

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ROMY BENTLE, individually and
as parent and guardian of A.R.B., a
minor child, and ERIC BENTLE,
individually and as parent and
guardian of A.R.B., a minor child,

Plaintiffs,

vs.

DETROIT BEHAVIORAL
INSTITUTE, LLC, a
Massachusetts limited liability
company; and ACADIA
HEALTHCARE COMPANY,
INC., a Delaware corporation,

Defendants.

CV 21-45-M-DLC

ORDER

Before the Court is Plaintiffs' Unopposed Motion for Order Requiring First Step Resource Center to Release Records. (Doc. 17.) The Motion states that counsel for Plaintiffs served a subpoena duces tecum on Providence St. Patrick Hospital – First Step Resource Center ("First Step") commanding production of certain records. (*Id.* at 2.) A representative for First Step informed Plaintiffs' counsel that "First Step would only produce the subject records pursuant to an order of the Court." (*Id.*) Plaintiffs agreed to file this Motion "to alleviate First

Step's concerns[,]" and First Step agreed to produce the records requested by the subpoena "pursuant to an order containing language mirroring that of the proposed order" attached to the Motion. (*Id.*) Defendants do not object. (*Id.*)

The Motion does not state whether First Step served any written objections to the subpoena, but it appears that First Step is willing to comply with the subpoena if ordered by the Court to do so. First Step apparently is unaware that "a subpoena duces tecum is itself a court order[.]" *Pennwalt Corp. v. Durand-Wayland, Inc.*, 708 F.2d 492, 494 n.5 (9th Cir. 1983). If First Step has not timely objected to the subpoena, it is *already* required by an order of the Court—the subpoena itself—to produce the requested documents. The Court therefore will deny the Motion subject to renewal if First Step fails to comply with the subpoena or if objections must be litigated. If First Step "fails without adequate excuse to obey the subpoena" by its return date and time of October 15, 2021 at 5:00 p.m., the Court has the authority to hold First Step in contempt. Fed. R. Civ. P. 45(g).

Accordingly, IT IS ORDERED that the Motion (Doc. 17) is denied.

DATED this 7th day of October, 2021.



Dana L. Christensen, District Judge
United States District Court