 2026
 17 WL 160792, at *8 (“If the Government is pursuing FDCA violations, it is utterly unclear to this
 18 court why the Government demands production of adolescent patient records.”); *In re Subpoena*
 19 *No. 25-1431-014*, 810 F. Supp. 3d at 605 (“Nothing in the present record establishes a need . . . for
 20 the patient-identifying clinical files . . .”).

21 The Eastern District of Pennsylvania’s analysis of substantively identical patient-data
 22 requests is especially instructive. The court distinguished between requests for billing data,
 23

24 _____
 25 ¹⁵ *See also* Sara Tenenbaum & Todd Feurer, *All charges dismissed against “Broadview Six,”*
 26 *defense says grand jury transcript revealed “gross misconduct,”* CBS News (May 22, 2026),
 27 <https://perma.cc/4JPF-TM6D> (prosecutors dismissed charges after the revelation of myriad abuses
 28 of the grand jury system, including “improper prosecutorial communications of a substantive
 nature with the grand jurors outside of the grand jury room”); Benjamin S. Weiss, *DOJ may have
 disclosed secret grand jury material to Congress, violated judicial gag order in Trump classified
 documents case*, Courthouse News Service (Mar. 25, 2026), <https://perma.cc/9N69-BNKD>
 (reporting that, on March 13, 2026, DOJ produced information to the House Committee on the
 Judiciary that contained grand jury material).

1 insurance-claim submissions, coding guidance, communications with insurers, and manufacturer-
2 related materials—which could plausibly relate to the commercial conduct DOJ invoked—and
3 requests for child-patient identities, psychosocial evaluations, diagnoses, treatment rationales,
4 informed-consent forms, intake assessments, and family-authorization documents. The latter
5 materials, the court held, “reflect individualized clinical care and deeply personal medical
6 disclosures” and “do not speak to how products were labeled, marketed, introduced into interstate
7 commerce, or billed to health care benefit plans.” *In re Subpoena No. 25-1431-014*, 810 F. Supp.
8 3d at 578. The same distinction controls here because Subpoena Specifications 12 through 14 seek
9 the same patient-identifying categories the court in the CHOP case found disconnected from
10 DOJ’s stated FDCA and fraud theories. The District of Maryland agreed: “The Government seeks
11 to investigate how the Hospital treats its patients,” but “the FDCA regulates commerce, not patient
12 care.” *In re CNH Subpoena*, 2026 WL 160792, at *8.

13 DOJ’s own conduct in the administrative subpoena context reinforces the conclusion that
14 patient-identifying information is unnecessary for any legitimate investigation. On May 6, 2026,
15 DOJ dismissed its appeal of the Eastern District of Pennsylvania’s order striking Requests 11-13
16 in the substantively identical subpoena to Children’s Hospital of Philadelphia. Br. in Supp. of Mot.
17 to Confirm Jurisdiction at 4, *In re Subpoena No. 25-1431-014*, No. 2:25-mc-00039 (E.D. Pa. May
18 6, 2026) (ECF 47-1). That dismissal confirms what multiple courts have independently concluded:
19 DOJ can pursue any genuine FDCA or fraud investigation without obtaining children’s identities
20 or medical files. If DOJ does not need this information to investigate CHOP, it cannot demonstrate
21 any greater need for the information as it relates to LPCH and other hospitals in California.

22 Moreover, even if the subpoena did not on its face require production of unredacted
23 medical records, redaction of certain items such as names and addresses could not avert the
24 realistic risk of reidentification of Plaintiffs and disclosure of their intimate medical details.¹⁶ In a

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26 ¹⁶ See, e.g., ECF 3-4 ¶ 12 (“I do not believe removing names or obvious identifiers would protect
27 my child’s privacy. Details such as his age, dates of care, treatment history, providers, diagnosis,
28 family circumstances, and location of care could still identify him.”); ECF 3-8 ¶ 14 (“I do not
believe removing names or obvious identifiers would protect my child’s privacy. With advanced
technology and the details contained in medical records, I believe it would be easy to identify my
son and our family.”).

1 closely analogous context, the Seventh Circuit affirmed an order quashing a DOJ subpoena for
2 redacted abortion records. *See Nw. Mem'l Hosp.*, 362 F.3d at 929-31. The court emphasized that in
3 a highly charged social environment, acquaintances or “skillful ‘Googlers’” can “put two and two
4 together,” that granular clinical narratives or descriptions contained in redacted medical records
5 can effectively reidentify patients, and that compelled disclosures erode patients’ trust in medical
6 providers and discourage them from seeking needed care. *Id.* That rationale applies with added
7 force to DOJ given the many investigative techniques it has at its disposal. DOJ is not limited to
8 skillful Googling, and can instead serve subpoenas on other entities or compare redacted patient
9 documents to information it has from other databases, such as claims submitted to Medicaid and
10 other federal health programs.

11 Finally, DOJ seeks the information at issue, which has no legitimate connection to any
12 criminal investigation, for the “improper purpose” of seeking to “end the very practice it claims to
13 be merely investigating.” *QueerDoc*, 807 F. Supp. 3d at 1303-04. Current federal directives
14 expressly target transgender health care, describe it as “mutilation,” direct government-wide
15 action, and call for coordinated investigations and information sharing with state authorities. This
16 antagonistic environment magnifies every factor identified by the court in *Northwestern*
17 *Memorial*: the concrete risk of reidentification despite redaction; the dignitary injury from
18 disclosure of intimate details; the severe chilling effect on access to care; and the undermining of
19 institutional trust. In short, DOJ’s receipt of even so-called “de-identified” or redacted records
20 would endanger privacy and safety and chill minors’ access to medically necessary care. The
21 fourth factor favors Plaintiffs.

22 **E. No Statutory Mandate, Public Policy, or Recognizable Public Interest**
23 **Justifies Disclosure of Plaintiffs’ Identifying Information and PHI.**

24 The fifth factor—whether an express statutory mandate, articulated public policy, or other
25 recognizable public interest militates toward access—also weighs against disclosure. The primary
26 statutory mandate at issue, HIPAA, ordinarily prohibits medical providers from disclosing PHI. 45
27 C.F.R. § 164.502(a). While HIPAA ordinarily contains an exception for grand jury subpoenas, 45
28 C.F.R. § 164.512(f)(1)(ii)(B), an “invalid” grand jury subpoena “may not be used for any

1 purpose,” *In re Horn*, 976 F.2d 1314, 1319 (9th Cir. 1992), including to establish an exception to
2 HIPAA. HIPAA’s mandate thus weighs against disclosure here.

3 The subpoena does not reveal how disclosure of Plaintiffs’ identifying information and
4 PHI promotes any identifiable public interest. To the contrary, the record indicates that DOJ is
5 using the grand jury subpoena to obtain the same patient-identifying records that multiple courts
6 have already held it was not entitled to obtain through materially similar administrative subpoenas.
7 Even if the government could show some legitimate purpose for its investigation generally,
8 nothing in the subpoena indicates how disclosure of Plaintiffs’ identities and PHI “promotes this
9 need.” *Tucson Woman’s Clinic*, 379 F.3d at 553. Under *Tucson Woman’s Clinic*, a generalized
10 invocation of a public interest in law enforcement cannot automatically override constitutional
11 privacy rights in highly sensitive medical records. If it could, the balancing test would have no
12 force in the very cases where it matters most. The government must identify a concrete and
13 particularized interest in the specific information sought. It has not done so.

14 The articulated public policy surrounding the subpoena cuts the other way. The
15 Administration has publicly declared that pediatric transgender medical care “must end,”
16 described this care in stigmatizing and inflammatory terms, and directed DOJ to use federal
17 enforcement tools to end it. In related subpoena litigation, courts have repeatedly found that DOJ’s
18 demands for transgender minors’ identifying information and PHI were tied to an improper effort
19 to target this care rather than any legitimate need for children’s medical files. *See QueerDoc*, 807
20 F. Supp. 3d at 1304 (“[T]he subpoena serves to pressure providers to cease offering gender-
21 affirming care rather than to investigate specific unlawful conduct.”); *In re 2025 Subpoena to*
22 *Children’s Nat’l Hosp.*, 2026 WL 160792, at *8 (“[T]he Subpoena is a pretext to fulfill the
23 Executive’s well-publicized policy objective to terminate and block gender affirming
24 healthcare.”); *In re 2025 Admin. Subpoena to R.I. Hosp.*, 2026 WL 1392565, at *8 (“The
25 Administration has publicly characterized gender-affirming care for minors as abuse, directed the
26 DOJ to bring its practice to an end, and celebrated when hospitals curtailed such programs as a
27 result of this subpoena campaign.”).

28 The public interest favors protecting minors’ medical privacy, preserving the

1 confidentiality of the doctor-patient relationship, preventing misuse of law-enforcement authority
 2 to expose stigmatized medical information, and ensuring that patients and families can seek lawful
 3 medical care without fear that their most intimate records will be turned over to the federal
 4 government. The fifth factor strongly favors Plaintiffs.

5 In sum, an assessment of the *Tucson Woman’s Clinic* factors shows that LPCH’s
 6 disclosure of Plaintiffs’ identifying information and PHI would violate Plaintiffs’ informational
 7 privacy rights. Plaintiffs are likely to succeed on this claim. At a minimum, Plaintiffs raise serious
 8 questions going to the merits, warranting preliminary relief to prevent disclosure while this action
 9 proceeds.

10 **III. PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIM THAT DOJ’S**
 11 **REQUESTS FOR THEIR INFORMATION VIOLATE THE FIRST**
 12 **AMENDMENT**

13 “Throughout history, governments have ‘manipulat[ed] the content of doctor-patient
 14 discourse’ to increase state power and suppress minorities.” *Nat’l Inst. of Fam. & Life Advoc. v.*
 15 *Becerra*, 585 U.S. 755, 771 (2018). But free and open communication between medical providers,
 16 patients, and their families is protected by the First Amendment. *Id.* “Physicians must be able to
 17 speak frankly and openly to patients.” *Conant v. Walters*, 309 F.3d 629, 636 (9th Cir. 2002)
 18 (upholding a permanent injunction of government investigations into doctors recommending
 19 medical marijuana). For this reason, the Ninth Circuit has long recognized the First Amendment’s
 20 protection of communications between doctors and providers and their patients, particularly where
 21 the government discriminates based on viewpoint. *See id.* at 673; *see also Planned Parenthood*
 22 *Great Nw., Hawaii, Alaska, Indiana, Kentucky v. Labrador*, 122 F.4th 825, 844 (9th Cir. 2024)
 23 (finding likelihood of success and affirming preliminary injunction where law “forbids expression
 24 of a particular viewpoint” in doctor-patient communications).

25 The Supreme Court has recently held that subpoenas can infringe First Amendment rights.
 26 *Davenport*, 146 S. Ct. at 1125. In *Davenport*, the New Jersey Attorney General subpoenaed
 27 information about a nonprofit’s donors to investigate whether the organization had “misled” them.
 28 *Id.* at 1120. The Supreme Court held that the issuance of the subpoena “established a present
 injury to [the recipient’s] First Amendment associational rights” for purposes of Article III

1 standing. *Id.* at 1124. Because the recipient’s “prospective partners would be hesitant to risk the
2 revelation of their personal information through government investigation,” the subpoena
3 discouraged “people from associating with groups” and also encouraged “groups and individuals
4 to cease or modify protected First Amendment advocacy the government disfavors.” *Id.* at 1125.

5 The grand jury subpoena here will encourage members of the proposed class to “cease or
6 modify protected First Amendment” communications with their doctors, both at LPCH and at any
7 other healthcare provider. *Davenport*, 146 S. Ct. at 1125. Courts have recognized that “[p]atients
8 and families who believe their medical records can be turned over to federal investigators will
9 understandably hesitate to seek care, withhold critical information from their doctors, or avoid
10 treatment for gender-affirming concerns[.]” *In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at
11 600-01; *see also Nw. Mem. Hosp.*, 362 F.3d at 929 (cautioning that hospital “will lose the
12 confidence of its patients” if it fails to “shield the medical records of its abortion patients from
13 disclosure”). The individual Plaintiffs have submitted declarations stating that they “would not
14 have been willing to speak openly with LPCH providers if [they] knew that information could be
15 disclosed outside the medical-care setting.” B.B. Decl. dated June 8, 2026 (“B.B. Decl.”) ¶ 5.¹⁷

16 The grand jury subpoenas will additionally deprive Plaintiffs and the proposed class of
17 their right to receive the candid guidance from their providers in California-based hospitals that
18 does not align with DOJ’s beliefs regarding transgender healthcare. It is well-established that the
19 First Amendment protects good-faith medical and scientific disagreement. *See Chiles v. Salazar*,
20 146 S. Ct. 1010, 1022-23, 1029 (2026). Where the government has taken action to limit a
21 provider’s ability to communicate a certain perspective or provide information on certain care,
22 such actions are subject to strict scrutiny. *See id.* Here, the subpoenas seek vast troves of
23 information on any individual who “underwent Sex-Rejecting Procedures.” The definition of “Sex
24 Rejecting Procedures” includes medical and clinical interventions, as well as clinical services that
25 are “functionally integral to, preparatory for, or undertaken in furtherance of” those interventions.
26 The subpoena thus seeks records concerning even purely preliminary discussions, intakes, or
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28 ¹⁷ *See also* ECF 3-7 ¶ 5 (“It was important that my son felt Stanford was a safe place and that the providers were there to help him. Privacy was important to his ability to participate in care.”).

1 evaluations. Knowing that their speech in such encounters regarding gender-related care will be
 2 scrutinized, doctors will limit their communications with their patients on these topics. This, in
 3 turn, will deprive Plaintiffs and the proposed class of their right to receive these communications.
 4 *See Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 756 (1976)
 5 (“[T]he protection afforded is to the communication, to its source and to its recipients both.”).

6 The First Amendment harm is particularly acute here because the grand jury subpoena to
 7 LPCH discriminates based on “viewpoint.” *Planned Parenthood*, 122 F.4th at 844. The
 8 subpoena’s definition of “Sex Rejecting Procedures” includes medical procedures only when they
 9 have the “purpose of aligning with or affirming a minor’s asserted gender identity rather than the
 10 minor’s biological sex.” ECF 31-2 at 6. Whether communications fall within the subpoena’s scope
 11 thus depends on whether the minor “assert[s]” a “gender identity” that differs from their
 12 “biological sex.” The subpoena is clear that an “intervention is considered a Sex-Rejecting
 13 Procedure based on its intended purpose.” *Id.* Two identical prescriptions can be treated
 14 differently under the subpoena based entirely on the patient’s and the doctor’s viewpoint about
 15 potential differences between gender and sex. “When the government targets not subject matter,
 16 but particular views taken by speakers on a subject, the violation of the First Amendment is all the
 17 more blatant.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

18 Because the grand jury subpoena discriminates based on viewpoint and will chill protected
 19 communications, Plaintiffs are likely to succeed on their First Amendment claims.

20 **IV. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT A**
 21 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

22 The irreparable harm standard is satisfied as to each Plaintiff, and the proposed class. The
 23 Ninth Circuit has held that the threatened deprivation of constitutional rights, for even minimal
 24 periods of time, “unquestionably constitutes irreparable injury.” *Melendres*, 695 F.3d at 1002
 25 (quoting *Elrod*, 427 U.S. at 373). That rule applies here because Plaintiffs have shown, at a
 26 minimum, serious questions that DOJ’s receipt of their PHI would violate their constitutional
 27 rights. In any event, the harm to proposed class members from disclosure is independently
 28 irreparable on its own terms. Once DOJ obtains the records from any source, proposed class

1 members' privacy interest in the information the records contain is permanently and irrevocably
2 destroyed. The federal government will possess records of the most intimate details of each class
3 member's medical history—including the diagnoses and clinical assessments that supported each
4 member's care; the specific treatments received; and the results of that care—obtained without
5 notice or any opportunity for proposed class members to object on grounds of privilege or
6 constitutional protection. No damages award can restore the confidentiality of that information.

7 The harm is also imminent. The return date for the grand jury subpoena issued to LPCH is
8 June 10, 2026. On information and belief, other California hospitals may have the same return
9 date. Without a TRO issued before that date, the constitutional harm will be complete as to
10 proposed class members and the Court will no longer have any effective means of providing the
11 relief sought in this litigation. The imminence of the constitutional harm is not speculative—it will
12 occur within this District on a specific known date absent judicial intervention.

13 The pendency of the grand jury proceeding in the Northern District of Texas heightens,
14 rather than diminishes, the need for emergency relief here. Plaintiffs' records, providers, and
15 treatment relationships are in this District, and Defendants are subject to this Court's personal
16 jurisdiction. LPCH's production of Plaintiffs' private medical records would occur from
17 California. Plaintiffs have no records, residence, treatment relationship, or other connection to
18 Texas that would make it reasonable to require them to seek relief there on the eve of disclosure.
19 This Court is the forum with the most direct connection to Plaintiffs and the threatened injury.

20 **V. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST TIP SHARPLY**
21 **IN FAVOR OF PRELIMINARY RELIEF**

22 The balance of equities tips sharply in favor of granting preliminary relief to preserve the
23 status quo and prevent an irreparable infringement of Plaintiffs' constitutional rights. Denial of
24 relief would result in the permanent and irreversible destruction of Plaintiffs' privacy interest in
25 their identifying information and PHI. This is a harm that, once inflicted, cannot be undone
26 regardless of how this litigation ultimately resolves. DOJ, in contrast, would suffer no cognizable
27 harm from interim relief. The government has no cognizable interest in obtaining Plaintiffs'
28 records by unconstitutional means. If the subpoena is constitutionally permissible, contrary to

1 what at least eight federal district court decisions have found, then the government suffers nothing
2 but a temporary delay in reviewing Plaintiffs’ records, one small part of an investigation that the
3 government’s public statements confirm has gone on for nearly 12 months and involve its attempt
4 to obtain the records of every patient treated by more than 20 doctors and clinics around the
5 country. In a similar proceeding in the Southern District of New York relating to the grand jury
6 subpoena served on NYU Langone, DOJ agreed not to require any New York City hospital to
7 “produce or disclose any material covered by the lawsuit (i.e., identifying and sensitive health
8 information) . . . before June 24, 2026.” *Coe v. Blanche*, No. 1:26-cv-4641, ECF 21 at 1
9 (S.D.N.Y.). The time period covered by that agreement, 14 days after the subpoena’s return date,
10 is exactly what would be covered by the TRO requested here.

11 The public interest also strongly favors relief. “[I]t is always in the public interest to
12 prevent the violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002 (quoting
13 *Sammartano v. First Judicial Dist. Ct.*, 303 F.3d 959, 974 (9th Cir. 2002)). The public interest
14 here is amplified by the scope of the threatened constitutional violation. The government’s
15 simultaneous targeting of multiple transgender individuals who reside in this District—and many
16 more proposed class members across California—highlights the public importance of ensuring
17 that any investigation is conducted through constitutionally valid methods. If this Court denies
18 preliminary relief, the government’s improper effort to deter pediatric transgender medical care
19 will proceed unchecked. The privacy of multiple residents of this District will be permanently
20 compromised, and the chilling effect on transgender individuals’ willingness to seek medically
21 necessary care will be felt across the community. This Court’s intervention to ensure
22 constitutional compliance before widespread harm is inflicted is squarely in the public interest.

23 CONCLUSION

24 For the foregoing reasons, Plaintiffs respectfully request that the Court issue a temporary
25 restraining order barring DOJ from obtaining proposed class members’ PHI in violation of their
26 constitutional rights for fourteen days, and that it further issue an order to show cause why a
27 preliminary injunction should not issue before the temporary restraining order expires.

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Respectfully submitted,

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/s/ Caleb Hayes-Deats

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*motion for admission *pro hac vice* granted