UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE: DEPO-PROVERA (DEPOT MEDROXYPROGESTERONE ACETATE) PRODUCTS LIABILITY LITIGATION	Case No. 21-MD-3140
This Document Relates to All Cases	Judge M. Casey Rodgers Magistrate Judge Hope T. Cannon

ORDER GOVERNING THE RULES AND PROCEDURES REGARDING THE RELEASE OF INFORMATION RELATING TO DISTRIBUTION OF DEPOT MEDROXYPROGESTERONE ACETATE

THIS MATTER is before the Court on the unopposed application of Plaintiffs' counsel for an Order aiding in the collection, discovery, and distribution of certain records reflecting which brands and lots of Depo Provera/Depot Medroxyprogesterone Acetate (DMPA) injectable products were distributed to certain healthcare providers and pharmacies at stated periods of time. After consideration of this request and recognizing the need for an Order expediting the collection of certain medical records for which authorizations have been provided by Plaintiffs in the above-captioned multidistrict litigation, and finding that such an Order would facilitate the orderly, uniform, and cost-effective acquisition and discovery of relevant information and materials for this litigation, this ___ day of March, 2025, IT IS HEREBY ORDERED as follows:

1. The Basis of this Order. Pursuant to this Court's Order dated March 14, 2025, a named Plaintiff is required to complete a "Plaintiff Proof of Use/Injury Questionnaire" within (120) days of March 14, 2025 (by July 14, 2025), for existing cases, and within (120) days of filing for any newly filed cases. Pretrial Order No. 17 (Threshold Proof of Use and Injury Requirements).

In order to comply with this court-ordered obligation and to complete their Plaintiff Proof of Use/Injury Questionnaire fully and accurately, Plaintiffs must be able to obtain certain healthcare, pharmaceutical, clinic, insurance and formulary records that are relevant to their legal claims in this litigation. Plaintiffs' counsel have represented to the Court that some entities and individuals having custody of these records may no longer maintain patient medical charts reflecting which brand of DMPA with which Plaintiffs were injected but that some of the facilities may instead have in their possession, custody or control files that are separate from patient charts, with data including invoices, receipts, payment records, shipping and insurance records reflecting which particular brand(s) of DMPA were utilized to inject patients over varying time periods and are unwilling to search those other sources of data, or, will not do so unless served with a subpoena or similar compulsory process.

In order to facilitate the timely exchange of this information, Plaintiffs' counsel has prepared a "HIPAA and HITECH Compliant Medical Authorization," which is fully compliant with the Health Insurance Portability and Accountability Act

("HIPAA"). The Authorization Form is attached as **Exhibit A.** Plaintiffs' Counsel has also prepared an **Exhibit B** which is a form identifying the medical provider(s) each Plaintiff alleges provided her Depo Provera/DMPA injections, specifying the time periods in which these shots were administered.

2. Further Background for this Order. This MDL involves the claims of some women who received Depo Provera or its generic form DMPA injections which may have occurred a decade or more ago. Since medical records of such Plaintiffs may have been discarded, it is essential that other sources of data be explored, including the purchasing, insurance and distribution records maintained by health care providers, clinics, doctor offices, hospitals, formulary departments and Pharmaceutical Distributors. Accordingly, this Order is issued pursuant to the Court's authority to direct and control the coordinated discovery in this litigation pursuant to 28 U.S.C. § 1407; Federal Rules of Civil Procedure 16, 26(b), 27, and 45; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent authority regarding discovery in the MDL.

3. Plaintiffs Affected by This Order. This Order applies to all claims pending before this Court as part of MDL 3140, now or in the future. This includes cases originally transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to its Order of February 7, 2025, or as tag-along actions and all related cases directly filed in this Court or transferred or removed to this Court. For

the avoidance of doubt, this Order does not apply to any claims that have not been filed at all, or are not docketed before this Court in MDL 3140.

4. Discovery Affected by this Order. This Order applies to the procurement of information and materials from entities (including, but not limited to, purchasing, insurance and distribution records maintained by health care providers, clinics, doctor offices, hospitals, formularies, pharmacies, educational facilities, former and present employers, insurance providers, all branches of the military, and any other federal, state, and/or local government agencies) and pharmaceutical distributors relating to Plaintiffs referred to in Paragraph 3 above.

5. Duty to Accept Court-Approved Authorizations. The HIPAA and HITECH Compliant Medical Authorization attached to this Order has been approved for use in all claims affected by this Order, and the "HIPAA and HITECH Compliant Medical Authorization" is HIPAA compliant.

a. All records reflecting purchasing, sale, insurance submissions and or payments and distribution records maintained by health care providers, clinics, doctor offices, hospitals, pharmacies, formularies, educational facilities, former and present employers, insurance providers, all branches of the military, and any other federal, state, and/or local government agencies and pharmaceutical distributors relating to Depo Provera and or DMPA potentially administered to Plaintiffs referred to in Paragraph 3 above that would reflect use by and/or distribution to a Plaintiff's health

care providers within two years of the dates of injections reflected by each Plaintiff in the attached form **Exhibit B** (collectively, "Entities"). These Entities must accept the Authorization Forms as valid for all claims affected by this Order, *provided, however*, that nothing in this Order or the Authorization Forms requires any Entity to produce records for which Plaintiffs do not otherwise possess a legal right of access, except as provided in Paragraph 5(b) below.

b. With respect to the production of records for which Plaintiffs do not otherwise possess a legal right of access, the Authorization Forms may be appended to and incorporated by reference into a subpoena, which must comply with Rule 45 of the Federal Rules of Civil Procedure and any other applicable legal requirements and must be served with a duly completed "Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action" in the form attached as **Exhibit C**. Plaintiffs' counsel may serve an Entity via personal service, but may also serve an Entity via U.S. mail, Fed-Ex, UPS, or other carrier service. Proof of service must be retained by Plaintiffs' counsel, but need not be filed with the Court.

c. Whenever any Entity is served or furnished with an Authorization Form for a Plaintiff, the Plaintiff's attorney or a *pro se* Plaintiff must cause the Entity simultaneously to be served or furnished with a copy of this Order in its entirety, excluding Exhibits.

d. The purpose of this Order is to provide for a simple, uniform, and cost-effective process for the collection and discovery from third parties of records relevant to claims pending before this Court.

e. Consistent with this Court's Order, third parties have a duty to accept the authorizations signed by a Plaintiff or a Plaintiff's personal representative as valid to authorize the release of all records described therein, including certain healthcare, pharmaceutical, clinic, insurance and formulary records that are relevant to their legal claims in this litigation. Third parties may not impose any other requirements for the release of records including, but not limited to, facility-specific (or different) forms, original signatures, a waiting period for the production of records, or conditioning the release of requested records on the payment of unreasonable "processing" or "handling" fees. Entities may not insist on forms or terms different from the Authorization Forms.

f. When signed by a Plaintiff or Plaintiff's personal representative in claims affected by this Order, the Authorization Forms must be relied on by all Entities to authorize the release of all responsive records, including all medical records.

6. Timing of Discovery Response. All records described in the authorizations approved by this Court Order, and executed by a Plaintiff or a Plaintiff's representative, must be produced to the authorized party promptly In the

event that the records' holder does not have any responsive records, it must provide a certification that a good faith search was made, and no responsive records exist. The Requesting Party shall provide all Defendants with Bates-numbered copies of any records obtained with this Order within fourteen (14) days of receipt of such records.

DONE AND ORDERED on this ___ day of March 2025

_____
M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE

EXHIBIT A

HIPAA AND HITECH COMPLIANT MEDICAL AUTHORIZATION

Patient Name: _____

Other Names used by Patient:_____

DOB: _____

SSN: _____

Provider Name:_____

Provider Address:_____

I hereby authorize all health care providers, physicians, hospitals, clinics and institutions, medical facilities, mental health clinics, mental health hospitals, pharmacies, educational facilities, former and present employers, insurance providers, including Medicare and Medicaid, Social Security Administration disability Determination Services, and Department of Workers' Claims, to release all existing medical records and information, relating to the medical care, treatment, physical/mental condition, and documentation of medical expenses revealed by your observation or treatment past, present and future, including records generated by third parties, as well as all education and employment records regarding Patient.

I understand that this authorization includes but is not limited to information regarding the diagnosis and treatment of drug, alcohol, Acquired Immune Deficiency Syndrome (AIDS), and psychiatric and psychological disorders including Psychotherapy Notes[1] as defined by the Health Insurance Portability and Accountability Act, 45 CFR 164.50. It also includes x-ray reports, laboratory reports, CT scans reports, MRI scans, EEGs, EKGs, sonograms, arteriograms, fetal monitor strips, discharge summaries, photographs, surgery consent forms, inform consent forms regarding family planning, admission and discharge records, operation records, doctor and nurses notes, prescriptions, medical bills, invoices, histories, diagnoses, home health records, diabetic flow sheets, electronic and digital records, psychiatric treatment and counseling records, psychological treatment and counseling records, narratives, and any correspondence/memoranda and billing information. It also includes, to the extents such records currently exist and are in your possession, insurance records, including Medicare/Medicaid and other public assistance claims, applications, statements, eligibility material, claims or claim disputes, resolutions and payments, medical records provided as evidence of services provided, and any other document or things pertaining to services furnished under Title XVII of the Social Security Act or other forms of public assistance (federal, state, local, etc.).

Pursuant to the HITECH Act, 42 U.S.C.A. §17935(e)(1), and its implementing regulations, 45 CFR 164.524(c)(4)(i), we are requesting the medical records listed above be provided to us in electronic format where available. Please be aware that the HITECH Act applies to requests by third-parties just the same as it applies to requests by patients: "if requested by an individual, a covered entity must transmit the copy of protected health information directly to another person designated by the individual." Federal Register January 25, 2013 Vol 78 No. 17, Page 5634.

~~1 Psychotherapy notes means note~~s recorded (in any medium) by a health care provider who is a mental health professional (including social workers) documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's record.

You are authorized to release the above records to the following representatives, who have agreed to pay reasonable charges made by you to supply copies of such records.

_____
Name

_____
Representative Capacity (e.g., attorney, records requester, agent, etc.)

_____
Street Address

_____
City, State and Zip Code

I, the undersigned individual, am on notice that:

- This request for disclosure of protected health information, and any disclosure of the same pursuant hereto, is at the request of the individual.
- Any health care provider disclosing the above requested information may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs this authorization.
- This authorization can be revoked through written notice to the individual above listed entities, except to the extent that action has been taken in reliance on this authorization. The undersigned is aware of the potential that protected health information disclosed pursuant to this authorization is subject to redisclosure in a manner that will not be protected by HIPAA regulations.
- A photocopy of this authorization shall be considered as effective and valid as the original, and this authorization will remain in effect for one year from the date of this authorization.

I have carefully read and understand the above, and do herein expressly and voluntarily authorize the disclosure of the above information about, or medical records of, my condition to those persons or agencies listed above.

_____
Signature

Date:_____

This authorization is designed to be in compliance with the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 and 164, as well as the Health Information Technology for Economic and Clinical Health Act (HITECH), 42 U.S.C.A. §17935(e)(1).

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE: DEPO-PROVERA (DEPOT MEDROXYPROGESTERONE ACETATE) PRODUCTS LIABILITY LITIGATION	Case No. 21-MD-3140
This Document Relates to All Cases	Judge M. Casey Rodgers Magistrate Judge Hope T. Cannon

Plaintiff, _____ (Dkt # __-MD-_____), herein identifies the following medical providers and dates of treatment where plaintiff alleges she received injections of Depo Provera (Depot Me~~x~~droxyprogesterone Acetate/DMPA) as follows:

Start Date:	**End Date:**	**Medical Provider who Ordered, Administered or Filled a Prescription for DMPA Product**
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Start Date:	**End Date:**	**Medical Provider who Ordered, Administered or Filled a Prescription for DMPA Product**
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT C

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

IN RE: DEPO PROVERA (DEPOT MEDROXYPROGESTERONE ACETATE) PRODUCTS LIABILITY LITIGATION

Plaintiff

v.

Defendant

Civil Action No. 3:25-MD-3140

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

❒ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Place:	Date and Time:

❒ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk *Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* , who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:25-MD-3140

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

❒ I served the subpoena by delivering a copy to the named person as follows: _____

_____

_____ on *(date)* _____ ; or

❒ I returned the subpoena unexecuted because: _____

_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of $ _____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).