

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

URIEL PHARMACY HEALTH AND
WELFARE PLAN; URIEL PHARMACY, INC.;
HOMETOWN PHARMACY; and HOMETOWN
PHARMACY HEALTH AND WELFARE
BENEFITS PLAN, on their own behalf and on
behalf of all others similarly situated,

Plaintiffs,

v.

ADVOCATE AURORA HEALTH, INC. AND
AURORA HEALTH CARE INC.,

Defendants.

Case No. 2:22-cv-610-LA

PATRICK SHAW; DEBRA SHAW; AND
HALEY SHAW, on their own behalf and on
behalf of all others similarly situated,

Plaintiffs,

v.

ADVOCATE AURORA HEALTH, INC. AND
AURORA HEALTH CARE INC.,

Defendants.

Case No. 2:24-cv-157-LA

**NON-PARTY ATRIUM HEALTH'S MOTION TO RESTRICT ACCESS
TO 30(b)(6) DEPOSITION TESTIMONY**

Non-party The Charlotte-Mecklenburg Hospital Authority, d/b/a Atrium Health (“Atrium Health”) respectfully moves this Court under General Local Rule 79(d) to restrict access to the Rule 30(b)(6) deposition testimony of Kristoffer Shepard, Atrium Health’s corporate designee. Plaintiffs seek to publicly file a portion of Mr. Shepard’s testimony as part of their class-certification and *Daubert* filings. Because Mr. Shepard’s testimony concerns Atrium Health’s

confidential business information, Atrium Health moves to restrict access to the parts of Plaintiffs' filings that disclose his testimony.

INTRODUCTION

Atrium Health is not a party to this litigation, but Plaintiffs have sought its confidential information through third-party subpoenas. *See, e.g.*, 22-cv-610, ECF No. 153 at 9-10. Most recently, Plaintiffs took a 30(b)(6) deposition of Atrium Health's corporate designee, Mr. Shepard, that covered numerous confidential topics about Atrium Health.

In connection with their class-certification and *Daubert* motions, Plaintiffs filed an expert report by Dr. David Dranove that recounts part of Mr. Shepard's deposition testimony. *See* Plaintiffs' Motion to Exclude Opinions Offered by Mr. Jonathan Orszag and Plaintiffs' Motion to Certify Class at 22-cv-610, ECF Nos. 212 at Ex. 2, 218 at Ex. 3 and 2:24-cv-157, ECF Nos. 107 at Ex. G, 119 at Ex. B. The testimony at issue is found at pages 135-36 and footnote 380 of Dr. Dranove's report.¹ Although Plaintiffs have filed the report under restricted access, they did so under objection and seek to file the report publicly. *See* Plaintiffs' Objections, 22-cv-610, ECF No. 210 at 3. Accordingly, under General Local Rule 79(d), Atrium Health respectfully requests that the references to Mr. Shepard's testimony in Dr. Dranove's report be redacted from any public filing and maintained under restricted access.

LEGAL STANDARD

Although the Seventh Circuit recognizes a presumption of public access to judicial records, a court may restrict that access for good cause. *See Baxter Int'l, Inc. v. Abbott Lab'ys.*, 297 F.3d 544, 545-46 (7th Cir. 2002); General L.R. 79(d)(3). Good cause exists where disclosure

¹ Because Defendants have moved to file the entire report under restricted access, Atrium Health has been able to review only the two pages concerning Mr. Shepard's testimony. For that reason, Atrium Health is unable to file a public version of the report with redactions under General L.R. 79(d)(2).

would reveal commercially sensitive information or give third parties an unearned competitive advantage. *See Grove US LLC v. Sany Am. Inc.*, No. 15-CV-647, 2019 WL 969814, at *9 (E.D. Wis. Feb. 28, 2019). Where a nonparty like Atrium Health moves to seal information, the burden is “less demanding” than that placed on a party to the litigation. *FTC v. OSF Healthcare Sys.*, No. 11-CV-50344, 2012 WL 1144620, at *1 (N.D. Ill. Apr. 5, 2012). And where information “does not ‘influence or underpin’ a judicial decision,” it does not need to be made public. *Strasser v. City of Milwaukee*, No. 14-CV-1456, 2017 WL 10544079, at *1 (E.D. Wis. Feb. 25, 2017) (quoting *Baxter*, 297 F.3d at 545).

Based on these considerations, courts in this Circuit have restricted access to records containing confidential business and operational information. In *OSF Healthcare Sys.*, the court restricted access to healthcare records discussing business strategies, market analyses, strategic plans, and a provider’s quality status and improvement strategy. 2012 WL 1144620, at *10–11. Likewise, in *Formax*, the court restricted access to confidential business information, including pricing and sales strategies. 2014 WL 2894898, at *6.

ARGUMENT

Atrium Health’s request is narrow—it seeks only to restrict access to the portion of Dr. Dranove’s expert report that discusses Mr. Shepard’s testimony. That testimony concerns Atrium Health’s internal assessments of its business operations and contracting provisions.

Atrium Health has good cause to limit public access to that testimony. First, Mr. Shepard’s testimony reflects Atrium Health’s internal operational assessments. Atrium Health has not publicly disclosed that information and considers it commercially sensitive. Second, Atrium Health is a nonparty. It submitted to a Rule 30(b)(6) deposition in a case in which it has no claims or defenses at stake. As a nonparty, Atrium Health bears a less demanding burden in seeking to maintain the confidentiality of its business information. Last, Mr. Shepard’s

testimony—largely buried in a footnote deep in Dr. Dranove’s expert report—is not material to Plaintiffs’ class-certification or *Daubert* motions. Atrium Health understands based on representations from Plaintiffs’ counsel that the confidential Atrium Health information at issue is not even discussed in Plaintiffs’ motions or related briefs. Instead, Mr. Shepard’s testimony is only at issue because it happens to appear in Dr. Dranove’s report. This information is not material to the arguments Plaintiffs’ have made in these motions and is unlikely to influence or underpin any judicial decision on those motions.

In sum, the references to Mr. Shepard’s testimony should remain under restricted access.

LOCAL RULE 79(d)(4) CERTIFICATION

Atrium Health certifies pursuant to General Local Rule 79(d)(4) that it has met and conferred with Plaintiffs in a good faith attempt to limit the scope of the documents subject to this request.

CONCLUSION

For the foregoing reasons, Atrium Health respectfully requests that the Court restrict access to the portions of Dr. Dranove’s expert report that reference Mr. Shepard’s deposition testimony.

This 23rd day of June 2026.

s/ Nathan C. Chase, Jr.

Nathan C. Chase, Jr.
N.C. Bar No. 39314
nchase@rbh.com

ROBINSON, BRADSHAW & HINSON, P.A.
600 South Tryon Street, Suite 2300
Charlotte, North Carolina 28202
Telephone: (704) 377-2536
Facsimile: (704) 378-4000

*Attorney for Non-Party The Charlotte-Mecklenburg
Hospital Authority d/b/a Atrium Health*

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing was electronically filed using the Court's CM/ECF system which will automatically and electronically service all counsel of record.

This 23rd day of June 2026.

s/ Nathan C. Chase, Jr.

Nathan C. Chase, Jr.