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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 Z.A., a minor, by and through their parent,
18 A.A.; Z.B., a minor, by and through their
19 parent, B.B.; Z.C., a minor, by and through
20 their parent, C.C.; Z.D., a minor, by and
21 through their parent, D.D.; Z.E., a minor,
22 by and through their parent, E.E.; and F.F.,

Plaintiffs,

v.

22 LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD, a
23 California nonprofit public benefit corporation,

Defendant.

Case No. 5:26-cv-04998

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

**RELIEF REQUESTED BY 5:00 P.M.,
JUNE 9, 2026**

Trial Date: None Set

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 27 362 F.3d 923 (7th Cir. 2004)..... 10, 16, 20

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12 573 U.S. 149 (2014)..... 7

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Since January 2025, the federal government has leveraged the weight of its power to target
4 essential medical care for transgender minors. As part of this effort, the Department of Justice
5 (“DOJ”) served substantively identical administrative subpoenas on health care providers across the
6 country, trying to compel hospitals and providers across the country to disclose the identities and
7 protected health information (“PHI”) of transgender minors and young adults who received lawful
8 medical care. Courts reviewing those earlier administrative subpoenas have nearly-unanimously
9 rejected those efforts as untethered to any legitimate investigative need, as an impermissible intrusion
10 on patients’ privacy, and as designed for no purpose other than to intimidate and harass hospitals,
11 patients, and providers.

12 In the face of these court orders precluding the use of administrative subpoenas, DOJ is now
13 seeking this same information, but under a different name. It obtained grand jury subpoenas issued
14 from the Northern District of Texas that seek identical, private material. These grand jury subpoenas,
15 like their administrative precursors, are part of the same federal effort that court after court has found
16 illegitimate. And, like the other subpoenas, these would also trample on individuals’ privacy interests.

17 On information and belief, DOJ has issued one such subpoena to Stanford. The subpoena is,
18 in every sense of the word, compulsory. It forces Stanford to transmit the Plaintiffs’ intimate and
19 personally identifying information to the government, all under the threat of contempt and possible
20 criminal sanctions. By leaving Stanford with no choice but to turn over patients’ private health
21 information, the government is commandeering Stanford into becoming an agent of its unlawful
22 efforts to obtain medical information without patients’ knowledge or consent.

23 Plaintiffs—transgender minors and young adults who are or have received pediatric
24 transgender medical care in this District at the Stanford Medicine Children’s Health Pediatric &
25 Adolescent Gender Clinic—bring this action against Stanford to prevent it from unconstitutionally
26 disclosing their information to the government. They seek narrow, emergency relief aimed at halting
27 the unlawful conduct: the transfer of their medical records from Stanford to the government. The
28 requested order would not bar any lawful investigation or impede on the work of the grand jury;

1 instead, it would prevent Stanford—the custodian of the records, and a private medical provider that
2 is being used as an instrument of government—from irreversibly disclosing Plaintiffs’ identities and
3 protected health information while this Court considers whether the compelled disclosure of their
4 most sensitive medical records would violate the Constitution. Because disclosure would
5 immediately and irreparably harm Plaintiffs’ constitutional rights, this Court should provide this
6 urgently needed relief.

7 **II. STATEMENT OF FACTS**

8 **A. THE TRUMP ADMINISTRATION EMBARKS ON AN EFFORT TO END** 9 **PEDIATRIC TRANSGENDER MEDICAL CARE**

10 The Trump Administration has pledged to end pediatric transgender medical care. On
11 January 28, 2025, the President issued Executive Order 14187, “Protecting Children from Chemical
12 and Surgical Mutilation,” which declared “it is the policy of the United States that it will not fund,
13 sponsor, promote, assist, or support” any child’s “transition,” branded such care for minors a “stain
14 on our Nation’s history” that “must end,” and directed the Attorney General to “prioritize
15 enforcement of protections against” such care. Exec. Order No. 14187, 90 Fed. Reg. 8771 (Feb. 3,
16 2025). Within days, the White House announced that the order was “already having its intended
17 effect,” listing hospitals that had paused or ended treatment.¹

18 The United States Department of Justice (“DOJ”) promptly took action to effectuate this
19 mandate. In April 2025, the Attorney General issued a memorandum, “Preventing the Mutilation of
20 American Children,” directing U.S. Attorneys to “partner with state attorneys general to identify
21 leads, share intelligence, and build cases against hospitals and practitioners,” and warning DOJ would
22 “hold accountable those who mutilate [our children] under the guise of care.”² In June 2025, the Civil
23 Division ordered components to “prioritize investigations of doctors, hospitals, pharmaceutical
24

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

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

1 companies, and other appropriate entities” providing such care to minors.³

2 **B. AS PART OF THAT CAMPAIGN, THE ADMINISTRATION ISSUES MORE**
 3 **THAN 20 SUBSTANTIVELY IDENTICAL ADMINISTRATIVE SUBPOENAS**
 4 **SEEKING THE SAME PHI AT ISSUE HERE**

5 The Administration initially pursued only civil investigations in its campaign to compel
 6 providers to stop offering this medically necessary care. DOJ served more than 20 “substantively
 7 identical” administrative subpoenas under 18 U.S.C. § 3486 “to doctors and clinics involved in
 8 performing transgender medical procedures on children.”⁴ Several weeks later, the White House
 9 declared victory.⁵

10 Federal district courts around the country swiftly halted many of DOJ’s improper PHI
 11 demands, quashing the administrative subpoenas seeking patients’ identifying information and PHI.
 12 *In re 2025 Subpoena to Children’s Nat’l Hosp.*, No. 1:25-cv-03780, 2026 WL 160792, at *9 (D. Md.
 13 Jan. 21, 2026) (quashing subpoena for improper purpose); *In re Admin. Subpoena No. 25-1431-019*,
 14 800 F. Supp. 3d 229, 236–39 (D. Mass. 2025) (quashing Boston Children’s Hospital subpoena as
 15 issued for an improper purpose and “virtually unlimited in scope”), *appeal docketed*, No. 26-1093
 16 (1st Cir. Jan. 30, 2026); *QueerDoc, PLLC v. U.S. Dep’t of Just.*, 807 F. Supp. 3d 1295, 1303–04
 17 (W.D. Wash. 2025) (quashing subpoena for improper purpose because DOJ “issued the subpoena
 18 first and searched for a justification second”), *appeal argued*, No. 25-7384 (9th Cir. Mar. 6, 2026); *In*
 19 *re Subpoena No. 25-1431-014*, 810 F. Supp. 3d 555, 578–81, 588–607 (E.D. Pa. 2025) (striking
 20 requests to Children’s Hospital of Philadelphia (“CHOP”) seeking patients’ identities and medical

21 _____
 22 ³ Memorandum: Civil Division Enforcement Priorities at 2, U.S. Off. of the Assistant Att’y Gen.
 (June 11, 2025), <https://www.justice.gov/civil/media/1404046/dl>.

23 ⁴ Department of Justice Subpoenas Doctors and Clinics Involved in Performing Transgender Medical
 Procedures on Children, Off. of Pub. Affs., U.S. Dep’t of Just.. (July 9, 2025),
 24 [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)
 performing-transgender-medical. See also *In re 2025 Subpoena to Children’s Nat’l Hosp.*, No. 1:25-
 25 cv-03780, 2026 WL 160792, at *3 n.12 (D. Md. Jan. 21, 2026) (*In re CNH Subpoena*), *appeal*
 docketed, No. 26-1104 (4th Cir. Feb. 2, 2026). See also Email from Ross Goldstein, U.S. Dep’t of
 26 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).

27 ⁵ President Trump Promised to End Child Sexual Mutilation—and He Delivered, The White House
 28 (July 25, 2025), [https://www.whitehouse.gov/releases/2025/07/president-trump-promised-to-end-](https://www.whitehouse.gov/releases/2025/07/president-trump-promised-to-end-child-sexual-mutilation-and-he-delivered/)
 child-sexual-mutilation-and-he-delivered/.

1 data as beyond statutory authority and outweighed by minors’ privacy interests); *In re Subpoena*
2 *Duces Tecum No. 25-1431-016*, No. 2:25-mc-00041, 2025 WL 3562151, at *13 (W.D. Wash. Sept. 3,
3 2025) (rejecting enforcement of Seattle Children’s Hospital subpoena based on “DOJ’s threadbare
4 justification . . . , and strong evidence suggesting that the subpoena was issued for an improper
5 purpose”), *motion to alter or amend judgment denied*, 2026 WL 1102159 (W.D. Wash. Apr. 23,
6 2026); *In re 2025 UPMC Subpoena*, No. 2:25-mc-01069, 2025 WL 3724705, at *2–*3 (W.D. Pa.
7 Dec. 24, 2025) (granting patient movants’ request for relief), *appeal docketed*, *In re 2025 UPMC*
8 *Subpoena No. 26-1401* (3d Cir. Feb. 20, 2026); *In re Admin. Subpoena 25-1431-032 to R.I. Hosp.*, _
9 F. Supp. 3d _, 2026 WL 1392565, at *8–*10 (D.R.I. May 14, 2026) (quashing Rhode Island Hospital
10 subpoena and collecting other decisions finding improper purpose), *appeal docketed*, No. 26-1568
11 (1st Cir. May 18, 2026).

12 These decisions did not rest on technical defects unique to any one subpoena recipient.
13 Instead, they identified the same core defects present here: DOJ’s asserted FDCA and fraud
14 investigative rationale is disconnected from demands for patient-identifying medical records; the
15 demands sweep in children’s intimate medical, psychological, and family information; and the
16 subpoenas appear designed to advance the Administration’s stated objective of ending transgender
17 medical care rather than to investigate any specific unlawful conduct. *See In re Subpoena Ducēs*
18 *Tecum No. 25-1431-016*, 2026 WL 1102159, at *2 (denying motion to amend or alter judgment and
19 noting that “seven recent decisions from other courts considering virtually identical subpoenas” had
20 reached similar conclusions).

21 The subpoena campaign is likewise not the product of district-specific inquiries. In related
22 proceedings, DOJ itself described the Northern District of Texas as “the venue where this nationwide
23 investigation . . . is being conducted,” even as courts in the districts where the subpoenas were served
24 rejected DOJ’s effort to recast that distant forum as the primary venue for disputes over affected
25 patients’ records. *Mot. to Stay or for Transfer of Venue at 3*, *In re Admin. Subpoena 25-1431-032 to*
26 *R.I. Hosp.*, No. 1:26-mc-00007 (D.R.I. May 7, 2026) (ECF 8); *Text Order on Gov’t Mot. to Stay or*
27 *for Transfer of Venue, id.* (D.R.I. May 7, 2026). That centrally directed pattern matters here because
28 Stanford’s subpoena is alleged to be substantively identical to the subpoenas already rejected when

1 previously used to obtain patient identities and PHI. *See, e.g., id.* (denying motion to transfer venue in
 2 Rhode Island Child Advocate case in Rhode Island because the first-to-file rule did not apply because
 3 the affected minors’ independent constitutional privacy claims “were neither raised nor considered in
 4 Texas and could not have been, as the affected parties were absent.”); *In re Admin. Subpoena 25-*
 5 *1431-032 to R.I. Hosp.*, _ F. Supp. 3d. _, 2026 WL 1392565, at *1–*3 (quashing subpoena in same
 6 case, finding that DOJ had misrepresented and withheld information from both the Rhode Island
 7 court and the Northern District of Texas in an effort to shield its tactics from review in favor of a
 8 distant forum).⁶

9 **C. REBUFFED BY COURTS ON THEIR ADMINISTRATIVE SUBPOENAS, DOJ**
 10 **PIVOTS TO GRAND JURY SUBPOENAS SEEKING THE SAME PHI**

11 DOJ has now responded to these unfavorable court decisions by accelerating its improper
 12 efforts to obtain PHI and pivoting to criminal grand jury proceedings, also in the Northern District of
 13 Texas. While the nature of any alleged criminal conduct under investigation is unknown, a statement
 14 issued by NYU Langone Hospitals (“Langone”) in New York City disclosed that on May 7, 2026, it
 15 “was one of several institutions that received a grand jury subpoena from the U.S. Attorney’s Office
 16 in the Northern District of Texas.”⁷ The statement included a copy of the subpoena.⁸ On information
 17 and belief, Stanford was one of the institutions that received a substantively identical grand jury
 18 subpoena.

19 The grand jury subpoenas issued to Langone, and, on information and belief, to Stanford, seek
 20 patient identifying information and PHI that is substantially similar to the information sought by the
 21 administrative subpoenas previously quashed by multiple district courts as lacking any proper

22 _____
 23 ⁶ In late April, DOJ filed a civil enforcement petition against Rhode Island Hospital in the Northern
 24 District of Texas, asserting that its investigation was “being carried out in” that district. Gov’t Pet. for
 25 Enforcement of Admin. Subpoena Pursuant to 18 U.S.C. § 3486 at 2, *In re Admin. Subpoena 25-*
 26 *1431-032*, No. 4:26-mc-00006 (N.D. Tex. Apr. 30, 2026) (ECF 1). Within hours—and without notice
 27 to the hospital or any affected patient—the Texas district court granted the petition. Order, *id.* (N.D.
 28 Tex. Apr. 30, 2026) (ECF 2). The Rhode Island Child Advocate sought emergency relief in Rhode
 Island on behalf of affected minors, leading to the decisions cited here.

⁷ Information for NYU Langone Health Patients, NYU Langone Health, <https://nyulangone.org/public-notice/TYHPsubpoena> (last visited May 27, 2026).

⁸ Grand Jury Subpoena to NYU Langone Health (May 7, 2026), <https://nyulangone.org/files/nyu-gj-subpoena.pdf>.

1 investigative purpose. Specifically, the following demands from the Langone subpoena directly seek
2 identifying information and PHI:

3 Subpoena specification 12 seeks “[d]ocuments sufficient to identify each patient who
4 underwent Sex-Rejecting Procedures.”

5 Subpoena specification 13 seeks, for each patient so identified, “documents relating to
6 the clinical indications, diagnoses, or assessments that formed the basis for providing
7 Sex-Rejecting Procedures, including the prescribing of puberty blockers or hormones,
8 and all documents relating to the Sex-Rejecting Procedures care provided to each
9 patient identified in Subpoena specification 12 from initial consultation to the most
10 recent treatment provided.”

11 Subpoena specification 14 seeks “[a]ll documents relating to informed consent, patient
12 intake, and parent or guardian authorization for minor patients identified in Subpoena
13 specification 12, *supra*, including any disclosures about off-label use (*i.e.*, uses not
14 approved by the United States Food and Drug Administration) and potential risks of
15 puberty blockers and/or hormones.”

16 The grand jury subpoenas issued to Langone, and, on information and belief, to Stanford,
17 define “Sex-Rejecting Procedures” covered by the subpoenas to include:

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

27 On information and belief, Stanford now faces a federal grand jury subpoena backed by the
28 threat of enforcement and contempt if it does not comply. Unless this Court acts, Stanford will be
conscripted to produce Plaintiffs’ patient-identifying medical and mental health records to federal
prosecutors in Texas without notice to Plaintiffs and before Plaintiffs have any meaningful
opportunity to have their constitutional objections heard.

23 **III. LEGAL STANDARD**

24 The standard for a temporary restraining order is generally the same as for a preliminary
25 injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir.
26 2001). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the
27 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance
28 of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def.*

1 *Council, Inc.*, 555 U.S. 7, 20 (2008). In the Ninth Circuit, these factors operate on a sliding scale;
 2 interim relief may issue if “the likelihood of success is such that ‘serious questions going to the
 3 merits were raised and the balance of hardships tips sharply in [the moving party’s] favor.’” *All. for*
 4 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Clear Channel Outdoor,*
 5 *Inc. v. City of Los Angeles*, 340 F.3d 810, 813 (9th Cir. 2003)). The threatened deprivation of
 6 constitutional rights constitutes irreparable harm. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th
 7 Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

8 **IV. ARGUMENT**

9 **A. THIS COURT HAS JURISDICTION AND AUTHORITY TO GRANT THE** 10 **REQUESTED RELIEF**

11 **1. Plaintiffs Have Article III Standing to Seek Injunctive Relief Against** **Stanford.**

12 Plaintiffs readily satisfy Article III's requirements of injury in fact, causation, and
 13 redressability. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). The injury is the certain
 14 and imminent disclosure of Plaintiffs’ identifying information and constitutionally protected health
 15 information to the federal government in response to the grand jury subpoena, which will occur, on
 16 information and belief, no later than June 10. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149,
 17 158 (2014) (imminence satisfied where threatened injury is “‘certainly impending’”). That injury is
 18 fully redressable by an injunction preventing Stanford from disclosing the records.

19 **2. This Court May Adjudicate Plaintiffs’ Constitutional Challenge to** 20 **Stanford's Compliance with an Out-of-District Grand Jury Subpoena.**

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 Stanford, which is headquartered and
 24 operates within this District. The fact that the subpoena issued from the Northern District of Texas
 25 does not divest this Court of authority to protect the constitutional rights of patients whose records
 26 are held within its jurisdiction.

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

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

9 For all 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*, they are
11 not parties to the grand jury proceeding. As in *Gonzales*, the subpoena is directed to a third party,
12 Stanford, not to them. And as in *Gonzales*, they have filed an action seeking relief in the district
13 where they reside and where the information at issue was created. *Gonzales* confirms that it is
14 appropriate for the Court to consider Plaintiffs’ challenges on the merits notwithstanding the
15 pendency of the Texas grand jury proceeding.

16 The ongoing Rhode Island proceedings similarly confirm that affected patients’ independent
17 privacy claims are not subsumed by proceedings in the Northern District of Texas. In that
18 administrative subpoena litigation, the Rhode Island court denied DOJ’s motion to transfer to the
19 Northern District of Texas, holding that the first-to-file rule did not apply because the affected
20 minors’ constitutional privacy claims “were neither raised nor considered in Texas and could not
21 have been, as the affected parties were absent.” Text Order on Gov’t Mot. to Stay or for Transfer of
22 Venue, *In re Admin. Subpoena 25-1431-032 to R.I. Hosp.*, No. 1:26-mc-00007. The same is true here.
23 Plaintiffs have not been served with subpoenas by the Texas grand jury and are not parties to any
24 proceeding before that court. An action for declaratory and injunctive relief in the district where they
25 reside, where their records are located, and where they obtained the relevant medical treatment, is an
26 appropriate means for them to seek redress for the threatened violation of their constitutionally
27 protected privacy interests.
28

1 **3. The Grand Jury Context Does Not Immunize the Subpoena from**
2 **Constitutional Challenge.**

3 The Supreme Court has long recognized that grand jury subpoenas are presumptively
4 reasonable and that grand juries are vested with broad investigative authority. *See generally United*
5 *States v. R. Enterprises, Inc.*, 498 U.S. 292, 297–301 (1991). But it is equally well established that a
6 grand jury subpoena may not compel production of records or testimony in violation of an
7 individual’s constitutional rights. *See, e.g., In re Grand Jury Subpoena, JK-15-029*, 828 F.3d 1083,
8 1088 (9th Cir. 2016) (quoting *Hale v. Henkel*, 201 U.S. 43, 76 (1906)). For example, “where a grand
9 jury’s subpoena, given its overbreadth, would *itself* violate the privacy interests protected by the
10 Fourth Amendment, ‘[j]udicial supervision is properly exercised in such cases to prevent the wrong
11 before it occurs.’” *Id.* (quoting *United States v. Calandra*, 414 U.S. 338, 346 (1974)).

12 To be sure, in ordinary grand jury proceedings, “[n]o affidavit of relevance and need must be
13 introduced” and that “legitimate purpose may be derived from the fact that a subpoena is necessary to
14 a legitimate pursuit and the presumption that the government obeys the law.” *In re Grand Jury*
15 *Proceeding*, 721 F.2d 1221, 1223 (9th Cir. 1983). But Plaintiffs do not ask this Court to supervise
16 routine grand jury relevance. They seek only to prevent a specific, imminent disclosure of their own
17 constitutionally protected medical records where the record shows that DOJ has repeatedly sought
18 materially identical patient information through administrative subpoenas, multiple courts rejected
19 those demands as disconnected from DOJ’s asserted theories, and DOJ then repackaged the same
20 patient-data demands as grand-jury subpoenas.

21 The evidence of improper purpose here is substantial. DOJ spent the better part of 2025
22 attempting to obtain materially identical patient information through administrative subpoenas under
23 18 U.S.C. § 3486. Multiple federal district courts have quashed those subpoenas—many concluding
24 that DOJ had “issued the subpoena[s] first and searched for a justification second.” *QueerDoc*, 807 F.
25 Supp. 3d at 1303. DOJ’s response was not to articulate a legitimate investigative need for Plaintiffs’
26 identifying medical records, but to repackage materially similar demands as grand jury subpoenas
27 issued from a forum with no apparent connection to Stanford, Plaintiffs, or their care. That pattern is
28 strong evidence that judicial review is necessary before Plaintiffs’ constitutional rights are
extinguished. *See In re Subpoena No. 25-1431-016*, 2025 WL 3562151, at *13.

1 This background is relevant not because grand jury subpoenas and administrative subpoenas
 2 are subject to identical requirements, but because the administrative subpoenas implicate the same
 3 substantive constitutional problem: DOJ has repeatedly sought the same category of patient-
 4 identifying medical records under shifting legal labels, and courts have repeatedly found that those
 5 records bear no adequate connection to DOJ's asserted FDCA or fraud theories. The government
 6 cannot cure that mismatch simply by repackaging the same patient-data demands as grand jury
 7 process. Indeed, as the recent Rhode Island decision explained, DOJ cannot "immunize any coercive
 8 investigation from the improper purpose doctrine simply by appending an untenable legal theory to
 9 it." *In re Admin. Subpoena 25-1431-032 to R.I. Hosp.*, No. 1:26-mc-00007, 2026 WL 1329792, at *8
 10 (D.R.I. May 13, 2026). Constitutional privacy limits apply regardless of the procedural vehicle used
 11 to compel disclosure. *See, e.g., Nw. Mem'l Hosp. v. Ashcroft*, 362 F.3d 923, 929–31 (7th Cir. 2004)
 12 (quashing trial subpoena for patient records on patient-privacy grounds).

13 **B. BECAUSE STANFORD'S COMPLIANCE WITH THE FEDERAL SUBPOENA**
 14 **IS FAIRLY ATTRIBUTABLE TO THE GOVERNMENT, THIS COURT MAY**
 15 **ENJOIN DISCLOSURE THAT WOULD VIOLATE PLAINTIFFS'**
 16 **CONSTITUTIONAL RIGHTS**

17 Plaintiffs' constitutional claims require a showing that Stanford's challenged conduct—the
 18 disclosure of Plaintiffs' identifying information and PHI in response to federal compulsory process—
 19 is fairly attributable to the government. *See Jackson v. Metro. Edison Co.*, 419 U.S. 345, 351 (1974).
 20 Stanford is, in ordinary circumstances, a private actor. But where the federal government uses
 21 compulsory process to command a private custodian to take actions that would violate third parties'
 22 constitutional rights, the resulting conduct constitutes governmental action for purposes of
 23 constitutional review.

24 The Supreme Court's decision in *Skinner v. Railway Labor Executives' Association*,
 25 establishes the controlling framework. 489 U.S. 602 (1989). There, the Court held that drug testing
 26 conducted by private railroads pursuant to federal regulations constituted state action because the
 27 government had "removed all legal barriers" to the testing and "made plain not only its strong
 28 preference for [the conduct], but also its desire to share the fruits of such intrusions." *Id.* at 615. The
 railroads acted as private entities, but the government's authorization, encouragement, and intended

1 use of the results were sufficient to render the resulting Fourth Amendment intrusion governmental.
2 *Id.* at 614–16. Here, the grand jury subpoena does not merely permit Stanford to disclose Plaintiffs’
3 records; it commands disclosure, removes legal barriers (including HIPAA’s privacy protections, *see*
4 45 C.F.R. § 164.512(f)) that would otherwise prohibit Stanford from producing the information, and
5 has been issued for the express purpose of placing the records in the hands of federal officials.

6 The “state compulsion” and governmental “nexus” tests for state action that are applied in this
7 Circuit further demonstrate that Stanford’s disclosure of Plaintiffs’ private information pursuant to
8 the subpoena would constitute governmental action. *See, e.g., Children’s Health Def. v. Meta*
9 *Platforms, Inc.*, 112 F.4th 742, 755 (9th Cir. 2024). Under the state compulsion test, a private party
10 may be considered a state actor “if it has acted because the government coerced or compelled it to do
11 so.” *Id.* at 759. That test is satisfied where the government “has exercised coercive power or has
12 provided such significant encouragement” that the challenged choice must be deemed the
13 government’s own. *Blum v. Yaretsky*, 457 U.S. 991, 1004 (1982). Compulsion occurs when officials
14 “convey a threat of adverse government action” or otherwise impose incentives that ““overwhelm””
15 and ““essentially compel”” compliance. *Children’s Health Def.*, 112 F.4th at 759 (quoting *Nat’l Rifle*
16 *Ass’n of Am. v. Vullo*, 602 U.S. 175, 191 (2024); *O’Handley v. Weber*, 62 F.4th 1145, 1158 (9th Cir.
17 2023)). Similarly, under the governmental nexus test, state action is present “when government
18 officials threaten adverse action to coerce a private party into performing a particular act.”
19 *O’Handley*, 62 F.4th at 1157. These tests recognize that the government may not “do indirectly what
20 [it] is barred from doing directly,” *Vullo*, 602 U.S. at 190, including by threatening prosecution or
21 other adverse action to induce a private party to take constitutionally forbidden action. *See Bantam*
22 *Books, Inc. v. Sullivan*, 372 U.S. 58, 67–69 (1963).

23 Here, a federal grand jury subpoena is not a request; it is a legal command backed by
24 contempt authority. *See Fed. R. Crim. P.* 17(g). Under either of these tests, Stanford’s production of
25 records in response to the subpoena would not be the voluntary action of a private party; it would be
26 the product of federal compulsion and make Stanford the instrument of government action.

27 The Ninth Circuit’s decision in *Carlin Communications, Inc. v. Mountain States Telephone &*
28 *Telegraph Co.*, 827 F.2d 1291 (9th Cir. 1987), confirms this conclusion in a closely analogous

1 setting. There, a private telephone company terminated service to a content provider after a county
2 prosecutor threatened to prosecute the company if it continued to carry the disfavored content. The
3 Ninth Circuit held that the termination was state action: “[s]imply by ‘command[ing] a particular
4 result,’ the state had so involved itself that it could not claim the conduct had actually occurred as a
5 result of private choice.” *Id.* at 1295 (quoting *Peterson v. City of Greenville*, 373 U.S. 244, 248
6 (1963)). The grand jury subpoena to Stanford involves precisely such particularized state
7 participation. It directs a specific entity (Stanford), to take a specific action (produce identified
8 categories of PHI), with respect to specific persons (Stanford’s transgender patients, including
9 Plaintiffs). The legal consequences of non-compliance—contempt and possible criminal sanction—
10 are at least as serious as the threat of prosecution at issue in *Carlin*.

11 To be sure, this does not mean that *every* recipient of a grand jury subpoena becomes a state
12 actor for every purpose. The particular sequence of events here—and the specific impact on third
13 parties’ constitutional rights—matter. As noted above, the federal government has embarked on a
14 year-long campaign to obtain the identities and private medical records of every individual who has
15 received pediatric transgender medical care at numerous institutions across the country, and at least
16 eight district courts have rejected those efforts as lacking any proper purpose or adequate connection
17 to DOJ’s asserted investigative ends. In these circumstances, Stanford’s participation in the
18 government’s centralized, ongoing scheme to violate Plaintiffs’ constitutional privacy interests would
19 be more than the passive compliance of a records custodian with an ordinary records request; instead,
20 Stanford would be the instrument through which the government obtains records that courts have
21 repeatedly concluded DOJ is not entitled to. That is the type of particularized governmental
22 participation that Supreme Court and Ninth Circuit precedent establish as sufficient for constitutional
23 review. *Cf. Khalil v. Trs. of Columbia Univ. in City of New York*, No. 25-CV-2079, 2026 WL
24 775813, at *7, *14–*16 (S.D.N.Y. Mar. 19, 2026) (holding plaintiffs plausibly alleged causation,
25 redressability, and state action where federal actors allegedly coerced a private university to adopt
26 and enforce policies or disclose records in a manner that would violate plaintiffs’ constitutional
27 rights).

1 **C. PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIM THAT**
 2 **STANFORD’S DISCLOSURE OF THEIR IDENTIFYING INFORMATION**
 3 **AND PHI WOULD VIOLATE THEIR RIGHT TO INFORMATIONAL**
 4 **PRIVACY**

5 “[F]ederal constitutional law recognizes a ‘right to informational privacy’ stemming from ‘the
 6 individual interest in avoiding disclosure of personal matters.’” *Endy v. Cnty. of Los Angeles*, 975
 7 F.3d 757, 768 (9th Cir. 2020) (quoting *In re Crawford*, 194 F.3d 954, 958 (9th Cir. 1999)). The
 8 Supreme Court first recognized that interest in *Whalen v. Roe*, which distinguished between “two
 9 different kinds of interests” in privacy cases: “the individual interest in avoiding disclosure of
 10 personal matters” and “the interest in independence in making certain kinds of important decisions.”
 429 U.S. 589, 599–600 (1977). Plaintiffs invoke the former interest here.⁹

11 The Ninth Circuit has expressly recognized the right to informational privacy and has applied
 12 it to compelled disclosures of medical information by health care providers. *See Tucson Woman’s*
 13 *Clinic v. Eden*, 379 F.3d 531, 551–53 (9th Cir. 2004); *Endy*, 975 F.3d at 768. The Ninth Circuit’s
 14 decision in *Tucson Woman’s Clinic* is most instructive. There, Arizona enacted a statutory and
 15 regulatory scheme requiring providers of abortion health care to permit “warrantless, unbounded
 16 inspections of their offices” by employees of the Department of Health Services and to provide
 17 access to patients’ unredacted medical records. 379 F.3d at 537. The state also required providers to
 18 submit “ultrasound prints with patient identifying information on them to a private contractor” for
 19 review. *Id.* at 553. The Ninth Circuit affirmed summary judgment for the providers on their patients’
 20 informational-privacy claim. *Id.* Stanford’s disclosure of patient medical records pursuant to the
 21 grand jury subpoena here violates Plaintiffs’ right to informational privacy for the same reasons the
 22 statute and regulations in *Tucson Woman’s Clinic* violated that right.

23 The Ninth Circuit balances several factors “to determine whether the governmental interest in
 24 obtaining information outweighs the individual’s privacy interest.” *Id.* at 551. Those factors are: “(1)

25 ⁹ The Supreme Court confirmed that distinction in *Dobbs v. Jackson Women’s Health Organization*.
 26 597 U.S. 215 (2022). In *Dobbs*, the Court explained that the term “right of personal privacy” has
 27 “two very different meanings”: “the right to shield information from disclosure and the right to make
 28 and implement important personal decisions without governmental interference.” *Id.* at 273 (citing
Whalen, 429 U.S. at 599–600). Plaintiffs’ informational privacy claim rests on the first meaning: the
 right to shield from compelled governmental disclosure their identities, transgender status, protected
 health information, and confidential medical records.

1 the type of information requested, (2) the potential for harm in any subsequent non-consensual
 2 disclosure, (3) the adequacy of safeguards to prevent unauthorized disclosure, (4) the degree of need
 3 for access, and (5) whether there is an express statutory mandate, articulated public policy, or other
 4 recognizable public interest militating toward access.” *Id.* (citing *Planned Parenthood of S. Ariz. v.*
 5 *Lawall*, 307 F.3d 783, 790 (9th Cir. 2002)). Each factor weighs against disclosure here.

6 **1. The Type of Information Requested Is Among the Most Sensitive Medical**
 7 **Information a Provider Can Hold.**

8 The first factor weighs heavily against disclosure because the information sought by the
 9 subpoena “is extremely broad, and includes patient identifying information such as names and full
 10 medical histories.” *Id.* at 552. The grand jury subpoena, on its face, seeks information “sufficient to
 11 identify” each Stanford patient who received transgender medical care, and for each such patient, all
 12 “documents relating to the clinical indications, diagnoses, or assessments that formed the basis for”
 13 that care. The records demanded for each Plaintiff are among the most sensitive categories of
 14 personal information,¹⁰ essentially requiring disclosure of each Plaintiff’s complete medical file
 15 concerning their receipt of transgender medical care. The Ninth Circuit has repeatedly held that
 16 medical records of this type are “‘highly sensitive’ personal information” protected by the
 17 constitutional right to privacy. *Doe v. Bonta*, 101 F.4th 633, 637 (9th Cir. 2024) (quoting *Doe v.*
 18 *Garland*, 17 F.4th 941, 947 (9th Cir. 2021)).

19 These privacy interests are especially strong because the records at issue concern minors’
 20 medical care. Courts reviewing materially identical government subpoenas have recognized that
 21 demands for children’s identities and confidential medical records trigger heightened privacy
 22 concerns. *See In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 594 (holding that DOJ’s demands
 23 for children’s identities and clinical records implicated “intensely personal and sensitive medical
 24 information warranting the highest level of protection”); *In re 2025 Subpoena to Children’s Nat’l*
 25 *Hosp.*, 2026 WL 160792, at *8. This factor strongly favors Plaintiffs.

26
 27 ¹⁰ *See, e.g.*, B.B. Decl. ¶ 4 (“We had very personal conversations with Stanford providers
 28 about fertility, sexuality, mental health, depression, the long-term impacts of medical treatment, and
 other matters that my daughter would not want disclosed to anyone outside of her care team.”).

2. Nonconsensual Disclosure Would Cause Grave Harm.

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

The potential for harm is not speculative. Disclosure would expose Plaintiffs and their families to the risk of harassment, discrimination, damage to educational and employment opportunities, loss of access to health care, government targeting, family separation, and prosecution.¹¹ Disclosure would also involuntarily reveal Plaintiffs’ transgender status and their receipt of transgender medical care to federal law-enforcement officials. For several Plaintiffs, that information is not publicly known.¹² Involuntary disclosure of a minor’s transgender status is itself a serious harm, exposing the child “to stigma, bullying, fear, and violence.” *D.T. v. Christ*, 552 F. Supp. 3d 888, 897 & n.8 (D. Ariz. 2021).

That risk is magnified by the context in which Stanford would provide DOJ these records. The President has declared that pediatric transgender medical care “must end,” and the Attorney General has characterized that care as “mutilation” and a “warped ideology.” The Administration’s

¹¹ *See, e.g.*, A.A. Decl. ¶ 10 (“I fear that the government wants to prosecute providers, and possibly even parents, for seeking care that is in the best interests of transgender children. My greatest fear is that the government could try to take my child away from me because I supported his care.”); C.C. Decl. ¶ 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.”); E.E. Decl. ¶ 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 entering high school. His whole life would change if his medical records were disclosed.”); F.F. Decl. ¶ 13 (“Disclosure of my records would cause severe emotional harm.”).

¹² *See, e.g.*, C.C. Decl. ¶ 5 (“My child has come out to only a couple of people. They are not publicly telling people that they are transgender.”); D.D. Decl. ¶ 4 (“My son prefers not to talk about the fact that he is transgender. His friends and many of the people he interacts with do not know that he is transgender.”); E.E. Decl. ¶ 5 (“My son is not publicly out as transgender. His school, friends, and community do not know that he is transgender. He is also a very private person generally.”).

1 widely publicized campaign, across multiple agencies, to denigrate, investigate, and deter transgender
 2 medical care gives rise to a realistic concern that Plaintiffs’ information will be broadly disseminated
 3 within the government and used for purposes unrelated to any legitimate investigation. Courts
 4 reviewing materially identical subpoenas have credited the same concern. *See In re Subpoena No. 25-*
 5 *1431-014*, 810 F. Supp. 3d at 599–600. In this environment, compelled disclosure of Plaintiffs’
 6 identities and medical records would expose Plaintiffs and their families to the very harms the
 7 informational-privacy doctrine exists to prevent.

8 Disclosure would also harm the doctor-patient relationship.¹³ The records at issue were
 9 generated in a relationship of trust between patients, parents, physicians, and mental-health providers.
 10 Compelled disclosure would breach that relationship and undermine the very conditions that permit
 11 accurate diagnosis, effective treatment, and candid disclosure of sensitive information. *See In re*
 12 *Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 600–01 (“Patients and families who believe their
 13 medical records can be turned over to federal investigators will understandably hesitate to seek care,
 14 withhold critical information from their doctors, or avoid treatment for gender-affirming
 15 concerns[.]”). If Stanford produces Plaintiffs’ records to the federal government because they
 16 received transgender medical care, Plaintiffs and other patients will reasonably fear that information
 17 disclosed in confidence to health care providers can later be turned over to law enforcement. Courts
 18 have repeatedly recognized that such fear chills access to care and undermines candor in treatment.
 19 *See, e.g., Nw. Mem’l Hosp*, 362 F.3d at 929 (cautioning that hospital “will lose the confidence of its
 20 patients, and persons with sensitive medical conditions may be inclined to turn elsewhere for medical
 21 treatment” if it fails to “shield the medical records of its abortion patients from disclosure”); *Planned*
 22 *Parenthood Fed’n of Am., Inc. v. Ashcroft*, No. C03-4872, 2004 WL 432222, at *2 (N.D. Cal. Mar. 5,
 23 2004) (“[T]he potential for injury to the relationship between patient and provider is significant given

24 _____
 25 ¹³ *See, e.g., A.A. Decl.* ¶ 11 (“Disclosure would affect our family’s willingness to seek care and share
 26 sensitive information in the future . . . If Stanford turns over our information, we would never go
 27 back there, and it would be incredibly difficult to find providers who are as competent and whom my
 28 son would trust.”); *B.B. Decl.* ¶ 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.”); *D.D. Decl.* ¶ 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 the providers’ pledge of confidentiality.”).

2 **3. There Are No Adequate Safeguards Against Unauthorized Disclosure or**
3 **Misuse.**

4 The third factor—the adequacy of safeguards to prevent unauthorized disclosure—also
5 weighs strongly against disclosure. As in *Tucson Woman’s Clinic*, there are no adequate protections
6 “against release of information to government employees who have no need for the information.” 379
7 F.3d at 552. “Even if a law adequately protects against *public* disclosure of a patient’s private
8 information, it may still violate informational privacy rights if an unbounded, large number of
9 government employees have access to the information.” *Id.* at 551–52 (citing *Lawall*, 307 F.3d at
10 789–90).

11 The subpoena itself offers no safeguards or guarantees concerning the use of Plaintiffs’
12 identities or private medical records, no information concerning the investigatory purpose for which
13 the government is seeking the records or to whom they may be disclosed, no details on which
14 government employees will have access to these records, and no assurances that these records will
15 not be used for the purpose of harassment or intimidation of Plaintiffs or others who have received
16 transgender health care.

17 Federal Rule of Criminal Procedure 6(e) does not cure the problem. Although Rule 6(e)
18 establishes some constraints on public disclosure of grand jury information, it contains exceptions
19 permitting disclosure to “an attorney for the government for use in performing that attorney’s duty,”
20 disclosure to federal or state government personnel “that an attorney for the government considers
21 necessary to assist in performing that attorney’s duty to enforce federal criminal law,” and disclosure
22 to another federal grand jury. Fed. R. Crim. P. 6(e)(3)(A)(i), (ii); 6(e)(3)(C). Those exceptions do not
23 meaningfully limit intra-governmental dissemination or prevent use of Plaintiffs’ information for
24 purposes far removed from any lawful need for their patient-identifying medical records.

25 These limitations do not prohibit the government from using information obtained from a
26 grand jury subpoena against patients in other criminal proceedings, or against patients’ parents, a
27 group of people whom the government has, in no uncertain terms, accused of child abuse, despite
28 overwhelming evidence that what these parents are doing—supporting their transgender children in

1 lawfully obtaining essential medical care—leads to positive outcomes for these youth. Indeed, DOJ
 2 announced its intention to partner with state attorneys general to identify leads, share intelligence,
 3 and build cases against hospitals and practitioners, and the Attorney General directed all U.S.
 4 Attorneys to investigate all suspected cases of transgender medical treatment and to prosecute all
 5 offenses to the fullest extent possible. ¹⁴ See *In re: Subpoena No. 25-1431-014*, 810 F. Supp. 3d at
 6 603 (applying analogous factor to similar requests and concluding that DOJ “offers nothing to
 7 mitigate a concern for these children and their families given these pronouncements”). Such
 8 information sharing is particularly concerning to any parent who sought lawful, medically-
 9 recommended care for their transgender child that is now being falsely characterized as child abuse.
 10 *Tucson Woman’s Clinic*, 379 F.3d at 551-52 (“Even if a law adequately protects against *public*
 11 disclosure of a patient’s private information, it may still violate informational privacy rights if an
 12 unbounded, large number of government employees have access to the information.”) (citing *Lawall*,
 13 307 F.3d at 789-90). The third factor strongly favors Plaintiffs.

14 **4. The Government Has No Demonstrated Need for Plaintiffs’ Identities or**
 15 **PHI.**

16 The fourth factor—the government’s degree of need for access—likewise weighs strongly
 17 against disclosure. As in *Tucson Woman’s Clinic*, “[w]eighing even further against the medical
 18 record access is the fact that there is little, if any, need for much of this information, such as the
 19 names and addresses of patients.” *Id.* at 552. The subpoena offers no indication of the purpose for
 20 which Plaintiffs’ information is being demanded. It does not state why Plaintiffs’ medical records are
 21 relevant to any investigation that may be underway, let alone offer any explanation as to why that
 22

23 ¹⁴ See Memorandum for Select Component Heads re Preventing the Mutilation of American
 24 Children, Off. Att’y Gen. at 3-4, 5 (Apr. 22, 2025), <https://www.justice.gov/ag/media/1402396/dl>
 25 (directing all U.S. Attorneys to investigate and prosecute all suspected providers of “gender-affirming
 26 care,” directing other components of DOJ to investigate FCA and FDCA claims based on same, and
 27 announcing partnership with state attorneys general to support state-level prosecution of these
 28 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-](https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical)
 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 investigation could not be conducted without that information. This mismatch between the
 2 information sought and any legitimate investigative need is fatal under the Ninth Circuit’s balancing
 3 test. In decisions quashing substantively similar DOJ administrative subpoenas seeking transgender
 4 patients’ private medical records, numerous district courts have found that DOJ failed to establish any
 5 legitimate purpose or need for seeking the identities of transgender patients and the most intimate
 6 details of their medical histories and treatment. *See In re 2025 Subpoena to Children’s Nat’l Hosp.*,
 7 2026 WL 160792, at *8 (“If the Government is pursuing FDCA violations, it is utterly unclear to this
 8 court why the Government demands production of adolescent patient records, including patient
 9 names, dates of birth, social security numbers, parent information, clinical indications, diagnoses, and
 10 parent authorization forms.”); *In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 605 (“Nothing in
 11 the present record establishes a need . . . for the patient-identifying clinical files . . .”).¹⁵

12 The Eastern District of Pennsylvania’s analysis of substantively identical patient-data requests
 13 is especially instructive. The court distinguished between requests for billing data, insurance-claim
 14 submissions, coding guidance, communications with insurers, and manufacturer-related materials—
 15 which could plausibly relate to the commercial conduct DOJ invoked—and requests for child-patient
 16 identities, psychosocial evaluations, diagnoses, treatment rationales, informed-consent forms, intake
 17 assessments, and family-authorization documents. The latter materials, the court held, “reflect
 18 individualized clinical care and deeply personal medical disclosures” and “do not speak to how
 19 products were labeled, marketed, introduced into interstate commerce, or billed to health care benefit
 20 plans.” *In re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 578. The same distinction controls here
 21 because Subpoena Specifications 12 through 14 seek the same patient-identifying categories CHOP
 22 found disconnected from DOJ’s stated FDCA and fraud theories. The District of Maryland reached
 23 the same conclusion: “The Government seeks to investigate how the Hospital treats its patients,” but
 24 “the FDCA regulates commerce, not patient care.” *In re 2025 Subpoena to Children’s Nat’l Hosp.*,
 25

26 ¹⁵ *See also In re 2025 Subpoena to Children’s Nat’l Hosp.*, 2026 WL 160792, at *8–*9; *In re Admin.*
 27 *Subpoena No. 25-1431-019*, 800 F. Supp. 3d at 236–39; *QueerDoc*, 807 F. Supp. 3d at 1303–04; *In*
 28 *re Subpoena No. 25-1431-014*, 810 F. Supp. 3d at 578–81, 588–607; *In re Subpoena No. 25-1431-*
016, 2025 WL 3562151, at *13; *In re 2025 UPMC Subpoena*, 2025 WL 3724705, at *2–3; *In re*
Admin. Subpoena 25-1431-032 to R.I. Hosp., 2026 WL 1329792, at *8.

1 2026 WL 160792, at *8.

2 As previously noted, DOJ’s own conduct in the administrative subpoena context reinforces
3 the conclusion that patient-identifying information is unnecessary for any legitimate investigation. In
4 the Children’s Hospital of Los Angeles matter, DOJ “withdrew Subpoena Requests 11, 12, and 13 in
5 their entirety” and agreed that the hospital could redact any patient-identifying information from its
6 production. *See* Settlement Agreement, *In re 2025 Children’s Hosp. of L.A. Subpoena*, No. 2:25-cv-
7 11183 (C.D. Cal. Jan. 22, 2026) (ECF 25-1). With respect to University of Pittsburgh Medical
8 Center, DOJ disclosed that it had “revised its agreement with [hospital] counsel so that the subpoena
9 would be fully satisfied by production of only de-identified records” and had “no current plans” to
10 issue another HIPAA subpoena for unredacted patient information. Gov’t Supp. Br. at 2, *In re 2025*
11 *UPMC Subpoena*, No. 2:25-mc-01069 (W.D. Pa. Jan. 16, 2026) (ECF 58). Perhaps most telling, on
12 May 6, 2026—the very day its Third Circuit opening brief was due—DOJ dismissed its appeal of the
13 Eastern District of Pennsylvania’s order striking Requests 11–13 in the substantively identical
14 subpoena to Children’s Hospital of Philadelphia. Br. in Supp. of Mot. to Confirm Jurisdiction at 4, *In*
15 *re Subpoena No. 25-1431-014*, No. 2:25-mc-00039 (E.D. Pa. May 6, 2026) (ECF 47-1). These
16 concessions confirm what multiple courts have independently concluded: DOJ can pursue any
17 genuine FDCA or fraud investigation without obtaining children’s identities or medical files. If DOJ
18 does not need this information to investigate the above-mentioned hospitals, it cannot demonstrate
19 any greater need for the information as it relates to Stanford.

20 Moreover, even if the subpoena did not on its face require production of unredacted medical
21 records, redaction of certain items such as names and addresses could not avert the realistic risk of
22 reidentification of Plaintiffs and disclosure of their intimate medical details.¹⁶ In a closely analogous
23 context, the Seventh Circuit affirmed an order quashing a DOJ subpoena for redacted abortion
24 records. *See Nw. Mem’l Hosp.*, 362 F.3d at 929–31. The court emphasized that in a highly charged

25 _____
26 ¹⁶ *See, e.g.*, A.A. Decl. ¶ 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.”); E.E. Decl. ¶ 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 social environment, acquaintances or “skillful ‘Googlers’” can “put two and two together,” that
 2 granular clinical narratives or descriptions contained in redacted medical records can effectively
 3 reidentify patients, and that compelled disclosures erode patients’ trust in medical providers and
 4 discourage them from seeking needed care. *Id.*

5 Those concerns apply with even greater force here. Current federal directives expressly target
 6 transgender health care, describe it as “mutilation,” direct government-wide action, and call for
 7 coordinated investigations and information sharing with state authorities. This antagonistic
 8 environment magnifies every factor identified by the court in *Northwestern Memorial*: the concrete
 9 risk of reidentification despite redaction; the dignitary injury from disclosure of intimate details; the
 10 severe chilling effect on access to care; and the undermining of institutional trust. In short, producing
 11 even so-called “de-identified” or redacted records would endanger privacy and safety and chill
 12 minors’ access to medically necessary care. The fourth factor favors Plaintiffs.

13 **5. No Statutory Mandate, Public Policy, or Recognizable Public Interest**
 14 **Justifies Disclosure of Plaintiffs’ Identifying Information and PHI.**

15 The fifth factor—whether an express statutory mandate, articulated public policy, or other
 16 recognizable public interest militates toward access—also weighs against disclosure. The subpoena
 17 does not reveal how disclosure of Plaintiffs’ identifying information and PHI promotes any
 18 identifiable public interest. To the contrary, the record indicates that DOJ is using the grand jury
 19 subpoena to obtain the same patient-identifying records that multiple courts have already held it was
 20 not entitled to obtain through materially similar administrative subpoenas. Even if the government
 21 could show some legitimate purpose for its investigation generally, nothing in the subpoena indicates
 22 how disclosure of Plaintiffs’ identities and PHI “promotes this need.” *Tucson Woman’s Clinic*, 379
 23 F.3d at 553.

24 Under *Tucson Woman’s Clinic*, a generalized invocation of a public interest in law
 25 enforcement cannot automatically override constitutional privacy rights in highly sensitive medical
 26 records. If it could, the balancing test would have no force in the very cases where it matters most.
 27 The government must identify a concrete and particularized interest in the specific information
 28 sought. It has not done so.

1 The articulated public policy surrounding the subpoena cuts the other way. The
 2 Administration has publicly declared that pediatric transgender medical care “must end,” described
 3 this care in stigmatizing and inflammatory terms, and directed DOJ to use federal enforcement tools
 4 to end it. In related subpoena litigation, courts have repeatedly found that DOJ’s demands for
 5 transgender minors’ identifying information and PHI were tied to an improper effort to target this
 6 care rather than any legitimate need for children’s medical files. *See QueerDoc*, 807 F. Supp. 3d at
 7 1304 (“The Executive Orders, the Attorney General’s directives, the mismatch between the stated
 8 investigative focus and QueerDoc’s operations, and the breadth of the document requests collectively
 9 demonstrate that the subpoena serves to pressure providers to cease offering gender-affirming care
 10 rather than to investigate specific unlawful conduct.”); *In re 2025 Subpoena to Children’s Nat’l*
 11 *Hosp.*, 2026 WL 160792, at *8 (“[T]he Subpoena is a pretext to fulfill the Executive’s well-
 12 publicized policy objective to terminate and block gender affirming healthcare.”); *In re Admin.*
 13 *Subpoena 25-1431-032 to R.I. Hosp.*, 2026 WL 1392565, at *8 (“The Administration has publicly
 14 characterized gender-affirming care for minors as abuse, directed the DOJ to bring its practice to an
 15 end, and celebrated when hospitals curtailed such programs as a result of this subpoena campaign.”).

16 The public interest favors protecting minors’ medical privacy, preserving the confidentiality
 17 of the doctor-patient relationship, preventing misuse of law-enforcement authority to expose
 18 stigmatized medical information, and ensuring that patients and families can seek lawful medical care
 19 without fear that their most intimate records will be turned over to the federal government. The fifth
 20 factor strongly favors Plaintiffs.

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

25 **D. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT A**
 26 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

27 The irreparable harm standard is satisfied as to each Plaintiff. The Ninth Circuit has held that
 28 the threatened deprivation of constitutional rights, for even minimal periods of time, “unquestionably

1 constitutes irreparable injury.” *Melendres*, 695 F.3d at 1002 (quoting *Elrod*, 427 U.S. at 373).

2 That rule applies here because Plaintiffs have shown, at a minimum, serious questions that
3 Stanford’s disclosure would violate their constitutional rights. In any event, the harm to Plaintiffs
4 from disclosure is independently irreparable on its own terms. Once Stanford produces the records,
5 Plaintiffs’ privacy interest in the information they contain is permanently and irrevocably destroyed.
6 The federal government will possess a comprehensive record of the most intimate details of each
7 Plaintiff’s medical history—including the symptoms, diagnoses, and clinical assessments that
8 supported each Plaintiff’s care; the specific treatments received; and the course, results, and
9 prognosis of that care—obtained without notice, without warrant, and without any opportunity for
10 Plaintiffs to object on grounds of privilege or constitutional protection. No award of damages can
11 restore the confidentiality of information once disclosed. No subsequent order can recall the records
12 from government custody, prevent their further distribution under the exceptions catalogued in
13 Federal Rule of Criminal Procedure 6(e)(3), or undo their use in derivative investigations,
14 prosecutions, or referrals.

15 The harm is also imminent. On information and belief, the return date for the grand jury
16 subpoena issued to Stanford is no later than June 10, 2026. Without a TRO issued before that date,
17 the constitutional harm will be complete as to all Plaintiffs and the Court will no longer have any
18 effective means of providing the primary relief sought in this litigation. The imminence of the
19 constitutional harm is not speculative — it will occur on a specific known date absent judicial
20 intervention, and it will occur within this District.

21 The pendency of the grand jury proceeding in the Northern District of Texas heightens, rather
22 than diminishes, the need for emergency relief here. Plaintiffs’ records, providers, and treatment
23 relationships are in this District, and Stanford is subject to this Court’s personal jurisdiction.
24 Stanford’s production of Plaintiffs’ private medical records would occur from California. Plaintiffs
25 have no records, residence, treatment relationship, or other connection to the Northern District of
26 Texas that would make it reasonable to require them to seek relief there on the eve of disclosure. This
27 Court is the forum with the most direct connection to Plaintiffs, Stanford, and the threatened injury.
28

1 **E. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST TIP**
2 **SHARPLY IN FAVOR OF PRELIMINARY RELIEF**

3 The balance of equities tips sharply in favor of granting preliminary relief to preserve the
4 status quo and prevent an irreparable infringement of Plaintiffs' constitutional rights. Denial of relief
5 would result in the permanent and irreversible destruction of Plaintiffs' privacy interest in their
6 identifying information and PHI. This is a harm that, once inflicted, cannot be undone regardless of
7 how this litigation ultimately resolves.

8 Stanford would suffer no cognizable harm from interim relief. At most, it would experience a
9 delay in producing the specific patient-identifying records challenged here while this Court resolves
10 Plaintiffs' constitutional claims; the requested injunction does not prevent Stanford from responding
11 to any portions of the subpoena that do not seek Plaintiffs' identifying information or PHI. Any
12 administrative burden Stanford may face is greatly outweighed by the permanent constitutional injury
13 that would be inflicted on Plaintiffs if a TRO and preliminary injunction are denied.

14 Similarly, to the extent that any burden on the United States is relevant to this motion as a
15 consideration of the public interest, any such burden is likewise far outweighed by the threatened
16 permanent extinguishment of Plaintiffs' constitutional privacy interests. The government has no
17 cognizable interest in obtaining Plaintiff's records by unconstitutional means. If the subpoena is
18 constitutionally permissible, the government loses nothing by waiting for this Court's judgment other
19 than a temporary delay in reviewing Plaintiffs' records as part of any investigation it may be
20 conducting. Plaintiffs' records are one small part of an investigation that the government's own
21 public statements confirm has gone on for nearly 12 months and involve its attempt to obtain the
22 records of every patient treated by more than 20 doctors and clinics around the country. To date, that
23 investigation has resulted in no civil or criminal charges and at least eight federal district court
24 decisions quashing its subpoenas on the ground that they lack any legitimate investigatory purpose.

25 The public interest also strongly favors relief. "[I]t is always in the public interest to prevent
26 the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002 (quoting *Sammartano v.*
27 *First Judicial Dist. Ct.*, 303 F.3d 959, 974 (9th Cir. 2002)). The public interest here is amplified by
28 the scope of the threatened constitutional violation. The government's simultaneous targeting of

1 multiple transgender individuals who reside in this District—and many more across the country—
2 highlights the public importance of ensuring that any investigation is conducted through
3 constitutionally valid methods. If this Court denies preliminary relief, the government’s effort to halt
4 pediatric transgender medical care through intimidation and fear unsupported by any legitimate
5 investigatory purpose will proceed unchecked. The privacy of multiple residents of this District will
6 be permanently compromised, and the chilling effect on transgender individuals’ willingness to seek
7 medically necessary care will be felt across the community. This Court’s intervention to ensure
8 constitutional compliance before widespread harm is inflicted is squarely in the public interest.

9 **CONCLUSION**

10 For the foregoing reasons, the Court should grant Plaintiffs’ motion for a temporary
11 restraining order and preliminary injunction enjoining Stanford from producing Plaintiffs’ identifying
12 information and protected health information in response to the federal grand jury subpoena issued by
13 the United States District Court for the Northern District of Texas, or any substantially similar
14 subpoena, request, or order issued by any court, official, or agency.

15 DATED: May 27, 2026

Respectfully submitted,

16 ROSEN BIEN GALVAN & GRUNFELD LLP

17
18 By: /s/ Kara J. Janssen
19 Kara J. Janssen

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