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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PRIME HEALTHCARE SERVICES –
SHASTA, LLC,

Plaintiff,

v.

ERIC D. HARGAN, Acting Secretary of
the Department of Health and Human
Services,

Defendant.

No. 2:17-cv-00069-TLN-KJN
No. 2:17-cv-00071-TLN-KJN
No. 2:17-cv-00072-TLN-KJN
No. 2:17-cv-00073-TLN-KJN
No. 2:17-cv-00074-TLN-KJN
No. 2:17-cv-00082-TLN-KJN
No. 2:17-cv-00431-TLN-KJN

ORDER

Plaintiff and Defendant are the sole parties to the seven related cases identified in the caption (collectively, “Related Cases”). In each of the Related Cases, Defendant has filed a Request to Seal that is substantially identical. As relevant here, the parties legal dispute in each of the Related Cases “concerns whether Plaintiff’s provision of inpatient hospital services to a Medicare beneficiary was reasonable and necessary as required for reimbursement under Title XVIII of the Social Security Act, 42. U.S.C. §§ 1395 et seq.” (Request to Seal at 1.)¹ In short, Defendant requests that the Certified Administrative Record (“CAR”) for each of the Related Cases “be filed and kept permanently under seal.” (Request to Seal at 1.) Defendant states that

¹ Requests to Seal are not docketed. Consequently, the Court will cite to the pagination as it appears on the original document. The Court will refer to “Request to Seal” in citations because there is no material difference between the Requests to Seal.

1 the CAR that underlies each action “contains hundreds of pages of confidential medical records
2 and personal identifying information.” (Request to Seal at 1.)

3 Ninth Circuit precedent recognizes a strong common law presumption in favor of public
4 access to court records. See, e.g., *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135
5 (9th Cir. 2003). Defendant bears the burden of overcoming this presumption by demonstrating
6 there is a “compelling reason” for sealing the requested items. *Kamakana v. City & Cty. of*
7 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Defendant cites several district court opinions
8 from within the Ninth Circuit for the proposition that a patient’s medical records and personal
9 identifying information are sufficiently “compelling reasons” to justify protecting such
10 information from disclosure under this standard. (Request to Seal at 1.) Having carefully
11 reviewed those cases, the Court agrees. See, e.g., *Friedman v. Adams*, No. 2:13-CV-1345 JCM
12 (CWH), 2016 WL 4134519, at *5 (D. Nev. Aug. 1, 2016) (“The need to protect sensitive medical
13 information is a compelling reason to seal records.”).

14 That being said, it does not necessarily follow that the entire CAR should be filed under
15 seal. Defendant argues this should be done because “redacting all personal identifying
16 information in the CAR . . . would likely be a burdensome and resource-intensive undertaking.”
17 (Request to Seal at 2.) In support of this, Defendant notes that “[i]n litigation involving a similar
18 dispute between Defendant and Prime Healthcare Services with an administrative record of
19 comparable size and content, redacting the record required approximately 20 hours of paralegal
20 time and eight hours of attorney-review time.” (Request to Seal at 2.) Defendant’s position is not
21 unique and neither is the Court’s recognition of Defendant’s “good motives in attempting to
22 protect Plaintiff’s confidential information from view.” *Koloff v. Metro. Life Ins. Co.*, 1:13-cv-
23 02060 AWI JLT, 2014 WL 12572867, at *2 (E.D. Cal. July 2, 2014). Given the nature of this
24 case, the Court is aware “there is a substantial amount of information that may well fit the
25 standard for sealing, and that it would be an easier course to simply treat the entirety of the record
26 as if it were colored with the same dye.” *Lisa O. v. Blue Cross of Idaho Health Serv., Inc.*, Case
27 No.: 12-cv-00285-EJL-REB, 2014 WL 12614479, at *2 (D. Idaho July 30, 2014). “But, the law
28 does not permit such a course.” *Id.* This is presumably why Defendant was not permitted to do

1 this in above-referenced action.

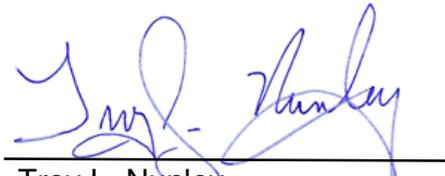
2 In short, Defendant essentially acknowledges it seeks to seal more than is necessary to
3 serve the compelling interest it has identified. Consequently, Defendant's Request to Seal in each
4 of the Related Cases must be denied. Defendant may renew his request to seal in accordance with
5 Local Rule 141(b). In doing so, Defendant should include a proposed redacted copy of the CAR
6 as part of his submission. Moreover, in light of the Ninth Circuit's recent recognition of a
7 "qualified First Amendment right of access" to civil proceedings, Defendant should address this
8 standard in its renewed request. *Courthouse News Service v. Planet*, 750 F.3d 776, 785-787 (9th
9 Cir. 2014).

10 Due to the size of the CARs, the Court will grant Defendant 45 days within which to
11 renew its Requests to Seal.

12 IT IS SO ORDERED.

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14 Dated: November 6, 2017

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Troy L. Nunley
United States District Judge