

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 5:17-mc-6-FL

OBALON THERAPEUTICS, INC.,

Petitioner,

**ORDER**

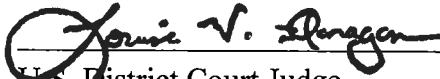
This matter is before the Court on Petitioner's Motion for Leave to File Under Seal a Petition to Perpetuate Testimony Pursuant to Federal Rule of Civil Procedure 27. The public has been given advance notice of the parties' request to seal these materials, and the Motion was docketed well in advance of this Court's decision on the Motion. *See In re Knight Publ'g Co.*, 743 F.2d 231 (4th Cir. 1984). No objection has been lodged on the docket to maintaining these documents under seal. Accordingly, the issues raised in this Motion are now ripe for disposition. For good cause shown, the Motion is ALLOWED.

Because the documents sought to be sealed do not relate to a dispositive motion, they are subject to a common law right of access by the public. *See Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 180 (4th Cir. 1988). This common law right of access may only be overcome by demonstrating that "countervailing interests heavily outweigh the public interests in access." *Va. Dep't of State Police v. Wash. Post*, 386 F.3d 567, 575 (4th Cir. 2004) (quoting *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988)).

The document sought to be sealed discloses an individual's private medical information and non-public, commercially sensitive information about Obalon's business. The Court finds

the justification behind sealing this information heavily outweighs the public interest in access, particularly in light of no objection from the public and the fact that the public has not already had access to the information contained in the records.

SO ORDERED, this 3rd day of February, 2017.

  
\_\_\_\_\_  
U.S. District Court Judge