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*Attorneys for Defendants Sunrise Hospital and
10 Medical Center, LLC (including its Board of
11 Trustees), Susan Reisinger, M.D., and
Katherine Keeley, M.D., D.D.S.*

13 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

15 NAVNEET SHARDA, M.D., an Individual,
16
Plaintiff,
17
vs.
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19 SUNRISE HOSPITAL AND MEDICAL
CENTER, LLC, a foreign limited liability
20 company; THE BOARD OF TRUSTEES OF
SUNRISE HOSPITAL; SUSAN REISINGER, an
21 individual; DIPAK DESAI, an individual;
NEVADA STATE BOARD OF MEDICAL
22 EXAMINERS; KATHERINE KEELEY, an
individual; DOE Individuals I through X; and
23 ROE CORPORATIONS and
24 ORGANIZATIONS I through X, inclusive,
25
Defendants.

Case No. 2:16-cv-02233-JCM-GWF

UNOPPOSED MOTION TO:

- (1) REDACT DEFENDANTS SUNRISE HOSPITAL AND MEDICAL CENTER, LLC (INCLUDING ITS BOARD OF TRUSTEES), SUSAN REISINGER, M.D., AND KATHERINE KEELEY, M.D., D.D.S.’S MOTION TO DISMISS; AND**
- (2) SEAL EXHIBITS C THROUGH N TO THE MOTION TO DISMISS**

27 Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and LR IA 10-5, Defendants
28 Sunrise Hospital and Medical Center, LLC (including its Board of Trustees) (“Sunrise Hospital”),

1 Susan Reisinger, M.D. (“Dr. Reisinger”), and Katherine Keeley, M.D., D.D.S. (“Dr. Keeley”)
2 (collectively, the “Sunrise Defendants”) hereby move this Court for an Order permitting them to
3 redact their Motion to Dismiss (the “Motion to Dismiss”) and to file Exhibits C through N under seal
4 (the “Motion to Seal”). Compelling reasons exist to redact the Motion to Dismiss and file Exhibits
5 C through N under seal because they contain peer review materials immune from disclosure (by
6 third parties) pursuant to NRS 49.119 and NRS 49.265.

7 Neither Plaintiff Navneet Sharda, M.D. (“Dr. Sharda”) nor Defendant Nevada State Board of
8 Medical Examiners (the “Board of Medical Examiners”) oppose the Motion to Seal.

9 This Motion to Seal is made and based on the papers and pleadings on file, the following
10 Memorandum of Points and Authorities and any oral argument as may be heard by the Court.

11 DATED this 30th day of December, 2016.

12 BAILEY ❖ KENNEDY

13 By: /s/ John R. Bailey

14 JOHN R. BAILEY

15 JOSHUA M. DICKEY

16 PAUL C. WILLIAMS

17 *Attorneys for Defendants Sunrise Hospital and*
18 *Medical Center, LLC (including its Board of*
19 *Trustees), Susan Reisinger, M.D., and Katherine*
20 *Keeley, M.D., D.D.S.*

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MEMORANDUM OF POINTS AND AUTHORITIES

1 Pursuant to Federal Rule of Civil Procedure 5.2(d), “[t]he court may order that a filing be
2 made under seal without redaction.” “[A]lthough the common law creates a strong presumption in
3 favor of access, the presumption can be overcome by sufficiently important countervailing interests.”
4 *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102 (9th Cir. 1999). Two standards
5 generally govern motions to seal documents and redact briefs. *Pintos v. Pac. Creditors Ass’n.*, 605
6 F.3d 665, 677 (9th Cir. 2010) (describing the “good cause” and “compelling reasons” standards). A
7 compelling reasons standard applies to records attached to dispositive motions. *Kamakana v. City &*
8 *Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Compelling reasons exist “when such court
9 files might have become a vehicle for improper purposes, such as the use of records to gratify private
10 spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179.
11 (internal quotation marks omitted).

12 Under Nevada law, a “review committee has a privilege to refuse to disclose and to prevent any
13 other person from disclosing its proceedings and records and testimony given before it.” NRS 49.119;
14 *see also* NRS 49.265(1) (stating that proceedings and records of peer review committees of hospitals “are
15 not subject to discovery proceedings.”).

16 Here, Exhibits C through N to the Motion to Dismiss are documents containing information
17 that are part of an ongoing peer review process of Sunrise Hospital. Additionally, the Reply Brief
18 quotes portions of Exhibits C through N. Thus, the documents—and the quotations of the
19 documents in the Motion to Dismiss—are privileged pursuant to NRS 49.119 and NRS 49.265
20 and/or otherwise contain confidential records. Moreover, Sunrise Hospital has a compelling privacy
21 interest in ensuring the confidential nature of the peer review proceedings.

22 Because Exhibits C through N to the Motion to Dismiss and the quotations thereof are
23 privileged pursuant to NRS 49.119 and NRS 49.265 and/or otherwise contain confidential records,
24 the Sunrise Defendants have a compelling reason in maintaining the confidentiality of the peer
25 review proceedings which outweighs the public interest in access to Court records. *Kamakana*, 447
26 F.3d at 1179-80. The Motion to Seal is unopposed by Dr. Sharda and the Board of Medical
27 Examiners.
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Accordingly, the Sunrise Defendants respectfully request that the Court order that Exhibits C through N to the Motion to Dismiss remain under seal and that the quotations of Exhibits C through N remain redacted in the publicly-filed copy of the Motion to Dismiss. *See* Fed. R. Civ. P. 5.2(d); *Kamakana*, 447 F.3d at 1179-80.

DATED this 30th day of December, 2016.

BAILEY ❖ KENNEDY

By: /s/ John R. Bailey

JOHN R. BAILEY
JOSHUA M. DICKEY
PAUL C. WILLIAMS

Attorneys for Defendants Sunrise Hospital and Medical Center, LLC (including its Board of Trustees), Susan Reisinger, M.D., and Katherine Keeley, M.D., D.D.S.

IT IS SO ORDERED:

Exhibits C through N to the Motion to Dismiss are to remain under seal and the quotations of Exhibits C through N are to remain redacted in the publicly-filed copy of the Motion to Dismiss.


UNITED STATES MAGISTRATE JUDGE

DATED: January 3, 2017

