

Richard Jaffe, Esq.

April 14, 2026

The Honorable Scott Harris
Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: Stockton v. Brown, No. 25-606

Dear Mr. Harris:

Petitioners submit this letter pursuant to Rule 15.8 in response to Respondents' letter of April 13, 2026.

Last week, the Washington Medical Commission withdrew its charges against Petitioners Eggleston and Siler “[b]ased on further review of the matter,” a few days after the Washington Supreme Court denied review in *Wilkinson* (April 1), which was one day after *Chiles v. Salazar*, 607 U.S. ___ (2026). The Commission did not rescind its enforcement policy, amend its rules, or issue any commitment not to bring identical charges against these or other physicians. Voluntary cessation moots a case only when it is “absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.” *Friends of the Earth, Inc. v. Laidlaw Environmental Services*, 528 U.S. 167, 189 (2000). Respondents cite *Already, LLC v. Nike, Inc.*, 568 U.S. 85 (2013), where the defendant issued an unconditional covenant not to sue. No comparable commitment exists here.

More importantly, Respondents' letter treats this case as if it belongs to two physicians in Washington. It does not. The petition explained that this case “will determine not only the rights of physicians, but also the rights of all citizens to hear dissenting views on matters of importance.” Pet. 14. The First Amendment protects physician speech on matters of public concern in no small part because the public needs that speech for informed decision-making. *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748, 756-57 (1976). The constitutional interest at stake goes beyond the liberty of the speaker. It is the right of every citizen to hear information and to think for herself, even when the government does not agree with the information and opinions conveyed.

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The withdrawal of charges against two speakers does not restore the listener's right, because the national policy that chills the speech those listeners seek to hear remains in effect. The Federation of State Medical Boards' July 2021 COVID misinformation policy has never been retracted. The AMA's Young Physicians Section resolution endorsing the Federation's policy is still in effect. Pet. 4 n.2. The Washington Post ran successive investigations in 2023 and 2024 reporting that medical boards across the country were not sanctioning enough physicians for COVID misinformation, generating institutional pressure for more enforcement. See Lena H. Sun et al., *Doctors Who Put Lives at Risk with Covid Misinformation Rarely Punished*, Wash. Post, July 26, 2023; *Doctors Accused of Spreading Misinformation Lose Certifications*, Wash. Post, Aug. 13, 2024.

Respondents' letter does not address the Ninth Circuit's refusal to apply *NRA v. Vullo*, 602 U.S. 175 (2024), to the Commission's enforcement conduct. It does not address the unresolved questions regarding *Younger* abstention after *Chiles*, the all-but-formally rejected prudential ripeness doctrine, or listener standing. These questions remain ready for decision regardless of whether two physicians face pending charges in Washington.

Justice Jackson said it best: "The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind. . . . In this field every person must be his own watchman for truth, because the forefathers did not trust any government to separate the true from the false for us." *Thomas v. Collins*, 323 U.S. 516, 545 (1945) (Jackson, J., concurring).

The Covid misinformation policy was created by the medical boards' trade organization. It was adopted by Washington (and California), endorsed by medical organizations and the media. It was given a free pass by all the courts in this case and in *Kory v. Bonta*. It embodies the guardianship of the public mind which the First Amendment prohibits.

If not now, when?

Yours,

/s/ Richard Jaffe

cc: Counsel of Record