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13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 MARK McDONALD AND JEFF BARKE,

16 Plaintiffs,

17 v.

18 KRISTINA D. LAWSON, *in her official capacity*  
19 *as President of the Medical Board of*  
*California*; RANDY W. HAWKINS, *in his*  
20 *official capacity as Vice President of the*  
*Medical Board of California*; LAURIE ROSE  
21 LUBIANO, *in her official capacity as Secretary*  
22 *of the Medical Board of California*;  
MICHELLE ANNE BHOLAT, DAVID E. RYU,  
23 RYAN BROOKS, JAMES M. HEALZER, ASIF  
MAHMOOD, NICOLE A. JEONG, RICHARD E.  
24 THORP, VELING TSAI, and ESERICK WATKINS,  
25 *in their official capacities as members of the*  
*Medical Board of California*; and ROBERT  
26 BONTA, *in his official capacity at Attorney*  
*General of California*,

27  
28 Defendants.

Case No. 8:22-cv-01805-FWS-ADS

NOTICE OF MOTION AND REQUEST FOR  
ACCELERATED HEARING ON MOTION  
FOR PRELIMINARY INJUNCTION

DATE: December 15, 2022  
TIME: 10:00 A.M.  
JUDGE: Hon. Fred W. Slaughter  
CTRM: 10D

1 This Court has the inherent power to waive any provision of the local rules in its  
2 discretion. *Palomo v. Best Buy Stores L.P.*, No. CV 20-8969 FMO (AGRx), 2022 U.S. Dist.  
3 LEXIS 91694, at \*5 (C.D. Cal. Feb. 18, 2022). In this instance, Plaintiffs ask the Court to  
4 waive the 28-day notice requirement for a hearing on their motion for a preliminary  
5 injunction.

6 When there is not “sufficient time to be presented as a regularly noticed motion in  
7 accordance with the Local Rules of this Court,” the Court may grant an expedited schedule  
8 on a motion to ensure a hearing and decision in advance of an important date. *Masters v.*  
9 *Avanir Pharm., Inc.*, 996 F. Supp. 2d 872, 876 n.2 (C.D. Cal. 2014). Indeed, the Local Rules  
10 contemplate such an expedited track for preliminary injunction motions. L.R. 65-1 (“If the  
11 TRO is denied, the Court may set the hearing on the order to show cause without regard to  
12 the twenty-eight (28) days’ notice of motion requirement of L.R. 6-1.”). This Court’s  
13 chambers rules allow parties to contact the courtroom deputy to schedule special hearings  
14 outside the normal Thursday schedule for preliminary injunction requests. *Cato v. San*  
15 *Bernardino Cty.*, No. 5:20-cv-02602-FWS-SHK, 2022 U.S. Dist. LEXIS 119140, at \*6 (C.D.  
16 Cal. May 30, 2022). Plaintiffs’ counsel contacted State Defendants’ counsel to seek dates for  
17 such a hearing, but State Defendants’ counsel opposed such a course of action.

18 In this instance, the Court should grant the Plaintiffs’ request to be heard on an  
19 expedited basis, for three reasons. First, the holiday plans of opposing counsel and the  
20 Court’s own calendar prevent scheduling this motion for late December and necessitated  
21 this request instead. Though Plaintiffs are of course ready to be heard at the Court’s  
22 convenience, they would understand if the Court wished to hear this matter prior to the  
23 23rd. Second, the Defendants will experience no prejudice from an expedited hearing. The  
24 Defendants have already fully briefed the merits. Thus, any response would only concern  
25 whether the Plaintiffs’ new, more detailed declarations are sufficient to establish standing,  
26 an issue the Defendants have already thoroughly researched. Indeed, if the Defendants  
27 find the new submissions sufficient to establish standing, then no additional work should  
28 be required at all. Third, Plaintiffs will suffer irreparable harm if the law goes into effect as

1 scheduled on January 1, 2023. It is blackletter law that “[t]his chill on [their] free speech  
2 rights—even if it results from a threat of enforcement rather than actual enforcement—  
3 constitutes irreparable harm.” *Cuviello v. City of Vallejo*, 944 F.3d 816, 833 (9th Cir. 2019).  
4 And in this case, that chill affects not only the Plaintiffs, but also their patients, who will  
5 be prevented from receiving their doctors’ best medical recommendation. *Conant v.*  
6 *Walters*, 309 F.3d 629, 640 (9th Cir. 2002) (Kozinski, J., concurring) (“Those immediately  
7 and directly affected by the federal government’s policy are the patients, who will be denied  
8 information crucial to their well-being.”).

9 Plaintiffs request that the Court direct the State Defendants to file a response by  
10 Thursday, December 15, and that the Plaintiffs file any reply by Friday, December 16, and  
11 that the Court schedule a hearing via Zoom the week of December 19. Plaintiffs also waive  
12 their right to oral argument or a hearing and are content to have the Court rule on the  
13 papers if the Court does not have any questions for them.

14 Plaintiffs’ counsel has consulted via email with the State Defendants’ counsel. They  
15 have opposed any request for expedited consideration and suggested scheduling the motion  
16 for January 5, 2023, which is the next Thursday compliant with the local rule’s 28-day  
17 notice. Plaintiffs oppose this option because of the irreparable harm to them from the  
18 censorship of their speech at all times after January 1.

19 Dated: December 8, 2022

20 Respectfully submitted,

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