

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT _____

_____)	
)	
Appellant (person bringing appeal))	
)	
vs.)	
)	
STATE OF ALASKA, DEPARTMENT OF)	
ADMINISTRATION, DIVISION OF)	CASE NO. _____
RETIREMENT AND BENEFITS,)	CI
Appellee)	
_____)	

MOTION TO SEAL OR MAINTAIN MEDICAL RECORDS CONFIDENTIAL
 (Alaska Const. Article 1, § 22; Alaska R. App. P. 512.5(b); Alaska R. Adm. P. 37.6)

[Notice to Appellee: Enclosed with this motion are my medical records in a sealed envelope for the Court only. These records will be provided to the Appellee after the Court rules, and then they must be kept confidential (if so ordered).]

I am the Appellant who brought this appeal. I ask the court to let me file the enclosed medical records under seal, to keep the medical records confidential, and not let them be disclosed to the public. I ask that the records only be viewed by the court, the parties in this case, and their attorneys. In making this request, I am not waiving my right to keep this medical information confidential and private.

Medical records include private information and are not open to public inspection under the Alaska Public Records Act.¹ Also, the Alaska Constitution says that "[t]he right of the people to privacy is recognized and shall not be infringed."² Medical records are also considered confidential information under federal privacy rules set by HIPAA.³

I am filing medical records for the court to review in this case because they are relevant to the question whether the Appellee Division of Retirement and Benefits (DRB) properly reviewed and considered them when DRB made its decision about [check all that apply]:

- the medical necessity of the procedures or medication at issue.
- calculation of the "recognized charge" and/or "derived charge."
- other:

¹ Alaska Stat. § 40.25.120(a)(3).
² Alaska Const. Art.1, § 22 (Right of Privacy).
³ Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996; 45 C.F.R. 164.508.

DRB failed to include the medical records in the agency record despite the fact that DRB based the denial of medical benefits on those medical records. In order for the Court to decide whether DRB properly evaluated those factors, it is necessary to have the records before the court. Nevertheless, I believe that the specific medical information in the records should remain confidential to protect my privacy.

When the Office of Administrative Hearings (OAH) decides similar appeals of DRB decisions about retiree benefits, OAH maintains the privacy of the medical records and of the names of the individuals whose medical claims are being decided.⁴ While my name is not confidential in this case, I am entitled to this same degree of confidentiality and privacy regarding my medical records.

I respectfully ask the Court to maintain confidentiality of these medical records and keep them under seal for the duration of this appeal.

Dated: _____ Appellant's Signature: _____

Daytime Phone: _____ Email: _____

CERTIFICATE OF SERVICE

I certify that on this date: _____, I gave a true and correct copy of this *Motion to Seal or Make Medical Records Confidential*, the draft *Order*, and this *Certificate of Service* to the party of record listed below, by first class mail, postage pre-paid. (I am withholding the medical records until the Court rules on the *Motion*.)

Assistant Attorney General

Attorney's Name: _____

State of Alaska, Labor & State Affairs Section

Street Address: _____

City, State, Zip: _____

Dated: _____ Signature of Person Serving Copies: _____

⁴ See: *In the matter of W-S-B*, (OAH) No. 15-1143-PER, Agency No. 2015-0604 (Office of Admin. H'rgs 2016), available at <http://aws.state.ak.us/officeofadminhearings/Documents/PER/PER151143.pdf>.

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**ORDER ON MOTION TO SEAL OR MAINTAIN
MEDICAL RECORDS CONFIDENTIAL**

Appellant moved the Court to seal or maintain medical records confidential for the duration of this case.

- The motion is **GRANTED**. The medical records shall be confidential and kept under seal for the duration of this appeal. The records may be viewed only by the Court, and by the parties to this case and their attorneys.
- The motion is DENIED.

Date

Judicial Officer Signature

Print or Type Name