

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

AMY PICKETT,

Plaintiff,

v.

TEXAS TECH UNIVERSITY HEALTH
SCIENCES CENTER (TTUHSC), *et al.*,

Defendants.

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CIVIL ACTION NO. 5:20-CV-232-H-BQ

ORDER

Before the Court is pro se Plaintiff Amy Pickett’s motion asking the Court to seal her June 12, 2023 deposition. ECF No. 75. Pickett also seeks to submit “supporting case documents and discovery evidence” that the parties referred to during the deposition and that she purportedly provided to defense counsel. *Id.* at 2. Defendants Texas Tech University Health Sciences Center, Barbara Cherry, and Michael Evans (collectively, Defendants) oppose Pickett’s motion, arguing that she “has not asserted that any statute or rule permits her to seal a deposition transcript.” ECF No. 77, at 1. For the reasons below, the Court **DENIES** Pickett’s motion without prejudice.

I. Background and Parties’ Arguments

Defendants took Pickett’s deposition on June 12, and on June 20, the parties received the transcript. ECF No. 75, at 1; *see* ECF No. 78, at 1; ECF No. 79, at 2. By even date herewith, the Court has entered an order extending the deadline to July 28, 2023, for the parties to submit any corrections to the deposition transcript. *See* FED. R. CIV. P. 30(e).

Although no party has yet filed any portion of the transcript, Pickett preemptively seeks to protect her “student and health information,” including deposition exhibits and testimony. ECF No. 75, at 1. Pickett also attaches to her motion “supporting case documents and discovery

evidence,” which she provided to defense counsel at the deposition and that she seeks to “submit[] to have on record.” *Id.* at 2; *see* ECF No. 75-1.

Defendants oppose the motion because Pickett “has not asserted that any statute or rule permits her to seal a deposition transcript.” ECF No. 77, at 1. They “affirmatively state,” however, that they “do not intend to file any documents containing [Pickett’s] protected health or student information in a manner that is inconsistent with the Federal Rules of Civil Procedure, federal law, or this Court’s Local Rules.” *Id.* at 2. Defendants further observe “that the only party who has filed [Pickett’s] protected health or student information to date has been [Pickett] herself.” *Id.* (citing ECF Nos. 63-1, 73-1).

II. Discussion

“[T]he public has a common law right to inspect and copy judicial records.” *S.E.C. v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993); *see In re Gee*, No. 19-30953, 2019 WL 13067384, at *4 (5th Cir. Nov. 27, 2019) (Elrod, J., concurring) (“The *public* has an interest in transparent court proceedings that is independent of the parties’ interests.”). “[S]ealing information placed in the judicial record” is therefore “heavily disfavor[ed].” *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 519–20 (5th Cir. 2022). The public’s right to judicial records, however, “is not absolute.” *Van Waeyenberghe*, 990 F.2d at 848.

Although “the working presumption is that judicial records should not be sealed,” parties “sometimes have good reasons to file documents (or portions of them) under seal, such as protecting trade secrets or the identities of confidential informants.” *Le v. Exeter Fin. Corp.*, 990 F.3d 410, 419 (5th Cir. 2021) (citation omitted). In considering whether to seal judicial records (i.e., documents filed on the public record), courts employ a strict balancing test, weighing “the public’s common law right of access against the interests favoring nondisclosure.” *Id.* (citation

omitted); *see Phillips*, 22 F.4th at 521 (describing “the standard for shielding records from public view” filed “at the adjudicative stage” as “far more arduous” (emphasis and citation omitted)). This balancing must be made on a case-by-case, document-by-document basis, and courts should articulate any reasons supporting the decision to seal. *Le*, 990 F.3d at 419; *see Vantage Health Plan, Inc. v. Willis-Knighton Med. Ctr.*, 913 F.3d 443, 450–51 (5th Cir. 2019). Ultimately, however, sealing judicial records is “left to the sound discretion of the trial court.” *Van Waeyenberghe*, 990 F.2d at 848 (citation omitted).

Pickett seeks leave to apply “a confidentiality seal” to a deposition transcript that has not yet been finalized, much less filed on the record by any party. ECF No. 75, at 2. Pickett’s request is therefore premature. On this basis alone, the Court denies Pickett’s motion.

But even turning to the merits, Pickett has not shown that the *entire* deposition should be sealed. Pickett generally contends that the Court must protect her confidential information—including “student and health information,” as well as a confidential document (*id.* at 1)—but she has not shown that each line of the deposition contains confidential information such that it should be shielded from the public. *Phillips*, 22 F.4th at 521 (directing courts to engage in a “document-by-document, line-by-line balancing of the public’s common law right of access against the interests favoring nondisclosure” (internal quotation marks and citation omitted)).

Finally, Pickett’s attempt to submit sealed documents “to have on record” is improper. ECF No. 75, at 2. The documents are not in support of a dispositive or other germane motion, nor has Pickett provided any explanation as to their relevance to her claims in this action. *See id.* at 1–2. For these reasons, the Court cannot at this time seal the documents attached to her motion (ECF No. 75-1), and they should be unfiled by the Clerk to avoid any potentially confidential information becoming public.

III. Conclusion

Accordingly, the Court **DENIES** Pickett's motion without prejudice to her ability to renew her request should she find it necessary to file portions of the deposition transcript and/or other documents. The Court cautions Pickett, however, that in considering any future request to seal information, it will engage in the document-by-document, line-by-line evaluation mandated by Fifth Circuit precedent. Pickett should therefore endeavor to provide specific reason(s) for sealing each portion of a document or deposition transcript she seeks to file under seal. *See, e.g., Powers v. Duff & Phelps, LLC*, No. 1:13-CV-768, 2015 WL 1758079, at *2-5 (W.D. Tex. Apr. 17, 2015) (evaluating separately each portion of defendant's request to file under seal deposition testimony and exhibits). Because the Court has denied Pickett's motion to seal, it is further

ORDERED that the Clerk **UNFILE** document number 75-1 so that any potentially confidential documents do not become public.

SO ORDERED.

Dated: July 18, 2023.



D. GORDON BRYANT, JR.
UNITED STATES MAGISTRATE JUDGE