

The South Carolina Court of Appeals

Trident Medical Center, LLC d/b/a Trident Medical
Center and Summerville Medical Center,
Petitioner/Respondents,

v.

South Carolina Department of Health and Environmental
Control and Medical University Hospital Authority d/b/a
MUSC Health Emergency Services, Respondents,

Of Which, Medical University Hospital Authority d/b/a
MUSC Health Emergency Services is the Appellant.

AND

CareAlliance Health Services d/b/a Roper St. Francis
Healthcare, Roper Hospital, Inc., Bon Secours-St. Francis
Xavier Hospital, Inc., Roper Mount Pleasant Hospital,
and Roper St. Francis Berkeley Hospital, Petitioner/
Respondent,

v.

South Carolina Department of Health and Environmental
Control and Medical University Hospital Authority d/b/a
MUSC Health Emergency Services, Respondents,

Of Which, Medical University Hospital Authority d/b/a
MUSC Health Emergency Services is the Appellant.

Appellate Case No. 2020-001072

ORDER

Appellant has filed a motion to seal limited portions of the record relating to proprietary and confidential information. Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, the court has the power to control its own records. See *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). Rule 41.1(b), SCRCR, requires a motion to seal to identify, with specificity, the documents or portions of documents for which sealing is considered necessary, to contain a non-confidential description of the documents, and to be accompanied by a separately sealed attachment labeled "Confidential Information to be submitted to Court in Connection with the Motion to Seal." The Rule also requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection, and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the parties upon expectations of confidentiality of the proceeding;
- (4) the public or professional significance of the proceeding;
- (5) the perceived harm to the parties from disclosure;
- (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and
- (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

Id. When ruling on a motion to seal, the court may also consider the public interest in the proceeding; the private or public status of the litigants and case generally; whether release would enhance the public's understanding of an important historical event; whether the public already has access to information contained in the records; whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 12, 630 S.E.2d at 470 (2006).

After careful consideration of the motion and the relevant factors, the motion to file the limited portions of the record seal is granted. Within ten days of the date of this order, Appellant shall serve and file a separate record on appeal containing only: (1) Exhibits 1-71 to the deposition of Thomas M. Herrman and (2) Trident Medical Center, LLC, Trial Exhibit 68. The separate record on appeal containing these matters shall be kept under seal.

H B W De

FOR THE COURT

Columbia, South Carolina

cc:

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