

UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

ST. LUKE’S HEALTH SYSTEM, LTD.,

Plaintiff,

vs.

RAÚL LABRADOR, Attorney General of the  
State of Idaho,

Defendant.

Case No.: 1:25-cv-00015-BLW

**ORDER RE:**

**PLAINTIFF’S MOTION FOR ENTRY  
OF PROTECTIVE ORDER  
(Dkt. 70)**

**DEFENDANT’S MOTION FOR  
PROTECTIVE ORDER  
(Dkt. 72)**

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Before the Court are (i) Plaintiff’s Motion for Entry of Protective Order (Dkt. 70) and (ii) Defendant’s Motion for Protective Order (Dkt. 72). The undersigned<sup>1</sup> has reviewed the briefing and finds that oral argument would not materially assist the decisional process. For the reasons set forth below, the Court will grant the motions in part and deny them in part, with directions to the parties regarding a modified protective order.

**I. BACKGROUND**

In January 2025, Plaintiff St. Luke’s Health System, Ltd. (“St. Luke’s”) sued Defendant Idaho Attorney General Raúl Labrador, claiming that Idaho Code § 18-622 is invalid to the extent it conflicts with the federal Emergency Medical Treatment and Labor Act (“EMTALA”), 42 U.S.C. § 1395dd. The pending motions do not implicate the merits of those claims. Rather, the dispute concerns the scope of a protective order governing discovery.

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<sup>1</sup> This action was originally assigned to U.S. Magistrate Judge Debora K. Grasham on January 14, 2025, but reassigned to U.S. District Judge B. Lynn Winmill the next day. Judge Winmill then referred the at-issue motions to the undersigned on December 11, 2025. *See* 12/11/25 Referral Order (Dkt. 73) (“The assigned Magistrate Judge is directed to conduct all necessary and appropriate proceedings to fully and finally resolve these motions.”). Because these motions are not dispositive, the undersigned enters an Order relative to their disposition.

The parties agree that discovery will involve sensitive medical information relating to nonparties, including patients and medical providers, and that a protective order is necessary. The parties' disagreement centers on whether the protective order should prohibit parties from "seek[ing] information or us[ing] information obtained through discovery in this case to investigate or impose liability on any person for seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for such purposes." Plaintiff argues it should; Defendant argues it should not.

## II. LEGAL STANDARD

The generally applicable legal standards for discovery are well-known. Courts have broad discretion and authority to manage discovery. *See U.S. Fidelity & Guar. Co. v. Lee Inv. LLC*, 641 F.3d 1126, 1136 n.10 (9th Cir. 2011) ("District courts have wide latitude in controlling discovery, and their rulings will not be overturned in the absence of a clear abuse of discretion."). The court's discretion extends to crafting discovery orders that may expand, limit, or differ from the relief requested. *See Crawford-El v. Britton*, 523 U.S. 574, 598 (1988) (holding trial courts have "broad discretion to tailor discovery narrowly and to dictate the sequence of discovery").

"It is well-established that the fruits of pretrial discovery are, in the absence of a court order to the contrary, presumptively public." *San Jose Mercury News, Inc. v. U.S. Dist. Court*, 187 F.3d 1096, 1103 (9th Cir. 1999). However, Federal Rule of Civil Procedure 26(c) provides that "[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following . . . forbidding the disclosure or discovery; specifying terms . . . for the disclosure or discovery; [and] forbidding inquiry in certain matters, or limiting the scope of disclosure or discovery to certain matters." Fed. R. Civ. P. 26(c)(1)(A),(B), (D). To satisfy the "good cause" standard, the

party seeking a protective order must explain the specific prejudice or harm that will result if the information is not protected. *See Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). Generalized statements of harm are not enough. *See Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992); *In re Roman Catholic Archbishop of Portland in Oregon*, 661 F.3d 417, 424 (9th Cir. 2011).

Relevant here, model protective orders – like the one adopted by the District of Idaho – are generally considered “presumptively reasonable.” *See, e.g., Hernandez v. Syncrasy*, 2023 WL 2600452, at \*2 (N.D. Cal. 2023). “A party seeking to deviate from the model protective order bears the burden of showing the specific harm and prejudice that will result if its request is not granted.” *Id.*

### **III. DISCUSSION**

The parties have been working toward a protective order since May 2025. Over the course of several months, they exchanged drafts and narrowed their disagreements substantially. By the time they filed their motions, the parties’ dispute had been reduced to a single issue: whether the protective order should include Plaintiff’s proposed Section 11, which provides:

Moreover, the Parties agree that they will not seek information or use information obtained throughout discovery in this case to investigate or impose liability on any person for seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for such purposes.

Pl.’s Mot. for Entry of PI at 2 (Dkt. 70). Plaintiff contends this language is necessary to protect nonparty patients and medical providers from the risk that sensitive discovery produced in this case could later be used to investigate or prosecute persons for violation of Idaho Code § 18-622 or other criminal statutes. *See id.* at 5 (“There is significant public interest in protecting third parties from collateral criminal or administrative consequences where information is disclosed solely in litigation in which they are not involved.”) (citing *United States v. Heine*, 314 F.R.D.

498 (D. Or. 2016)).<sup>2</sup> Defendant opposes the provision as overbroad, arguing that it improperly restricts discovery, mirrors language from a vacated federal regulation, and functions as an unauthorized grant of immunity. *See* Def.’s Resp. and Mot. for PO at 9-14 (Dkt. 72-1).

The Court begins by emphasizing that this is not an all-or-nothing dispute. The parties agree on the need for a protective order and on the majority of its terms. The sole disagreement concerns Plaintiff’s proposed Section 11. The Court’s task is therefore a narrow one: to determine whether that language is appropriate under Rule 26(c), or whether the concerns it raises can be addressed through more tailored means.

#### **A. A Protective Order is Needed**

There is no dispute that discovery in this case will involve highly sensitive information, including nonparty medical records identifying information relating to reproductive health care. The Court agrees with the parties that a protective order is warranted in this setting.

The Court further finds that the District of Idaho’s model protective order does much of the heavy lifting regarding the parties’ confidentiality concerns. It provides mechanisms for designating confidential material, restricts the disclosure of confidential information to specific individuals, and of particular importance to the instant dispute, limits the use of confidential information to the litigation itself. *See* Model PO at § 1 (“Use of any information or documents labeled “Confidential” and subject to this Protective Order, including all information derived

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<sup>2</sup> Plaintiff relies on *Heine* for the proposition that “the State generally cannot use civil discovery to build a criminal case.” Pl.’s Mot. for Entry of PI at 5 (Dkt. 70). The Court agrees that *Heine* reflects a valid concern that the government may not initiate a civil action for the purpose of obtaining evidence for a criminal prosecution. *See Heine*, 314 F.R.D. at 509. But Plaintiff’s characterization overstates *Heine*’s application to the instant dispute. Here, Defendant has not brought a civil enforcement action in order to obtain discovery; Defendant is defending a civil action initiated by Plaintiff. While Plaintiff notes that certain potentially-affected patients and medical providers are not parties to this litigation, *Heine* involved materially different circumstances and does not directly reach this issue. The Court therefore does not read *Heine* as requiring a protective order provision as extensive as the one proposed by Plaintiff.

therefore, *shall be restricted solely to the litigation of this case and shall not be used by any party for any other purpose.*") (emphasis added). Those provisions already address many of the issues highlighted by Plaintiff.

At the same time, the Court finds good cause to include an "Attorneys' Eyes Only" designation for particularly sensitive nonparty medical information. The parties appear largely aligned on this point, and the Court agrees that such a designation is appropriate given the nature of the records at issue. *Compare* Def.'s Resp. and Mot. for PO at 6, 8-9 (Dkt. 72-1), *with* Pl.'s Reply ISO Mot. for PO at 3, 7 (Dkt. 74).

#### **B. Plaintiff's Proposed Section 11**

Plaintiff's proposed Section 11 goes further than the model protective order by prohibiting the parties from seeking information or using information obtained through discovery to investigate or impose liability related to reproductive health care. This provision goes too far.

First, the Court's focus under Rule 26(c) is primarily on the use and disclosure of discovery materials, and less on whether a party may seek information in the first instance. For the most part, protective orders regulate how information produced in litigation may be handled; they do not generally bar otherwise relevant discovery requests (but, of course, can). *See, e.g., Crafton v. Blaine Larsen Farms, Inc.*, 2006 WL 343250, at \*3 (D. Idaho 2006) (overruling the objection to the production of confidential documents, and instead ordering the parties to agree on the form of a protective order to preserve the confidentiality of the documents produced). This is particularly true where, as here, the model protective order, as modified, includes "Confidential" and "Attorneys' Eyes Only" designations, which provide substantial safeguards governing access to and use of sensitive information.

Second, Plaintiff's proposed language problematically applies to all discovery, not just to confidential or highly sensitive material. It is more appropriate to tailor protections to

information designed as “Confidential” or for “Attorneys’ Eyes Only,” rather than to impose a blanket restriction on all information exchanged in discovery.

Third, the Court cannot ignore that materially similar language appeared in a federal regulation that has recently been vacated by another district court. *See Purl v. U.S. Dep’t of Health & Human Servs.*, 787 F. Supp. 3d 284 (N.D. Tex. 2025). While there is room to debate the applicability of that decision’s reasoning to the facts of this case, the Court hesitates to implement – through a protective order – language that a federal court has concluded was beyond the promulgating agency’s authority. That weighs against adopting the proposed language, especially where the interests identified by Plaintiff can be addressed through narrower, case-specific confidentiality and use restrictions, rather than through the blanket protections proposed.

Finally, the Court is reluctant to adopt language that would require it to assess the motives underlying Defendant’s discovery requests, or that could be read to restrict lawful government investigations, or confer a form of safe harbor or immunity from prosecution. Those matters fall outside the proper role of a Rule 26(c) protective order and not something the Court should decide in a discovery dispute.

### **C. A Tailored Protective Order**

The Court concludes that a pragmatic, tailored approach best balances the competing interests at stake. While Plaintiff has identified legitimate privacy and nonparty concerns, it has not carried its burden under Rule 26(c), alongside the presumptive reasonableness of model protective orders, to demonstrate that protections broader than those adopted here are necessary or appropriately tailored. Accordingly, the Court will enter a protective order that: (i) largely adopts the District of Idaho’s model protective order, as amended by the parties’ prior agreements, as the baseline framework; (ii) includes an “Attorneys’ Eyes Only” designation for

highly sensitive nonparty medical information, including reproductive health care records and identifying information; and (iii) limits the use of designated “Confidential” and “Attorneys’ Eyes Only” material to the prosecution or defense of this action. This approach protects the significant nonparty privacy interests, respects the parties’ agreements to this point, and stays within the proper bounds of Rule 26(c).

The Court will leave the drafting of the protective order consistent with this ruling to the parties. They are familiar with their prior negotiations, as well as the particulars of this case, and are therefore best positioned to efficiently and accurately prepare language that reflects the tailoring described here. The Court expects the parties to confer in good faith and submit a stipulated protective order so that discovery may proceed without further delay.

#### IV. ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that (i) Plaintiff’s Motion for Entry of Protective Order (Dkt. 70) and Defendant’s Motion for Protective Order (Dkt. 72) are GRANTED IN PART AND DENIED IN PART.



DATED: March 16, 2026

A handwritten signature in black ink, appearing to read "Raymond E. Patricco".

Honorable Raymond E. Patricco  
Chief U.S. Magistrate Judge