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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

QueerDoc, PLLC,

Movant,

v.

U.S. Department of Justice,

Respondent.

Case No. 2:25-mc-00042-JNW

QueerDoc, PLLC's Motion to Quash
Subpoena Duces Tecum

NOTE ON MOTION CALENDAR:
JULY 29, 2025

ORAL ARGUMENT REQUESTED

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MOT. TO QUASH SUBPOENA DUCES TECUM
(No. _____)

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INTRODUCTION

Since taking office nearly six months ago, the Trump Administration has made its views on transgender individuals clear: it aims to stop them from receiving necessary, evidenced-based, life-saving gender affirming medical care, and to intimidate and harass the providers of such care so that they no longer feel safe providing it. Immediately upon taking office, the President issued two executive orders directed at transgender individuals, one of which, EO 14187,¹ specifically took aim at gender affirming care. On February 14, 2025, United States District Judge Lauren King held that much of that Executive Order did not survive constitutional scrutiny and, like other federal courts across the country, issued relief halting enforcement of the President's unlawful efforts to withhold federal funding and otherwise to interfere with the States' sovereign authority to regulate this life-saving care themselves.² Notwithstanding these decisions, the Administration has celebrated what it has itself called the "intended effect" of these executive orders: to "downsize or eliminate" *all* gender affirming care throughout the country.

The Administration's latest effort to stop patients from accessing gender affirming care came in mid-June, when the U.S. Department of Justice ("DOJ") began to implement EO 14187's directive, issuing an administrative subpoena (the "Subpoena") to QueerDoc, PLLC ("QueerDoc"), a telehealth provider of gender affirming care to transgender and gender-diverse individuals in ten states, including Washington.

The Subpoena was not served pursuant to a *bona fide* investigation into purported violations of healthcare fraud. Rather, the Subpoena appears to be just the latest step in the Administration's discriminatory campaign to stop transgender individuals from receiving gender affirming care and to prevent healthcare providers from delivering this care. Because of the

¹ "Protecting Children from Chemical and Surgical Mutilation," 90 Fed. Reg. 8771 (Jan. 28, 2025).

² *Washington v. Trump*, 766 F. Supp. 3d 1239 (W.D. Wash. 2025); *PFLAG, Inc. v. Trump*, 766 F. Supp. 3d 535 (D. Md. 2025); *S.F. A.I.D.S. Found. v. Trump*, --- F. Supp. 3d ---, 2025 WL 1621636 (N.D. Cal. June 9, 2025); *New York v. Trump*, 769 F. Supp. 3d 119 (D.R.I. 2025).

Subpoena's discriminatory purpose and expansive breadth, pursuant to 18 U.S.C. § 3486(5), QueerDoc respectfully requests that the Court quash this Subpoena in its entirety.

BACKGROUND

A. Gender Affirming Care

Gender affirming care supports the health of transgender and gender-diverse people by helping them to live consistent with their gender identity. *Washington*, 768 F. Supp. 3d at 1272-73. It is supported by overwhelming consensus in the medical community, including by the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Medical Association, the American Psychological Association, and the Pediatric Endocrine Society, among others. *Id.* at 1273-74. It is also explicitly protected by numerous state laws, including by the State of Washington. *See* Wash. Rev. Code § 74.09.675.

Extensive medical research and clinical experience demonstrate that treating gender dysphoria with gender affirming care is safe and effective. *See Washington*, 768 F. Supp. 3d at 1273. Left untreated, gender dysphoria can cause severe anxiety and depression, eating disorders, substance abuse, self-harm, and suicidality. *Edmo v. Corizon*, 935 F.3d 757, 769 (9th Cir. 2019). Gender affirming care can include, for appropriate patients, treatment with puberty blockers to delay the onset of puberty, as well as hormone therapy. *Washington*, 768 F. Supp. 3d at 1276 n.25. Providers of gender affirming care take a holistic approach to treating a patient, taking into account the patient's physical and psychological needs, and work with patients and their families to ensure that their treatment decisions are informed and appropriate. *See id.* at 1265-66.

B. QueerDoc

QueerDoc was founded in 2018 by Dr. Crystal Beal to advance the standard of care for gender affirming care and improve transgender and gender diverse lives through telemedicine-based direct clinical services. Ex. 1, Declaration of Dr. Crystal Beal, M.D. ¶ 8 (July 8, 2025) ("Beal Decl."). Dr. Beal is board-certified in family medicine and has spent years treating transgender individuals. *Id.* ¶ 3. Dr. Beal received their medical degree from the Florida State University College of Medicine and has sought extensive additional training in sexual health,

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LGBTQ+ health, and gender affirming care including self-study, continuing medical education trainings, and shadowing experts in the community. *Id.* ¶¶ 4-5. Dr. Beal is a Clinical Instructor at the University of Washington School of Medicine and has advised a large regional medical center on its adolescent gender clinic protocols. *Id.* ¶ 6. Dr. Beal and QueerDoc’s other providers treat patients with non-surgical medical and non-medical interventions. *Id.* ¶ 8.

C. The Administration’s Campaign to Stop Gender Affirming Care

The Administration’s views on gender affirming care are not a secret. In a January 2023 video posted to Truth Social, the President promised that, if re-elected, he would punish providers of gender affirming care and issue executive orders designed to end such care. Alex Seitz-Wald and Jo Yurcaba, “Trump vows to ‘stop’ gender-affirming care for minors if re-elected president,” *NBC News* (Jan. 31, 2023), *available at* <https://perma.cc/YR4S-9T9A>.

On January 20, 2025—the very day that the President took office—he began to do just that, issuing his first Executive Order relating to transgender individuals. EO 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” 90 Fed. Reg. 8615 (Jan. 20, 2025) (the “January 20 Order”). The January 20 Order purported to make it “the policy of the United States to recognize two sexes, male and female.” *Id.* § 2. In the view of the Administration, so-called “[g]ender ideology” “permit[s] the false claim that males can identify as and thus become women and vice versa, and requir[es] all institutions of society to regard this false claim as true.” *Id.*

On January 28, 2025, the President went further, taking aim specifically at gender affirming care. EO 14187, “Protecting Children from Chemical and Surgical Mutilation,” 90 Fed. Reg. 8771 (Jan. 28, 2025) (the “January 28 Order”). The January 28 Order characterized the lawful provision of gender affirming care by licensed medical professionals as the “maiming and sterilizing of a growing number of impressionable young children.” *Id.* § 1. It further called gender affirming care “a stain on our Nation’s history” that “must end.” *Id.* Pursuant to the January 28 Order’s stated goal of “end[ing]” gender affirming care, it directed DOJ to “prioritize investigations and take appropriate action to end deception of consumers, fraud, and violations of the Food, Drug,

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1 and Cosmetic Act by any entity that may be misleading the public about long-term side effects of
2 chemical and surgical mutilation.”³ *Id.* § 8(c).

3 Several weeks later, DOJ took action to implement the President’s order. On April 22,
4 2025, Attorney General Pam Bondi directed DOJ component heads, in an internal memorandum
5 referring to the January 28 Order, to “investigate and hold accountable medical providers and
6 pharmaceutical companies that mislead the public about the long-term side effects of” gender
7 affirming care, which the Attorney General termed “chemical and surgical mutilations.” Ex. 4 (the
8 “Bondi Memo”), at 4. The Bondi Memo directed the Consumer Protection Branch to “undertake
9 appropriate investigations of any violations of the Food, Drug and Cosmetic Act by manufacturers
10 and distributors engaged in misbranding making” purported “false claims” regarding “puberty
11 blockers, sex hormones,” and similar drugs. *Id.*

12 In an effort to further implement the Bondi Memo, Assistant Attorney General Brett
13 Shumate issued a memorandum to DOJ Civil Division employees on June 11, 2025, which
14 identified as a priority “protecting women and children,” through further enforcement of the
15 January 20 and 28 Orders. Ex. 5 (the “Shumate Memo”). The Shumate Memo cited the Bondi
16 Memo, but went even further, stating that:

17 The Civil Division will use all available resources to prioritize investigations of doctors,
18 hospitals, pharmaceutical companies, and other appropriate entities consistent with these
19 directives . . . [including] possible violations of the [FDCA] and other laws by (1)
20 pharmaceutical companies that manufacture drugs used in connection with so-called
gender transition and (2) dealers such as online pharmacies suspected of illegally selling
such drugs.

21 *Id.* at 2-3.

22 Federal district courts in several jurisdictions have since enjoined portions of the January
23 20 and 28 Orders, in part due to their discriminatory animus and effect. *See, e.g., Washington*, 766
24 F. Supp. 3d at 1250; *PFLAG*, 766 F. Supp. 3d at 570.

26 ³ As the *Washington* court recognized, discriminatory animus pervades much of the January 28
27 Order, *see* 768 F. Supp. 3d at 1146, but here only the prosecutorial policy in the January 28 Order
(section 8(c)) is at issue.

Notwithstanding these injunctions, significant damage has been done. In the wake of the orders, hospitals around the country announced they will no longer provide gender affirming care. Associated Press, “Some hospitals pause gender-affirming care to evaluate Trump’s executive order” *NBC News* (Jan. 30, 2025) *available at* <https://perma.cc/D4HA-MHDP>. Citing those announcements, the White House issued a statement on February 3, 2025, proclaiming that the January 28 Order was “already having its intended effect—preventing children from being maimed and sterilized by adults perpetuating a radical, false claim that they can somehow change a child’s sex.” The White House, “President Trump is Delivering on His Commitment to Protect Our Kids” (Feb. 3, 2025), *available at* <https://perma.cc/P443-RF6A> (the “February 3 Statement”).

D. Procedural History

The Subpoena was issued to QueerDoc by DOJ’s Consumer Protection Branch on June 11, 2025, signed by Assistant Attorney General Brett Shumate. Ex. 2 at 1. The Subpoena was issued pursuant to Section 248 of the Health Insurance Portability & Accountability Act of 1996, Public Law No. 104-91 (18 U.S.C. § 3486) (“HIPAA”) and purports to be investigating “Federal health care offenses as defined in 18 U.S.C. § 24(a),” which enumerates a list of more than 20 federal health care offenses, including the Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.* (“FDCA”). *Id.*

The Subpoena seeks a wide range of documents and data relating to QueerDoc’s provision of gender affirming care. *See generally id.* Most concerning, the Subpoena seeks QueerDoc’s medical records for every patient prescribed puberty blockers or hormone therapy. *Id.* at 6-7.

On June 26, 2025, counsel for QueerDoc contacted the DOJ attorneys identified on the Subpoena and conferred with them later that day. Ex. 2, Declaration of Paula R. Ramer ¶ 5. When asked about the basis for this investigation, the DOJ attorneys referred to the January 20 and 28 Orders and the Bondi Memo and stated that they had been tasked with investigating potential violations of the FDCA. *Id.* ¶ 6. They also stated that they had been asked to make “frequent and extensive reports” to DOJ “senior leadership.” *Id.*

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When asked whether the DOJ attorneys had specific concerns regarding QueerDoc, the DOJ attorneys stated only that they are aware that QueerDoc is a “prominent” provider of gender affirming care through telehealth and that it prescribes puberty blockers and hormones “under the FDCA.” *Id.* ¶ 7. They added, however, that there was nothing more of concern, saying “that’s the extent of it.” Regarding the July 9 return date on the Subpoena, the DOJ attorneys said that they were not able to grant any extension of time to respond and that, although they did not expect production to be complete by that date, they would require QueerDoc to begin producing documents by that date. *Id.* ¶ 8.

ARGUMENT

The government’s subpoena power is not boundless. It is limited to the statutory purpose for which Congress provided, *United States v. Powell*, 379 U.S. 48, 57 (1964), and by the Constitution itself. *Resiman v. Caplin*, 375 U.S. 440, 445 (1964). Ending gender affirming care is not a valid statutory purpose of a HIPAA subpoena—yet DOJ has issued the Subpoena for precisely that reason. Furthermore, by targeting the transgender community alone, the government selectively and discriminatorily wields its subpoena power in violation of the Equal Protection Clause. *See Lacey v. Maricopa Cty.*, 693 F.3d 896, 924 (9th Cir. 2012). As such, the Subpoena is unlawful on its face. Even if the Subpoena was facially valid, it is impermissibly overbroad, unduly burdensome and it infringes mightily on patient privacy protections. For each of these reasons, the Court should quash the Subpoena in its entirety.

A. The Subpoena is Unlawfully Motivated by an Improper, Discriminatory Purpose

Administrative subpoenas, including the subpoena here, must “be conducted pursuant to a legitimate purpose.” *See United States v. Powell*, 379 U.S. 48, 57 (1964); *see also, e.g., Reich v. Mont. Sulphur & Chem. Co.*, 32 F.3d 440, 445 (9th Cir. 1994) (investigative subpoena may only be issued “for a lawfully authorized purpose”); *Solis v. Forever 21, Inc.*, 2013 WL 1319769, at *2 (C.D. Cal. Mar. 7, 2013) (a “civil investigative subpoena” may be enforced only if it is sought “pursuant to a lawfully authorized legitimate purpose”). Where an administrative subpoena is

1 issued for an “improper purpose,” including to “harass [an investigation’s target],” the subpoena
 2 should be quashed. *See, e.g., Smith v. United States*, 14 F. App’x 542, 545 (6th Cir. 2001) (quoting
 3 *Powell*, 379 U.S. at 58); *see also Crystal v. United States*, 172 F.3d 1141, 1145 (9th Cir. 1999).

4 Demonstrating a subpoena was issued for an improper purpose requires a showing of
 5 “either a lack of institutional good faith” or an abuse of process. *United States v. Agrama*, 2023
 6 WL 4486735, at *1 (9th Cir. July 12, 2023) (unpublished) (quoting *United States v. LaSalle Nat’l*
 7 *Bank*, 437 U.S. 298, 314-16 (1978)). Here, the public record illustrates that the Subpoena meets
 8 that standard.

9 The sole purpose of a HIPAA subpoena is to “investigat[e] [] federal healthcare offenses.”
 10 *In re Subpoena Duces Tecum*, 228 F.3d 341, 343-44 (4th Cir. 2000). Not surprisingly, the
 11 provision of gender affirming care is *not* one of the federal healthcare offenses enumerated in 18
 12 U.S.C. § 24, and whose regulation, in any event, is exclusively left to the States, *cf. Linder v.*
 13 *United States*, 286 U.S. 5, 18 (1925) (“[D]irect control of medical practice in the states is beyond
 14 the power of the federal government.”). Yet, as the White House itself has explained, when the
 15 President directed FDCA investigations targeting providers of gender affirming care, 90 Fed. Reg.
 16 at 8772-73, the “intended effect” of that directive was not to investigate potentially misleading
 17 claims about drugs used in gender affirming care. Rather, as the White House’s February 3
 18 Statement makes clear, the true purpose of the January 28 Order was to “downsize or eliminate”
 19 *all* gender-affirming care. February 3 Statement, *supra* (celebrating various hospitals’
 20 announcements that because of the January 28 Order each would discontinue gender affirming
 21 care programs).

22 Indeed, Attorney General Bondi announced DOJ’s improper motivation for the
 23 investigation when she claimed that gender affirming care is a “radical ideological agenda”
 24 “pushed by far-left politicians, celebrities, politically captured academics, and legacy media” that
 25 has forced “[d]issenting voices” into “acquies[ing] in” “permanent [and] life-altering chemical and
 26 surgical intervention.” Bondi Memo at 1. The Attorney General further lamented that, in her
 27 view, children have been “left permanently disfigured, scarred, and sterilized” by gender affirming

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1 care. *Id.* Consistent with the January 28 Order—which was “signed to halt the [purported]
 2 exploitation” of children through “radical gender ideology” and “gender-affirming care”—the
 3 Bondi Memo announced that DOJ would attempt to “hold accountable those who prey on
 4 vulnerable children and their parents.” *Id.* at 2-3.

5 At the highest levels of government, the Administration has made clear that the Subpoena
 6 is but a pretextual means of seeking to stop medical treatment that is legal under both state and
 7 federal law.⁴ The actual purpose of the Subpoena is to shutter QueerDoc in its entirety. And that
 8 is the *sine qua non* of bad faith. *See United States v. Samuels, Kramer and Co.*, 712 F.2d 1342,
 9 1347 (9th Cir. 1983) (subpoena issued in any part to “close [movant’s business] down” should be
 10 quashed as issued in bad faith and for improper purpose).

11 The constitutional significance of the government’s discriminatory motives cannot be
 12 understated. As District Court Judge King recently held, much of the January 28 Order violates
 13 the Equal Protection Clause. *Washington*, 768 F. Supp. 3d at 1250. As Judge King observed,
 14 healthcare providers that provide puberty blockers to a cisgender teen are safe from government
 15 action under the January 28 Order, but those who provide puberty blockers to a non-cisgender teen
 16 are subject to government intimidation and harassment. *See id.* “Such ‘[a] bare desire to harm a
 17 politically unpopular group’” offends the Equal Protection Clause. *See id.* (quoting *Romer v.*
 18 *Evans*, 517 U.S. 620, 634 (1996)); *see also, e.g., Lacey*, 693 F.3d at 920.

19 To be clear, it is the Administration’s *own* statements that illustrate the government’s true,
 20 discriminatory purpose in issuing the Subpoena. The Court can—and should—find improper
 21 purpose and bad faith from these statements alone. *Cf., e.g., President and Fellows of Harvard*
 22 *College v. U.S. Dep’t of Homeland Sec.*, --- F. Supp. 3d ---, 2025 WL 1737493, at *13 (D. Mass.

23
 24 ⁴ The Executive Branch may not use its subpoena power to accomplish a task reserved for the
 25 Legislative Branch. In 2023, then-Senator J.D. Vance unsuccessfully introduced a bill, which if
 26 enacted, would ban gender affirming care nationally, S. 2357 (July 18, 2023), a subsequent version
 27 of which has since been introduced in the current Congress, H.R. 3492 (May 19, 2025). Having
 failed to enact its stated policy into statutory law (even assuming *arguendo* its constitutionality),
 the Executive Branch may not now intimidate and harass providers of lawful medical services
 through administrative subpoenas to attempt to accomplish its stated policy through other means.

June 23, 2025) (finding executive order was motivated by bad faith from face of order itself and other public statements by Administration officials). At the very least, and in the alternative, QueerDoc has presented sufficient evidence of bad faith and improper motive to warrant discovery and/or an evidentiary hearing. *See Samuels*, 712 F.2d at 1347 (holding it was an abuse of discretion to forgo evidentiary hearing where specific facts underlying allegation of bad faith were averred by sworn affidavit).

B. Additionally, the Subpoena is Overly Broad and Unduly Burdensome

When determining whether to quash a subpoena, “[t]he critical questions [for the Court are]: (1) whether Congress has granted the authority to investigate; (2) whether procedural requirements have been followed; and (3) whether the evidence is relevant and material to the investigation.” *EEOC v. Children’s Hosp. Med. Cntr. of N. Cal.*, 719 F.2d 1426, 1428 (9th Cir. 1983) (citations omitted), overruled on other grounds by *Prudential Ins. Co. of Am. v. Lai*, 42 F.3d 1299, 1303 (9th Cir. 1994); *see also Khukhrov v. Nat’l Lab. Rels. Bd.*, 2017 WL 7806597, at *3 (C.D. Cal. June 27, 2017). “If these factors are shown by the agency, the subpoena should be enforced *unless the party being investigated proves the inquiry is unreasonable because it is overbroad or unduly burdensome.*” *Id.* (emphasis added) (citations omitted). As discussed below, even if the Subpoena had been issued for a lawful purpose—which it has not—it is both overbroad and unduly burdensome.

1. The Subpoena is Overly Broad

The scope of the Subpoena—including the number of requests that are wholly inapplicable to a purported investigation into potential violations of the FDCA—coupled with DOJ’s explicit acknowledgement that it has no specific basis for investigating QueerDoc, demonstrate that the Subpoena is nothing more than an improper “fishing expedition” by the DOJ. *FDIC v. Garner*, 126 F.3d 1138, 1146 (9th Cir. 1997) (“An administrative subpoena ... may not be so broad so to be in the nature of a ‘fishing expedition.’”); *see also, e.g., Nat’l Lab. Rels. Bd. v. Ampersand Publ’g, LLC*, 2015 WL 12746237, at *8 (C.D. Cal. Dec. 1, 2015) (finding an administrative subpoena overly broad where it requested irrelevant and personal information regarding

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1 individuals' cell phone bill statements unrelated to the investigation), *report and recommendation*
 2 *adopted*, 2016 WL 7198680 (C.D. Cal. Feb. 3, 2016).

3 As noted, when counsel for QueerDoc spoke with DOJ regarding the Subpoena, the DOJ
 4 attorneys advised that, per the January 20 and 28 Orders and the Bondi Memo, they had been
 5 tasked with investigating potential violations of the FDCA. Ramer Decl. ¶ 6. Yet, when asked
 6 whether they had particular concerns about QueerDoc, they stated only that they were aware that
 7 QueerDoc is a “prominent” provider of gender affirming care but otherwise could cite no specific
 8 concerns regarding QueerDoc that would justify use of subpoena power. *Id.* ¶ 7. As an initial
 9 matter, it is not possible for QueerDoc—or the Court—to determine the proper “scope” of the
 10 Subpoena in light of such a vague answer, *see Doe v. United States*, 253 F.3d 256 (6th Cir. 2001),
 11 given that, for each request, the details of the underlying investigation are key to the overbreadth
 12 analysis, *see, e.g., id.* at 268; *Mo. Baptist Med. Ctr. v. U.S. Dep’t of Just.*, 2023 WL 315021 (E.D.
 13 Mo, Jan. 19, 2023).

14 Nor could the Subpoena be recast as furthering an investigation into potential FDCA
 15 violations. The FDCA regulates the “adulteration” or “misbranding” of “food, drug[s], tobacco
 16 product[s], [and] cosmetic[s].” 21 U.S.C. §§ 331(a)-(c); *see also, e.g., United States v. Watkins*,
 17 278 F.3d 961, 964 (9th Cir. 2002). Much of the Subpoena, however, has no conceivable
 18 connection to a possible FDCA violation. For example, five of the Subpoena’s 15 requests seek
 19 documents relating to QueerDoc’s billing and coding practices (*e.g.*, Request 4, “All documents
 20 reflecting communications among Company employees (including physicians, billing staff, and
 21 administrators), or between the Company and any third party, relating to whether or how to code
 22 or bill for treatment of gender dysphoria by using alternative diagnoses or alternative ICD codes.”).
 23 Even more egregiously, the Subpoena includes three requests seeking information related to the
 24 highly sensitive medical records of *all* patients—including minor children—who have been
 25 prescribed puberty blockers or hormones, without making any connection to whether there is a
 26 possibility that the drugs prescribed were somehow “misbranded.”

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1 It is not surprising that a subpoena issued to a healthcare provider would have no basis to
 2 seek documents and data relating to potential violations of the FDCA, a statute that has historically
 3 been used to prosecute pharmaceutical manufacturers alleged to have promoted their drugs off
 4 label. Healthcare providers, on the other hand, may freely prescribe drugs off label, consistent
 5 with their clinical judgment, as the Food and Drug Administration (“FDA”) has long recognized.⁵

6 Indeed, even the Bondi and Shumate Memos implicitly recognize that the FDCA does not
 7 reach healthcare providers. For instance, in directing the Consumer Protection Branch to
 8 investigate the potential misbranding of puberty blockers or hormones, the Bondi Memo directs
 9 investigations of “manufacturers and distributors”—not healthcare providers. Likewise, the
 10 portion of the Shumate Memo that tasks the Consumer Protection Branch with investigating
 11 potential violations of the FDCA focuses on investigations of “pharmaceutical companies that
 12 manufacture drugs used in connection with so-called gender transition”—again, not healthcare
 13 providers.

14 For these reasons, the Subpoena is overly broad in its entirety and should be quashed.

15 2. The Subpoena is Unduly Burdensome

16 The Subpoena also should be quashed because compliance would be unduly burdensome
 17 to QueerDoc, “threaten[ing] to unduly disrupt or seriously hinder” its “normal operations.” *See*,
 18 *e.g.*, *Consumer Fin. Prot. Bureau v. Future Income Payments, LLC*, 252 F. Supp. 3d 961, 970
 19 (C.D. Cal. 2017), *order vacated in irrelevant part*, 2018 WL 7502720 (C.D. Cal. Dec. 18, 2018)

20 QueerDoc is a small telehealth company. Apart from Dr. Beal, QueerDoc has one
 21 administrative employee. Beal Decl. ¶ 11. QueerDoc does not have an IT department or medical
 22 records department and would need to retain a consultant to comply with the Subpoena. *Id.* ¶¶ 11-
 23 12. The tasks necessary—collecting, reviewing and producing documents and data on as many as
 24 2,500 patients—would materially disrupt QueerDoc’s business operations and ongoing patient

26 ⁵ FDA, *FDA’s Role in Regulating Medical Devices* (Aug. 31, 2018) *available at*
 27 <https://www.fda.gov/medical-devices/home-use-devices/fdas-role-regulating-medical-devices>.
See also 21 U.S.C. § 396.

care. *Id.* ¶¶ 12-14. And it is not just compliance with this Subpoena that QueerDoc must consider. QueerDoc operates in nine other states besides the State of Washington, each of which imposes its own regulatory regime. *Id.* ¶ 15. Should the Court enforce the Subpoena, Washington law, for instance, would require QueerDoc to compile “an accounting of disclosures of health care information” for each of the Washington patient files it discloses to DOJ, and then make that accounting available to each patient in Washington on demand. Wash. Rev. Code § 70.02.020(2). When considering the significant time and cost that review and implementation would take, full compliance would threaten to put QueerDoc out of business. Beal Decl. ¶ 17.

The Subpoena also substantially burdens patient privacy. Circuit courts throughout the country, including the Ninth Circuit Court of Appeals, have recognized the significant privacy interests at stake in production and disclosure of sensitive medical records. *See, e.g., Tucson Woman’s Clinic v. Eden*, 379 F.3d 531, 551 (9th Cir. 2004) (reproductive-health records) *abrogated in irrelevant part by Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022); *United States v. Westinghouse Elec. Corp.*, 638 F.2d 570, 581 (3d Cir. 1980) (“highly confidential” “physician medical matters”). Here, those privacy interests are further reinforced by the laws of states like Washington, which also afford robust state law privacy protection of medical records.⁶ Recognizing the importance of these privacy interests, courts routinely quash subpoenas that intrude upon patient confidentiality. *See, e.g., Nw. Memorial Hosp. v. Ashcroft*, 362 F.3d 923, 932 (7th Cir. 2004) (affirming order quashing HIPAA subpoena as unduly burdensome where it sought reproductive-health records protected by state law).

Here, the Subpoena’s request for medical records identifying as many as 2,500 patients, including minors, who have confidentially sought gender affirming care from QueerDoc, significantly interferes with the privacy interests of each of these individuals. Combined with the costs of compliance, these weighty interests compel the conclusion that the Subpoena is unduly burdensome in its entirety.

⁶ *E.g.*, Wash. Rev. Code § 702.02.020(1); Cal. Civ. Code § 56.10(a); Org. Rev. State § 192.553(1)(A).

CONCLUSION

Consistent with the undisguised discriminatory purpose articulated at the highest levels of the Administration, DOJ has served the Subpoena to investigate purported violations of a federal statute that does not apply to the recipient's business, solely because that business provides lawful medical services that the federal government does not like as a matter of policy. Neither the federal statute on which DOJ relies nor the Constitution permit such intimidation and harassment. And even if the Subpoena were issued in furtherance of a lawful purpose—it was not—its requests are overly broad and unduly burdensome. For all these reasons, the Subpoena should be quashed.

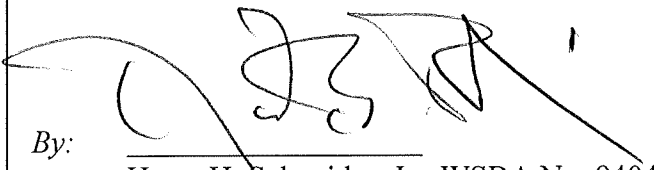
* * *

The undersigned certifies that this motion contains 4,163 words, in compliance with LCR 7(e)(2).

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