

No.

In the Supreme Court of the United States

AZADEH KHATIBI, M.D.; DO NO HARM, A VIRGINIA NONPROFIT CORPORATION,
Petitioners,

v.

RANDY HAWKINS, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE MEDICAL BOARD OF CALIFORNIA; LAURIE ROSE LUBIANO, IN HER OFFICIAL CAPACITY AS VICE PRESIDENT OF THE MEDICAL BOARD OF CALIFORNIA; REJI VARGHESE, IN HIS OFFICIAL CAPACITY AS EXECUTIVE DIRECTOR OF THE MEDICAL BOARD OF CALIFORNIA; MARINA O'CONNOR, IN HER OFFICIAL CAPACITY AS CHIEF OF LICENSING, MEDICAL BOARD OF CALIFORNIA; RYAN BROOKS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE MEDICAL BOARD OF CALIFORNIA,
Respondents.

*On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit*

**APPLICATION TO THE HONORABLE ELENA KAGAN
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE U.S.
COURT OF APPEALS FOR THE NINTH CIRCUIT**

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To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States, Circuit Justice for the Ninth Circuit:

Pursuant to Supreme Court Rule 13.5, Petitioners Azadeh Khatibi, M.D., and Do No Harm, a Virginia nonprofit corporation, respectfully request an extension of time of 30 days to file their Petition for Writ of Certiorari in this Court up to and including April 29, 2026.

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Petitioner Do No Harm has no parent corporation and no publicly held corporation holds any stock in Do No Harm.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Khatibi v. Hawkins*, et al., 145 F.4th 1139 (9th Cir. 2025) (attached as Exhibit 1). Petitioners sought rehearing en banc, which was denied by order of the court on Dec. 29, 2025 (attached as Exhibit 2). This means a Petition is presently due on March 30, 2026. This application for an extension of time is filed more than ten days prior to that date.

JURISDICTION

This case arises under the First Amendment to the United States Constitution, 42 U.S.C. § 1983. Specifically, Petitioners allege that California's mandate that all continuing medical education (CME) courses include instruction on implicit bias violates the First Amendment right of CME instructors to be free from compelled speech. This Court has jurisdiction over a timely filed petition for writ of certiorari in this case pursuant to 28 U.S.C. § 1254.

REASONS FOR GRANTING EXTENSION OF TIME

Good cause exists for the requested extension. This case presents an important question about whether the government’s general regulation of the practice of medicine results in CME courses being “government speech” such that CME instructors hold no First Amendment protection in crafting the content of—and teaching—their courses. Below, the Ninth Circuit held that CME courses are the government’s speech because of California’s lengthy and detailed regulation of the practice of medicine. Thus, CME instructors, like Petitioners, who object to including controversial topics in their courses have no First Amendment right to abstain from including the required content. As recognized by Judges VanDyke, Tung, and Bumatay in dissent from the denial of Petitioners’ motion for rehearing en banc, the Ninth Circuit’s holding conflicts with this Court’s “government speech” precedents, other circuit courts of appeals’ application of those precedents, and drastically reduces protected speech.

Petitioners’ undersigned Counsel of Record requires additional time to prepare the Petition due to his workload. This includes overseeing multiple federal appellate briefs, settlement discussions, motion briefing, and other litigation responsibilities. Co-counsel’s workload impacting the Petition also includes preparation for two circuit court oral arguments, drafting two complaints and preliminary injunction motions, settlement discussions, and discovery in federal district court. Counsel have additional professional and family obligations placing severe demands on their time.

CONCLUSION

For the foregoing reasons, Petitioners request that the Court grant an extension of 30 days, up to and including April 29, 2026, within which to file a Petition for Writ of Certiorari.

DATED: March 16, 2026.

Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of this application was served via email and U.S. Mail to counsel listed below in accordance with Supreme Court Rules 22.2 and 29.3:

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