

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 9:25-CV-80526-DMM

GOOD SAMARITAN MEDICAL
CENTER, INC., et al.,

Plaintiffs,

v.

THE LEAPFROG GROUP,

Defendant.

**THE COMMUNITY HOSPITALS'
MOTION TO SEAL TRIAL EXHIBITS CONTAINING PATIENT INFORMATION**

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Attorneys for the Community Hospitals

MOTION TO SEAL TRIAL EXHIBITS CONTAINING PATIENT INFORMATION

The Community Hospitals respectfully move to file under seal two trial exhibits containing names and other personally identifiable information of patients who ultimately elected not to receive care at the Community Hospitals after viewing Leapfrog’s Safety Grades. In its summary judgment order, the Court noted that the Community Hospitals planned to offer at trial testimony regarding actual consumer harm caused by Leapfrog’s Safety Grades, ECF 139 at 9 n.5—for example, CEOs’ testimony about “‘reports from patients’” who “‘decided to not use’” the Community Hospitals to receive medical care “‘because of’” Leapfrog’s Safety Grades, *id.* at 4 (quoting ECF 100 ¶ 55). The Court also noted that this testimony “did not identify those patients by name.” *Id.*

The Community Hospitals intend to introduce at trial evidence of harm to patients from Leapfrog’s Safety Grades, including through documents that refer to patients by name. Prior to the close of discovery, documents were produced to Leapfrog—consistent with the Court’s Protective Order in this case, ECF 42 ¶ 2.3, *see also* ECF 44 (ordering the Protective Order terms)—in a form that redacted patients’ personal identifying information protected by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 U.S.C. § 1320d-6 *et seq.*¹

HIPAA places stringent restrictions on how medical providers may use or access patient information. *See* 45 C.F.R. §§ 164.502(a), 164.508(a)(1). HIPAA regulations authorize disclosure of “protected health information” “[i]n response to an order of a court.” *Id.* § 164.512(e)(1)(i).

In light of the Court’s summary judgment order and comments during the pretrial hearing, the Community Hospitals have re-reviewed their trial exhibits containing redacted patient information. To respond to the Court and in the interest of an orderly trial, the Community Hospitals now respectfully move to file under seal the redacted versions of certain documents containing patient names. Sealing is warranted because the information to be sealed is private, HIPAA-protected information of third parties.²

The Documents. PX-552.0, attached in redacted form as Exhibit 1, is a West Boca form business record kept in the ordinary course and generated whenever an individual voluntarily

¹ Through HIPAA, Congress charged healthcare providers with protecting the “confidentiality of patients’ individually identifiable health information.” *OPIS Mgmt. Res., LLC v. Sec’y, Fla. Agency for Health Care Admin.*, 713 F.3d 1291, 1294 (11th Cir. 2013).

² Tellingly, after Leapfrog issued a discovery request about specific harmed patients, the Community Hospitals objected on HIPAA grounds and Leapfrog never met and conferred or sought any relief.

leaves the hospital against medical advice. The document redacts the relevant individual's name, medical record number, date of birth, and financial identification number. It notes that the "[patient's] daughters did not want their father to have surgery" at the hospital "due to the leap frog reviews that they read online." And it further states that the "[patient] was advised by the physician and this nurse at separate times the risk of infection with an open fracture and leaving against medical advice, [patient] verbalized he understood and wanted to go to [B]roward." Leapfrog has never requested that this document be unredacted.

PX-560.0 through PX-560.2, attached in redacted form as Exhibits 2, 2A, and 2B, are Palm Beach Health Network records kept in the ordinary course of business, comprising a cover email, a spreadsheet generated monthly to track surgical cancellations, and an excerpt of that spreadsheet. The document family redacts patient names, medical record numbers, and financial identification numbers. The relevant entry excerpted in PX-560.2 notes that a particular named "patient declined procedure due to the hospitals F grade for infections. Wishes to [cancel] – per Susan." Ex. 2B at 2 (capitalization normalized). The event that caused the relevant entry in PX-560.2 to be generated occurred on October 22, 2025, almost one month after the close of discovery on September 25, 2025. *Id.*

Sealing Is Warranted. The presumption of public access to judicial records "may be overcome by a showing of good cause," which requires "balancing the public interest in accessing court documents against a party's interest in keeping the information confidential." *Romero v. Drummond Co.*, 480 F.3d 1234, 1246 (11th Cir. 2007). "[C]ourts consider, among other factors, whether allowing access would impair court functions or harm legitimate privacy interests, the degree of likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents." *Id.*

These factors weigh strongly in favor of sealing here. Congress has recognized the strong public interest in the confidentiality of personally identifiable information in the medical context in HIPAA. Allowing public access to names and other personal identifying information of third-party medical patients would harm patients' legitimate privacy interests. Conversely, the public does not have a strong interest in knowing private information about patients that are not parties to this litigation and are not public figures. For these reasons, courts regularly seal private information about third parties, especially medical information protected by HIPAA. *See, e.g.,*

Morrison v. Delray Med. Ctr., Inc., 2024 WL 1603489, at *2 (S.D. Fla. Apr. 12, 2024) (sealing “HIPAA”-protected “private health information of non-parties”); *Lawson v. Visionworks of Am., Inc.*, 2024 WL 4244333, at *2 (M.D. Fla. Sept. 19, 2024) (sealing “highly sensitive internal business data relating to Defendant’s communications with patients, including personally identifying information and health information protected under HIPAA” because public disclosure “could violate Defendant’s and third-parties’ privacy or proprietary interests” (citation omitted)); *Reid v. Viacom Int’l Inc.*, 2016 WL 4157208, at *4 (sealing “information covered under HIPAA” because “[l]itigants have a legitimate privacy interest” “in th[at] type of information” “worthy of protection from public disclosure”).

Although courts sometimes decline to seal medical records where the contents of those records are “central to the issues litigated at trial,” *Wilson v. Costco Wholesale Corp.*, 2018 WL 8200952, at *1 (S.D. Fla. Sept. 18, 2018) (Middlebrooks, J.), that is not the case here. Although the *fact* that named patients voiced concerns about receiving care at the Community Hospitals may be relevant to showing consumer harm, *cf.* ECF 139 at 4, the *names themselves and other identifying information* are not relevant in this case. And, to be clear, the Community Hospitals do not seek to seal the other contents of the documents, including the substance of the patients’ complaints. *See supra* at 2 (quoting the substance of the documents). Accordingly, the existing, targeted redactions represent the least restrictive sealing option available for PX-552.0 and PX-560.0–560.2.

CONCLUSION

The Community Hospitals respectfully request that the Court grant this motion and enter an order sealing the redacted portions of the identified documents containing patient names. Upon execution of the Court’s order, the Community Hospitals will file with the Court and serve on Leapfrog unredacted versions of PX-552.0 and PX-560.0–560.2.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(2), I hereby certify that the undersigned has conferred in writing with Leapfrog’s counsel, Kimberly E. Blair, in a good-faith effort to resolve the issues raised in this motion, but has been unable to resolve those issues.

Dated: January 9, 2026

Respectfully submitted,

By: /s/ Jeffrey Marcus

By: /s/ Mary Beth Maloney

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Exhibit 1



Safety Event Manager

Details

CXG19790382 · Admission Transfer Discharge **Primary**

Event Owner

All Event Managers

General

Occurred
08/22/2025

Reported
08/22/2025 17:49

Occurrence Department
ED - Satellite

Submitter
WHITE, Jennifer - Event Submitter
jenn.white@tenethealth.com

Last Updated
08/22/2025
WHITE, Jennifer - Event Submitter
jenn.white@tenethealth.com

Other Involved Departments
-

Affected Person

Party Type
Patient

Name

MRN

Gender
Male

DOB
(Age: 58)

FIN

Tags

No tags have been identified for this event.

Categorization

Event Type
Admission Transfer Discharge

Nature
AMA (Left or Absconded Against Medical Advice)

Subnature
-

Severity
-

Description

pt daughters did not want their father to have surgery in west boca medical center due to the leap frog reviews that they read online. pt was advised by the physician and this nurse at separate times the risks of infection with an open fracture and leaving against medical advice, pt verbalized he understood and wanted to go to broward.

PX-552.0

Exhibit 2

From: Levine, Ian <Ian.Levine@tenethealth.com>
Sent: Monday, November 3, 2025 3:59 PM
To: Basso-Kestner, Jennifer
Cc: Seymour, Naomi
Subject: RE: Previous Week OR Cance/Reschedule
Attachments: PBG Cancels Week Oct 26.xlsx

Please see attached and follow up on any patients who need to be rescheduled. Please send me the invite for your weekly OR Cancellation review meeting.

Thank You,

Ian Levine MBA BSN RN
Director of Clinical Projects



Exhibit 2A

Document Produced in Native Format

PX-560.1

Exhibit 2B

	A	B	C	D	E	F	G	H	I
1	SURGICAL_AREA	SCHEDULE_DATE	PRIORITY	CASE_NUMBER	PATIENT	MRN	FIN	SCHEDULED_PROCEDURE	PROCEDURE_TEXT
2	PBG Main OR	10/26/2025 12:00	Elective	PBGOR-2025-6672	--REDACTED--	--REDACTED--	--REDACTED--	Coronary Artery Bypass Graft	CABG
3	PBG Main OR	10/27/2025 8:45	Elective	PBGOR-2025-5707	--REDACTED--	--REDACTED--	--REDACTED--	Prostate Transperineal US Guided Biopsy	TRANSPERINEAL MRI GUIDED PROSTATE FUSION BIOPSY
4	PBG Main OR	10/28/2025 7:15	Elective	PBGOR-2025-5848	--REDACTED--	--REDACTED--	--REDACTED--	Knee Total Arthroplasty	RIGHT TOTAL KNEE ARTHROPLASTY
5	PBG Main OR	10/28/2025 7:45	Elective	PBGOR-2025-6001	--REDACTED--	--REDACTED--	--REDACTED--	Spine Lumbar Laminectomy Anterior Fusion	L45 S1 ANTERIOR LUMBAR INTERBODY FUSION
6	PBG Main OR	10/29/2025 7:45	Elective	PBGOR-2025-5824	--REDACTED--	--REDACTED--	--REDACTED--	Spine Cervical Anterior Discectomy	EXTENSIVE ACDF WITH TITANIUM INTERBODY CAGE & ALLOGRAFT FUSION WITH CERVICAL PLATING AT C45 & C56
7	PBG Main OR	10/29/2025 8:15	Elective	PBGOR-2025-6513	--REDACTED--	--REDACTED--	--REDACTED--	Knee Total Arthroplasty	MAKO LEFT TOTAL KNEE ARTHROPLASTY
8	PBG Main OR	10/29/2025 9:15	Elective	PBGOR-2025-6292	--REDACTED--	--REDACTED--	--REDACTED--	Knee Total Arthroplasty	ROSA LEFT TOTAL KNEE ARTHROPLASTY WITH APC
9	PBG Main OR	10/29/2025 12:00	Elective	PBGOR-2025-6012	--REDACTED--	--REDACTED--	--REDACTED--	Coronary Artery Bypass Graft	CABG
10	PBG Main OR	10/29/2025 17:00	Elective	PBGOR-2025-6817	--REDACTED--	--REDACTED--	--REDACTED--	Shoulder Total Arthroplasty	RIGHT REVERSE TOTAL SHOULDER ARTHROPLASTY
11	PBG Main OR	10/30/2025 7:30	Elective	PBGOR-2025-5991	--REDACTED--	--REDACTED--	--REDACTED--	Hip Total Arthroplasty	LEFT TOTAL HIP ARTHROPLASTY
12	PBG Main OR	10/30/2025 7:30	Elective	PBGOR-2025-6002	--REDACTED--	--REDACTED--	--REDACTED--	Spine Lumbar Posterior Laminectomy with	L45 S1 POSTEROLATERAL FUSION WITH LAMINECTOMY FORAMINOTOMY
13	PBG Main OR	10/30/2025 7:45	Elective	PBGOR-2025-6597	--REDACTED--	--REDACTED--	--REDACTED--	Femoral Artery Angioplasty with Stent In	LEFT LOWER EXTREMITY ANGIOGRAM WITH POSSIBLE INTERVENTION
14	PBG Main OR	10/30/2025 8:45	Elective	PBGOR-2025-6347	--REDACTED--	--REDACTED--	--REDACTED--	Hemorrhoidectomy	ANAL FISTULOTOMY
15	PBG Main OR	10/30/2025 12:30	Elective	PBGOR-2025-5912	--REDACTED--	--REDACTED--	--REDACTED--	Cystoscopy for Lithotripsy	LEFT OR BILATERAL URETERAL LASER LITHOTRIPSY STENT PLACEMENT
16	PBG Main OR	10/30/2025 13:30	Elective	PBGOR-2025-5913	--REDACTED--	--REDACTED--	--REDACTED--	Bladder Cystoscopy with Transurethral Re	TRANSURETHRAL RESECTION OF PROSTATE
17	PBG Main OR	10/31/2025 7:30	Elective	PBGOR-2025-6260	--REDACTED--	--REDACTED--	--REDACTED--	Cholecystectomy Xi Robotic	ROBOTIC CHOLECYSTECTOMY
18	PBG Main OR	10/31/2025 7:45	Elective	PBGOR-2025-6626	--REDACTED--	--REDACTED--	--REDACTED--	Scalp Excision Lesion	SPLIT THICKNESS SKIN GRAFT TO LEFT LOWER LEG AND LEFT UPPER THIGH FROM RIGHT UPPER LATERAL THIGH
19	PBG Main OR	10/31/2025 8:30	Elective	PBGOR-2025-6501	--REDACTED--	--REDACTED--	--REDACTED--	Colon Resection Low Anterior Xi Robotic	ROBOTIC SIGMOID COLECTOMY
20	PBG Main OR	10/31/2025 10:15	Elective	PBGOR-2025-6323	--REDACTED--	--REDACTED--	--REDACTED--	Excision Basal Cell Carcinoma	EXCISION LIPOMA RIGHT UPPER BACK WITH MUSCLE FLAP CLOSURE
21	PBG Main OR	10/31/2025 11:00	Elective	PBGOR-2025-6252	--REDACTED--	--REDACTED--	--REDACTED--	Coronary Artery Bypass Graft	CABG
22	PBG Main OR	10/31/2025 12:00	Elective	PBGOR-2025-6022	--REDACTED--	--REDACTED--	--REDACTED--	Shoulder Arthroscopy with Rotator Cuff R	RIGHT SHOULDER ROTATOR CUFF REPAIR AND BICEPS TENODESIS ARTHROSCOPY

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PX-560.2

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	J	K	L	M	N	O	P	Q	R
1	SURGEON	DATE_SCHEDULED	DATE_CANCELLED	CANCEL_REASON	COMMENT	CANCELLED_BY	SOURCE	DATE_RESCHEDULED	RESCHEDULED_PRIORITY
2	PATEL MD, NISHANT	10/22/2025	10/24/2025	Physician Office Scheduling Error	CXLD ANA. WILL SEND BOOKING SHEET.	Tysinger, Derrick	Scheduling		
3	BADILLO MD, FELIX	9/11/2025	10/17/2025	Patient Scheduling Issue	PT STATES HE IS R/S PER ANDREA TEXT SENT TO KIMMI	Soltis, Mary	Scheduling		
4	NORRIS DO, SCOTT D	9/16/2025	10/22/2025	Patient Declined Procedure	PATIENT DECLINED PROCEDURE DUE TO THE HOSPITALS F GRADE FOR INFECTIONS. WISHES TO CXLD -PER SUSAN	Tysinger, Derrick	Scheduling		
5	UPADHYAYA MD, SHIVAM N	9/24/2025	10/21/2025	Patient Declined Procedure	PT DOES NOT WANT TO PROCEED WITH SURGERY	Soltis, Mary	Scheduling		
6	AFSHAR MD, JOHN	9/16/2025	10/2/2025	Not Covered by Ins or No OON Benefits	Hi please cancel she will have surgery at surgery center since she is self-pay thank you. DIANE	Istock RN, Kelly	Scheduling		
7	AVINO MD, ROBERT J	10/15/2025	10/22/2025	Medical Clearance Required Follow Up	Good afternoon ?? Please CANCEL patient --REDACTED- - who is currently scheduled for surgery on 10/29/25. She is not cleared at this time. Than	Tysinger, Derrick	Scheduling		
8	MONTIJO MD, HARVEY E	10/6/2025	10/28/2025	Medical Clearance Required Follow Up	PT NOT CLEARED BY CARDIOLOGIST	Soltis, Mary	Scheduling		
9	PATEL MD, NISHANT	9/24/2025	10/28/2025	Physician Illness or Emergency	LESLIE NS	Soltis, Mary	Scheduling		
10	HINSON MD, JOHN A	10/28/2025	10/28/2025	Physician Office Scheduling Error	CXLD PER OFFICE. WILL CALL BACK TO R/S.	Tysinger, Derrick	Scheduling		
11	FOWBLE MD, VINCENT	9/23/2025	10/20/2025	Physician Office Scheduling Error	NO REASON GIVEN	Soltis, Mary	Scheduling		
12	UPADHYAYA MD, SHIVAM N	9/24/2025	10/21/2025	Patient Declined Procedure	PT DOES NOT WANT TO PROCEED WITH SURGERY	Soltis, Mary	Scheduling		
13	SAVARESE MD, JOSEPH A	10/17/2025	10/21/2025	Administrative Error	BLOCK IN WRONG AREA	Soltis, Mary	Scheduling	10/21/2025	Elective
14	AL-AZZAWI MD, HAYDER H	10/8/2025	10/15/2025	Patient Scheduling Issue	PT STATES SHE WAS NOT TOLD ABOUT SURGERY & SHE IS TOO STRESSED AT WORK WILL CALL TO R/S	Soltis, Mary	Scheduling		
15	SAWH MD, SEAN	9/18/2025	10/15/2025	Physician Illness or Emergency	PT HAS CANCER & HAD A TREATMENT WILL DO AT A LATER TIME	Soltis, Mary	Scheduling		
16	SAWH MD, SEAN	9/18/2025	10/2/2025	Patient Scheduling Issue	PER OFFICE PT CALLED TO CANCEL SURGERY- JUDITHANN-E	Istock RN, Kelly	Scheduling		
17	AL-AZZAWI MD, HAYDER H	10/3/2025	10/21/2025	Medical Clearance Required Follow Up	DR WILL NOT CLEAR HIM	Soltis, Mary	Scheduling		
18	GREENBERG MD, BURT M	10/20/2025	10/28/2025	Physician Office Scheduling Error	CXLD PER PEG. PATIENT WILL CALL BACK TO R/S.	Tysinger, Derrick	Scheduling		
19	AL-AZZAWI MD, HAYDER H	10/15/2025	10/16/2025	Patient Declined Procedure	PT NEEDS A SECOND OPINION	Soltis, Mary	Scheduling		
20	GREENBERG MD, BURT M	10/7/2025	10/28/2025	Physician Office Scheduling Error	PER PEG PATIENT'S OUT OF POCKET COSTS TOO MUCH	Tysinger, Derrick	Scheduling		
21	PATEL MD, NISHANT	10/3/2025	10/31/2025	Test Results Abnormal		PATEL MD, NISHANT	PreOp(F)	10/31/2025	Elective
22	AKPINAR MD, BERKCAN	9/24/2025	10/16/2025	Patient Scheduling Issue	PT SPOKE WITH VANESSA STATING HE WANTS TO POSTPOINE TO AFTER THE NEW YEAR	Soltis, Mary	Scheduling		

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	S	T	U	V	W	X
1	RESCHEDULED_TO	NEW_CASE	AREA	NEW_FIN	NEW_CASE_STATUS	PAT_TYPE
2						IP
3						OP
4						OP
5						IP
6						OP
7						OP
8						OP
9						AM
10						IP
11						OP
12						IP
13	10/30/2025 7:45	PBGOR-2025-6644	PBG Main OR	27881499	Completed	OP
14						OP
15						OP
16						OP
17						OP
18						OP
19						AM
20						OP
21	11/10/2025 13:45	PBGOR-2025-6925	PBG Main OR	27898568	Scheduled	AM
22						OP

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