

**IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA
 WESTERN DIVISION
 Civil Action No. 5:15-cv-35-FL**

M.P. SOUTHERN, On behalf of himself)
 and all others similarly situated,)
)
 Plaintiff,)
)
 vs.)
)
 WAKEMED)
)
 Defendant.)
)
)
 _____)

**ORDER ALLOWING
 DEFENDANT’S MOTION FOR
 LEAVE TO FILE UNDER SEAL
 EXHIBITS C AND D TO
 DEFENDANT’S BRIEF IN SUPPORT
 OF MOTION TO DISMISS**

This the 6th day of _____ April _____, 2015, Defendant’s Motion for Leave to File Under Seal Exhibits C and D to Defendant’s Brief in Support of Motion to Dismiss, which was filed with the consent of Plaintiff, is GRANTED and the following materials SHALL BE FILED UNDER SEAL: (1) the Hospital Participation Agreement, attached as Exhibit C to Defendant’s Brief in Support of Motion to Dismiss, and (2) the general consent, attached as Exhibit D to Defendant’s Brief in Support of Motion to Dismiss.

The Court further finds that:

1. All parties consent to the Defendant’s Motion;
2. In the state court litigation preceding removal to this court, the parties agreed upon and the court entered a Consent Protective Order whereby materials designated “confidential” would be afforded protection from public disclosure;
3. The materials proposed to be sealed contain material designated as “confidential” in the state court litigation, including a confidential commercial contract between Defendant and a non-party to this litigation and a document containing protected health information under the

Health Insurance Portability and Accountability Act ("HIPAA") as codified in 45 CFR § 164.501 *et seq.*;

3. The nature and quality of such material justifies sealing the Hospital Participation Agreement, despite the competing interests of the public, because the publication of the confidential commercial information would be harmful to the business interests and competitive standing of a party and a non-party, and no alternative to sealing is adequate;

4. The nature and quality of such material justifies sealing the general consent, despite the competing interests of the public, because the information is protected from disclosure by federal and state law, and no alternative to sealing is adequate; and

5. The parties' interests in maintaining the confidentiality of these documents and information override any constitutional or common law right of public access which may attach to the documents and/or information at issue.

THEREFORE, it is ORDERED that Exhibits C and D to Defendant's Brief in Support of Motion to Dismiss may be filed under seal and shall remain sealed until otherwise ordered by this Court.

SO ORDERED, this the 6th day of April, 2015.



LOUISE W. FLANAGAN
United States District Court Judge