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9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

13 **Z.A., a minor, by and through their parent,**  
 14 **A.A.,**  
 15 Plaintiffs  
 16 v.  
 17 **TODD BLANCHE, in his official capacity as**  
 18 **Acting Attorney General of the United**  
 19 **States,**  
 20 Defendants.

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

**[PROPOSED] BRIEF OF AMICI  
 CURIAE STATES IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR A  
 TEMPORARY RESTRAINING ORDER**

Judge: Hon. P. Casey Pitts

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**INTERESTS OF AMICI STATES**

1  
2 In the summer of 2025, the Department of Justice (“DOJ”) served numerous civil  
3 administrative subpoenas across the country on medical providers of transgender healthcare for  
4 minors. Courts have repeatedly quashed these subpoenas, finding they were part of a systematic  
5 campaign targeting transgender healthcare, served no legitimate investigatory purpose, were  
6 overly broad, harassing, and intrusive, jeopardized the health and welfare of State residents, and  
7 threatened to undermine the States’ sovereign interest in regulating the practice of medicine in  
8 their jurisdictions. DOJ now attempts to seek the same information through a federal grand jury  
9 subpoena from the U.S. Attorney’s Office for the Northern District of Texas served on Lucile  
10 Salter Packard Children’s Hospital at Stanford (Stanford Children’s Hospital). The subpoena at  
11 issue here, which seeks identifying and sensitive personal healthcare information about minor  
12 patients, suffers from the same defects as the civil administrative subpoenas that courts have  
13 repeatedly rejected. Accordingly, the States of California, Arizona, Colorado, Connecticut,  
14 Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey,  
15 New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington, and the  
16 District of Columbia submit this brief in support of plaintiffs’ motion for a temporary restraining  
17 order barring DOJ from requesting or obtaining records responsive to specifications 12-14 of the  
18 subpoena and barring Stanford Children’s Hospital from disclosing records responsive to those  
19 specifications.

20 The subpoena at issue here seeks to threaten and intimidate medical providers to cease  
21 offering critical, medically necessary healthcare to transgender minors, one of the most  
22 vulnerable populations in California and other amici States. Indeed, the subpoena places medical  
23 providers and hospital administrators in the crosshairs of criminal enforcement mechanisms  
24 merely for providing this care. If Stanford Children’s Hospital were forced to comply with this  
25 subpoena, it would threaten the health and welfare of the people of California and other amici  
26 States, impede core economic activities of amici States, and encroach on amici States’ traditional  
27 role as the regulators of medicine.  
28

1 Amici States are home to hospitals, like Stanford Children’s Hospital, that provide  
 2 medically necessary care, including transgender healthcare, to thousands of people every year.  
 3 These hospitals are at the forefront of biomedical and technological research, and they fuel the  
 4 economies of amici States, including by creating jobs, spurring innovation, improving residents’  
 5 health, and training the future workforce. Amici States have a strong interest in regulating the  
 6 practice of medicine in their jurisdictions, including by licensing doctors and other medical  
 7 professionals; implementing standards of care for a wide variety of medical procedures and  
 8 treatments; and enforcing those standards and other related regulations. In this realm, many amici  
 9 States have enacted laws safeguarding access to transgender healthcare services and protecting  
 10 people who lawfully provide or help others access such care. In these amici States’ experience,  
 11 those laws are necessary to uphold the rights and dignity of our transgender residents and the  
 12 health and well-being of our communities.

13 The Court should grant plaintiffs’ motion for a temporary restraining order barring DOJ  
 14 from receiving records responsive to—and barring Stanford’s compliance with—specifications  
 15 12-14 of the federal grand jury subpoena directed at Stanford Children’s Hospital.

## 16 ARGUMENT

### 17 THE DEPARTMENT OF JUSTICE SEEKS TO INTERFERE WITH AMICI 18 STATES’ AUTHORITY TO REGULATE THE PRACTICE OF MEDICINE.

19 As sovereigns of their respective territories, States reserve the power to provide for the  
 20 health, welfare, safety, and security of the people. *See Metro. Life Ins. Co. v. Massachusetts*, 471  
 21 U.S. 724, 756 (1985); *see also Linder v. United States*, 268 U.S. 5, 18 (1925); *Berman v. Parker*,  
 22 348 U.S. 26, 32 (1954); *Hillsborough Cnty., Fla. v. Automated Med. Lab’ys, Inc.*, 471 U.S. 707,  
 23 719 (1985). DOJ’s relentless campaign against transgender healthcare—including by issuing the  
 24 subpoena at issue in this case—seeks to upend this fundamental principle.

25 The Tenth Amendment reserves for the States all rights and powers “not delegated to the  
 26 United States” federal government. U.S. Const. amend. X. Commonly referred to as “traditional  
 27 state police powers,” the rights and powers of the States include the “power to protect the health  
 28 and safety of their citizens.” U.S. Const. amend. X; *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475

1 (1996); *see also Slaughterhouse Cases*, 83 U.S. 36, 62 (1873) (describing the police power as  
 2 extending “to the protection of the lives, limbs, health, comfort, and quiet of all persons . . .  
 3 within the State”). Since at least 1889, the states’ authority to regulate the practice of medicine  
 4 has been recognized as among these powers. *Dent v. West Virginia*, 129 U.S. 114, 122 (1889)  
 5 (states have discretion to set medical licensing requirements as they have done since “time  
 6 immemorial”). Though Congress may legislate to regulate interstate activities, the Executive may  
 7 not adopt novel interpretations of statutes that disrupt a State’s medical regulatory framework by  
 8 inventing novel forms of criminal activity. *See Gonzales v. Oregon*, 546 U.S. 243, 269-70 (2006)  
 9 (holding that the Controlled Substances Act did not prohibit Oregon doctors from prescribing  
 10 medication for the purpose of medical aid in dying, where such care was permitted under state  
 11 law). Courts have upheld a broad set of “state medical practice laws against constitutional  
 12 challenges, making clear that states are generally authorized to legislate in the medical practice  
 13 area.”<sup>1</sup>

14 States have exercised their power to regulate medicine in various ways. Perhaps most  
 15 significantly, States regulate the practice of medicine by defining the scope and contours of  
 16 medical practice and requiring medical licenses for practitioners.<sup>2</sup> Since 1895, all States have  
 17 boards that oversee the licensing of medical professionals.<sup>3</sup> Fundamental and consistent

18  
 19 <sup>1</sup> Patricia J. Zettler, *Toward Coherent Federal Oversight of Medicine*, 52 San Diego L.  
 20 Rev. 427, 448 (2015); *see also Hillsborough Cnty.*, 471 U.S. at 719 (stating “the regulation of  
 21 health and safety matters is primarily, and historically, a matter of local concern”); *Watson v.*  
 22 *Maryland*, 218 U.S. 173, 176 (1910) (“the police power of the states extends to the regulation of  
 23 certain trades and callings, particularly those which closely concern the public health” and  
 24 discussing licensing of medical practitioners); *Gonzales v. Carhart*, 550 U.S. 124, 157 (2007)  
 (“Under our precedents it is clear the State has a significant role to play in regulating the medical  
 profession.”); *Barsky v. Board of Regents*, 347 U.S. 442, 451 (1954) (indicating that the state has  
 “legitimate concern for maintaining high standards of professional conduct” in the practice of  
 medicine); *Buckman v. Plaintiffs’ Legal Comm.*, 531 U.S. 341, 348 (2001) (identifying “historic  
 primacy of state regulation of matters of health and safety”).

25 <sup>2</sup> Zettler, *supra* note 1, at 449-50 (citing Robert I. Field, *Health Care Regulation in*  
 26 *America: Complexity, Confrontation, and Compromise* (2007) 19 (stating that the “cornerstone”  
 of medical practice regulation is states’ licensing schemes).

27 <sup>3</sup> Zettler, *supra* note 1, at 450 (citing Robert C. Derbyshire, *Medical Licensure and*  
 28 *Discipline in the United States* 8 (1969)); *see also* Federation of State Medical Boards, *Contact a*  
 (continued...)

1 requirements for obtaining a medical license across states include graduation from an accredited  
 2 medical school, completing one or more years of residency or fellowship, and passing a licensing  
 3 examination.<sup>4</sup> Additional requirements may include interviews, a documented lack of criminal  
 4 history, and medical malpractice insurance coverage.<sup>5</sup> States, through their legislatures and  
 5 regulatory boards, also regulate medical practice by disciplining licensees who act illegally or  
 6 unethically or who violate standards of care, and by “enact[ing] laws and regulations that directly  
 7 circumscribe how licensed practitioners conduct medical practice,” such as reporting, disclosure,  
 8 and timeframe rules.<sup>6</sup>

9 States have also exercised their police powers to protect vulnerable groups against  
 10 discrimination and to ensure equal access to healthcare. Consistent with state policy judgments  
 11 about protecting minority populations and prohibiting discrimination, California and many other  
 12 amici States have enacted civil rights protections for transgender people in education,  
 13 employment, healthcare, housing, public accommodations, and other parts of public life.<sup>7</sup> They  
 14 have also taken steps to safeguard access to transgender healthcare, exercising their sovereign  
 15 judgment that such safeguards promote public health and wellbeing. For instance, California and

16 *State Medical Board*, <https://www.fsmb.org/contact-a-state-medical-board> (last visited June 11,  
 17 2026).

18 <sup>4</sup> Zettler, *supra* note 1, at 450 (citing Nadia N. Sawicki, *Character, Competence and the*  
*Principles of Medical Discipline*, 13 J. Health Care L. & Pol’y 285, 290 (2010)).

19 <sup>5</sup> *Id.*

20 <sup>6</sup> *Id.* at 450–52.

21 <sup>7</sup> *See, e.g.*, Cal. Civ. Code §§ 51(b), 51(e)(6); Cal. Gov’t Code §§ 12940(a), 12955; Md.  
 22 Code Ann., Educ. § 26-704; Conn. Gen. Stat. §§ 10-15c, 46a-58 *et seq.*; Del. Code tit. 6, ch. 45 &  
 23 46; Del. Code tit. 19, ch. 7; D.C. Code § 2-1401.01 *et seq.*; 775 Ill. Comp. Stat. 5/1-102(A), 5/1-  
 24 103(O-1), 5/1-103(Q); Me. Rev. Stat. tit. 5, § 4551 *et seq.*; Md. Code Ann., State Gov’t §§ 20-  
 25 606, 20-705; Mass. Gen. Laws ch. 151B, § 4; Mass. Gen. Laws ch. 272, §§ 92A, 98; Mich.  
 26 Comp. Laws § 37.2202(1)(a); Minn. Stat. §§ 363A.03, subd. 50, 363A.01 *et seq.*; Nev. Rev. Stat.  
 27 §§ 118.100, 284.150(3), 439.994, 449.101(1), 613.330; N.J. Stat. Ann. §§ 10:5-1 *et seq.*, 17:48-  
 28 600, 18A:36-41; N.Y. Const. Art. 1 § 11; N.Y. Exec. Law §§ 296-a, 296-b; N.Y. Civ. Rights Law  
 § 40-c; N.Y. Comp. Codes R. & Regs. tit. 9, § 466.13; Or. Rev. Stat. §§ 659A.006, 659A.030,  
 659A.403, 659A.421; R.I. Gen. Laws §§ 11-24-2, 28-5-5, 28-5.1-12, 28-6-18, 34-37-2, 34-37-4,  
 34-37-4.3, 34-37-5.2, 34-37-5.3, 34-37-5.4; Vt. Stat. Ann. tit. 9, §§ 4502, 4503; Vt. Stat. Ann. tit.  
 21, § 495; Wash. Rev. Code §§ 49.60.030(1), 49.60.040(2), 49.60.040(29), 49.60.215.

1 many other amici States expressly recognize a legal right to transgender healthcare and have  
 2 enacted laws intended to protect people in their States who access, provide, or assist with the  
 3 provision of that care from civil or criminal penalties by out-of-state jurisdictions that outlaw it.<sup>8</sup>  
 4 Many amici States, including California, also cover transgender healthcare through their State  
 5 Medicaid programs,<sup>9</sup> and they prohibit State-regulated health insurance plans from withholding  
 6 coverage from individuals based on their gender identity or their diagnosis of gender dysphoria,  
 7 thereby ensuring that transgender residents enjoy the same coverage for medically necessary  
 8 treatment as residents who are not transgender.<sup>10</sup>

9 <sup>8</sup> See, e.g., Cal. Civ. Code § 56.109; Colo. Rev. Stat. §§ 10-16-121(1)(f), 13-21-133, 16-3-  
 10 102, 16-3-301; Conn. Gen. Stat. §§ 19a-17e, 52-146w, 52-571m; 735 Ill. Comp. Stat. 40/28-5 *et*  
 11 *seq.*; Me. Rev. Stat. tit. 14, § 9001 *et seq.*; Me. Rev. Stat. tit. 22, §§ 1508; Md. Code Ann., State  
 12 Pers. & Pens. § 2-312; Mass. Gen. Laws ch. 12, § 11I½(b)-(d); Mass. Gen. Laws ch. 147, § 63;  
 13 Mass. Gen. Laws ch. 276, § 13; 2023 Minn. Laws ch. 29; Minn. Stat. § 260.925; N.Y. Exec. Law  
 14 § 837-x; N.Y. C.P.L.R. §§ 3119, 3102, 4550; N.Y. Fam. Ct. Act § 659, N.Y. Civ. Rights Law  
 15 § 70-b; N.Y. Comp. Codes R. & Regs. tit. 10, § 405.7(c)(2); Or. Rev. Stat. §§ 15.430, 24.500,  
 414.769, 435.210, 435.240; Vt. Stat. Ann. tit. 12, § 7301 *et seq.*; Wash. Rev. Code § 7.115 *et*  
 16 *seq.*; N.J.A.C. Executive Order No. 326 (2023); see also UCLA Sch. of Law Williams Inst.,  
 17 *Shield Laws for Reproductive and Gender-Affirming Health Care: A State Law Guide* (Aug.  
 18 2024), <https://perma.cc/Y2W5-EPD2>.

19 <sup>9</sup> See, e.g., Cal. Welf. & Inst. Code § 14197.09; Cal. Dept. of Health Care Services,  
 20 *Medically Necessary Gender-Affirming Care Services Covered for Medi-Cal Members* (May 7,  
 21 2025), <https://mcweb.apps.prd.cammis.medi-cal.ca.gov/news/33457>; Ill. Admin. Code tit. 89,  
 22 §§ 140.413(a)(16), 140.440(h); Md. Code Ann., Health-Gen. § 15-151; MassHealth, *Gender-*  
 23 *Affirming Care Covered by MassHealth*, <https://perma.cc/YC87-7ZPH> (last visited June 11,  
 24 2026); Mich. Dep't of Health & Human Servs., *Med. Servs. Admin. Bull. No. 19-06: Compliance*  
 25 *with Federal Nondiscrimination Provisions* (Mar. 1, 2019), <https://perma.cc/38YL-FWUQ>; Mich.  
 26 Dep't of Health & Human Servs., *Med. Servs. Admin. Bull. No. 21-28: Coverage of Gender*  
 27 *Affirmation Services* (Sept. 30, 2021), <https://perma.cc/96GE-9GFZ>; Minn. Stat. § 256B.0625,  
 28 subd. 3a; Nev. Medicaid Servs. Manual § 608 (May 27, 2026), <https://perma.cc/B634-8HLU>;  
 N.Y. Comp. Codes R. & Regs. tit. 18, § 505.2(l); R.I. Gender Dysphoria/Gender Nonconformity  
 Coverage Guidelines (Oct. 28, 2015), <https://perma.cc/E9DH-KYV4>; Vt. Stat. Ann. tit. 8, § 4071.

<sup>10</sup> See, e.g., Cal. Code Regs. tit. 10, § 2561.2(a); Code Colo. Regs. §702-4, Reg. 4-2-42,  
 § 5(A)(1)(o); Del. Code tit. 18, §2304; 215 Ill. Comp. Stat. 5/356z.60(b); Ill. Admin. Code tit. 50,  
 § 2603.35; Me. Rev. Stat. tit. 22, § 3174-MMM; Md. Code Ann., Ins. § 15-1A-22; Mass. Gen.  
 Laws ch. 272, §§ 92A, 98; Minn. Stat. § 62Q.585; N.J. Stat. Ann. § 17:48-600; N.Y. Comp.  
 Codes R. & Regs. tit. 11, § 52.75; Or. Admin. R. 836-053-0441; R.I. Off. Health Ins. Comm'r,  
*Health Ins. Bull. No. 2015-3: Guidance Regarding Prohibited Discrimination on the Basis of*  
*Gender Identity or Expression* (Nov. 23, 2015), <https://perma.cc/MB57-YNBZ>; Vt. Stat. Ann. tit.  
 8, §§ 4071, 4724; Mass. Div. of Ins., *Bull. No. 2021-11: Prohibited Discrimination on the Basis*  
*of Gender Identity or Gender Dysphoria Including Medically Necessary Gender Affirming Care*  
 (continued...)

1 Similarly, California and many amici States have enacted laws that make clear that  
 2 performing transgender healthcare, within the scope of a provider’s practice, cannot by itself be  
 3 considered professional misconduct, as well as laws that shield medical providers from facing  
 4 professional discipline based solely on an out-of-state conviction or adverse license action  
 5 resulting from the provision of transgender healthcare.<sup>11</sup> Relatedly, some amici States bar  
 6 medical malpractice insurers from taking adverse action against medical professionals simply  
 7 because they provide transgender healthcare.<sup>12</sup> California Civil Code § 1798.301 further provides  
 8 that “gender-affirming health care services, and gender-affirming mental health care services are  
 9 rights secured by the Constitution and laws of California[]” and that “[i]nterference with these  
 10 rights . . . is against the public policy of California.” Cal. Civ. Code § 1798.301. To this end,  
 11 California also mandates training for healthcare professionals to ensure that patients who identify  
 12 as transgender, gender diverse, and intersex receive trans-inclusive care.<sup>13</sup>

13 Taken together, the above laws and policies reflect many amici States’ commitment to  
 14 preserving the integrity of the medical profession, protecting the equality of all people, and  
 15 ensuring that people with gender dysphoria are not denied medically necessary healthcare. In the  
 16 experience of many amici States, these laws and policies are essential to address long-standing  
 17 inequities in the healthcare system. The laws and policies discussed above adhere to medical  
 18 standards of care and respect the doctor-patient relationship, thereby preserving the integrity and  
 19

20  
 21 *and Related Services* (Sept. 9, 2021), <https://www.mass.gov/lists/doi-bulletins>; Mass. Div. of Ins.,  
 22 *Bull. No. 2014-03: Guidance Regarding Prohibited Discrimination on the Basis of Gender*  
 23 *Identity or Gender Dysphoria Including Medically Necessary Transgender Surgery and Related*  
*Health Care Services* (June 20, 2014), <https://www.mass.gov/lists/doi-bulletins>.

24 <sup>11</sup> See, e.g., Cal. Bus. & Prof. Code §§ 850.1, 852; Conn. Gen. Stat. §§ 19a-17e, 20-579a,  
 25 52-571m; Colo. Rev. Stat. § 12-30-121; Md. Code Ann., Health Occ. § 1-227; Mass. Gen. Laws  
 26 ch. 112, §§ 5F½, 77, 128; N.Y. Educ. Law § 6531-b; Or. Rev. Stat. §§ 675.070, 675.540,  
 675.745, 677.190, 678.138, 685.110, 689.405; 225 Ill. Comp. Stat. 60/22(C); R.I. Gen. Laws § 5-  
 37.8-1.

27 <sup>12</sup> See, e.g., N.Y. Ins. Law § 3436-a; Colo. Rev. Stat. § 10-4-109.6(1); Or. Rev. Stat.  
 28 § 676.313; 225 Ill. Comp. Stat 60/23(A)(3).

<sup>13</sup> See, e.g., Cal. Ins. Code § 10133.13.

1 ethics of the medical profession. More importantly, these laws result in better health outcomes for  
2 transgender adolescents, safeguarding their physical, emotional, and financial wellbeing.

3 Despite no federal law prohibiting such care, the clear purpose of the subpoena to Stanford  
4 Children’s Hospital is to end transgender healthcare for teenagers and adolescents. As federal  
5 courts across the country have held with respect to DOJ’s civil subpoenas, sweeping requests for  
6 sensitive health information—including records of all patients who have received a particular  
7 type of medical care—appear to represent a radical departure from DOJ’s prior practice and make  
8 express the “policy goal” of the Executive Branch to harm a politically disfavored minority. *See,*  
9 *e.g., In re Boston Children’s Hospital Subpoena*, 2025 WL 2607784 at \*7 (D. Mass. Sep. 9,  
10 2025) (“It is abundantly clear that the true purpose of issuing the subpoena is to interfere with the  
11 Commonwealth of Massachusetts’ right to protect [transgender healthcare] within its borders, to  
12 harass and intimidate BCH to stop providing such care, and to dissuade patients from seeking  
13 such care.”). As another district court recently concluded, DOJ’s systematic campaign against  
14 transgender healthcare “directly conflict[s] with Plaintiff States’ laws protecting transgender  
15 adolescents’ access to gender-affirming care, which were enacted in exercise of Plaintiff States’  
16 traditional authority to pass laws regulating medicine and to safeguard its citizens health and  
17 welfare.” *Massachusetts v. Trump*, 2026 WL 1584837, at \*23 (D. Mass. June 3, 2026). DOJ’s  
18 subpoena to Stanford Children’s Hospital has nothing at all to do with promoting the rule of law.  
19 Rather, this extraordinary overreach is an attempt to subvert the policy and considered judgment  
20 of the states as the traditional regulators of the practice of medicine. This broadside attack by DOJ  
21 on transgender healthcare undermines the amici States’ sovereign authority to protect the health  
22 and safety of our residents.

### 23 CONCLUSION

24 For the foregoing reasons, this Court should grant plaintiffs’ motion for a temporary  
25 restraining order.

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