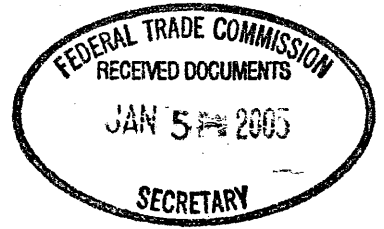


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Office of Administrative Law Judges



In the Matter of)
)
)
Evanston Northwestern Healthcare)
Corporation,)
a corporation, and)
)
ENH Medical Group, Inc.,)
a corporation.)

Docket No. 9315

NOTICE OF FILING

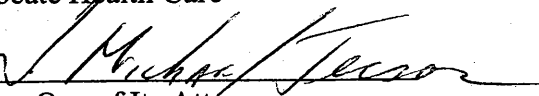
PUBLIC VERSION

MOTION FOR IN CAMERA TREATMENT OF DOCUMENTS

To: See Attached Certificate of Service

PLEASE TAKE NOTICE that on January 4, 2005, I caused to be filed with the Federal Trade Commission - Office of the Secretary at 600 Pennsylvania Avenue, NW, Room H-159, Washington, D.C. 20580, *Non-Party Advocate Health Care's Motion for In Camera Treatment of Respondents' Proposed Evidentiary Materials.*

Advocate Health Care

By: 
One of Its Attorneys

John P. Marren
Laura C. Liu
Kelly A. McCloskey
J. Michael Tecson
Hogan Marren, Ltd.
180 N. Wacker Drive, Suite 600
Chicago, Illinois 60606
(312) 946-1800

CERTIFICATE OF SERVICE

I, J. Michael Tecson, an attorney, certify that a copy of the foregoing documents was served on the individuals listed below by first class mail delivery, proper postage prepaid, on January 4, 2005:

Michael L. Sibarium
Charles B. Klein
WINSTON & STRAWN, LLP
1400 L Street, NW
Washington, DC 20005
(without exhibits)

Duane M. Kelley
David E. Dahlquist
WINSTON & STRAWN, LLP
35 West Wacker Drive
Chicago, IL 60601-9703
(without exhibits)

And that one copy was served on the Honorable Stephen McGuire by personal delivery to:

The Honorable Stephen J. McGuire
Office of the Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room 113
Washington, DC 20580

And that one copy was served on Complaint Counsel by personal delivery to:

Thomas Brock, Esq.
600 Pennsylvania Avenue, NW
Room H-360
Washington, DC 20580
(without exhibits)

Dated: January 4, 2005

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Office of Administrative Law Judges**

In the Matter of)
)
)

**Evanston Northwestern Healthcare
Corporation,**)
a corporation, and)

ENH Medical Group, Inc.,)
a corporation.)
_____)

Docket No. 9315

**NON-PARTY ADVOCATE HEALTH CARE'S MOTION FOR IN CAMERA
TREATMENT OF RESPONDENTS' PROPOSED EVIDENTIARY MATERIALS**

PUBLIC VERSION

Advocate Health Care, ("Advocate") which is not a party to the above-captioned action, respectfully requests that this Court grant in camera treatment of certain documents that respondents Evanston Northwestern Healthcare Corporation and ENH Medical Group, Inc. (collectively "Respondents") have designated for introduction into evidence in the administrative trial in this matter.

I. Introduction

By correspondence dated December 22, 2004, Respondents notified Advocate that it intends to introduce into evidence documents produced by Advocate in response to a subpoena issued by Respondents. Due to the confidential nature of the documents to be produced in this matter, the Commission entered a protective order on March 24, 2004 governing the production of documents. Advocate produced documents subject to the March 24, 2004 order, and designated such documents as "Attorneys Eyes Only – Restricted Confidential" in accordance with paragraph 2(b) of the Protective Order. Moreover, paragraphs 2(a) and 3 of the Protective

Order grants "Confidential" status to all documents produced in the instant matter. The confidential documents, for which in camera treatment is sought, are listed as follows:

Advocate's Exhibits	Advocate's Bates Range	Respondents' Exhibit Nos.
1	AHC 01541-60	RX-0630
2	AHC 00727-8	RX-1507
3	AHHC 00363-73	FX-1053
4	AHHC 000374-000384	RX-1095
5	AHHC 000385-000395	RX-1141
6	AHHC 001088-23; 001125-28	RX-0928
7	AHHC 001197-001237	RX-1718
8	ALGH 01676	RX-0076
9	ALGH 001729-30	RX-0195
10	ALGH 001675-76	RX-0233
11	ALGH 000556-000588	RX-1328
12	ALGH 001505	RX-1788
13	ALGH 000540-000588	RX-1334
14	ALGH 001264-336	RX-1173
15	ALGH 001439-60	RX-0072
16	ALGH 001461-88	RX-0009
17	ALGH 001492-94	RX-0016
18	ALGH 001495-99	RX-0032
19	ALGH 001500-04	RX-0039
20	ALGH 001505-29	RX-0297
21	ALGH 001619-66	RX-0036
22	ALGH 000606-22	RX-1036

As discussed in more detail below, and as set forth in the Declaration of Thomas J. Babbo, Esq., Assistant General Counsel for Advocate, the information in the above documents reveal non-public, competitively sensitive information and is held in strict confidence by Advocate, the disclosure of which would be highly damaging to Advocate. Advocate submits that the documents contain information that is secret and material to its current and prospective business. Under the standard set forth in 16 C.F.R. § 3.45(b), the Court should enter an order granting in camera treatment to the documents specified in this motion.

II. Standard for In Camera Treatment of Materials

Documents containing non-public information warrant in camera treatment when “public disclosure will likely result in a clearly defined, serious injury... to the corporation requesting their in camera treatment.” 16 C.F.R. § 3.45(b). In order to demonstrate “serious injury,” the party seeking in camera treatment should show that the subject information is: 1) secret and 2) material to the applicant’s business. See In the Matter of General Foods Corp., 95 F.T.C. 352 (1980). In considering the secrecy and materiality of the information, an Administrative Law Judge should weigh the following factors: “(1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.” In the Matter of Bristol-Myers Co., et al., 90 F.T.C. 455 (1977) (citation omitted). An Administrative Law Judge is granted broad discretion in deciding what types of materials may be granted in camera treatment. General Foods Corp., 95 F.T.C. 352 (1980); see also Bristol-Myers Co., 90 F.T.C. 455 (1977) (stating that “consideration of in camera treatment of materials is left to the “sound discretion of the administrative law judge”). Moreover, public policy dictates that third party requests for in camera treatment of confidential business records and information “deserve special solicitude.” In the Matter of Kaiser Aluminum & Chemical Corp., 103 F.T.C. 500 (1984) (order directing in camera treatment for sales statistics over five years old).

III. Public Disclosure of Advocate's Documents will Cause Advocate Serious Injury

The information contained in each of the Exhibits 1-22 listed above, is confidential and public disclosure of such information would cause serious competitive injury to Advocate. Advocate expends a considerable amount of money and effort in creating the information contained in these exhibits and takes considerable measures to protect the secrecy of the information. The contracting documents and the data and analysis contained in the exhibits are disclosed to a limited number of employees at Advocate. Moreover, it would be extremely difficult for Advocate's competitors to obtain the information in the subject documents. Advocate takes every reasonable step in order to protect the confidentiality of the information contained in Exhibits 1 through 22. In this particular matter, Advocate submitted the subject documents under the auspices of a protective order. It was Advocate's understanding that all of the documents would be subject to the confidential treatment set forth in the order. In addition, Advocate requested that many of its documents be afforded the "Restricted Confidential – Attorneys Eyes Only" protection set forth in the order. In matters involving disputes with payors or other entities, Advocate always insists that a protective order be entered or agreed upon prior to the production of information or documents similar to the information and documents contained in Exhibits 1-22. The types of information contained in Exhibits 1-22 can be generally categorized into three types of confidential information.

The first category of confidential information is contained in Exhibits 1, 14 and 22 and pertains to agreements between Advocate Health and Hospitals Corporation and certain insurance companies and networks. As discussed in detail in the Declaration of Thomas J. Babbo, Esq., which is attached hereto and incorporated as part of this motion, the structure of these agreements are unique as the agreement pertains to Advocate's hospital system. Public

disclosure of the structure and terms of these agreements to Advocate's competitors as well as other insurance networks will result in a competitive disadvantage for Advocate. See Babbo Declaration at ¶¶4, 12 and 16.

The second category of confidential information is contained in Exhibits 2, 8, 9, 12, 15, 16-19, and 21 and pertains to managed care agreements between certain Advocate hospitals/entities and certain insurance companies and networks. As discussed in detail in the Declaration of Thomas J. Babbo, Esq., which is attached hereto and incorporated as part of this motion, these agreements set forth payment rates and schedules for certain Advocate hospitals/entities as well as Advocate's negotiating and contract processes. Public disclosure of these types of information would result in irreparable competitive injury to Advocate as its competitors and other insurance networks would have knowledge regarding negotiated rates and contracts which Advocate dedicates a substantial amount of time in negotiating. See Babbo Declaration at ¶¶ 5, 8, 9, 11, 13, 14, 15.

The third category of confidential information is contained in Exhibits 3-7 and 11 and pertains to Advocate's analysis of certain market share and other data. As discussed in exacting detail by individual exhibit in the Declaration of Thomas J. Babbo, Esq., which is attached hereto and incorporated as part of this motion, these analyses set forth information regarding certain hospital and market trends which Advocate analyzes in order to effectively compete and for its growth in various sectors. Public disclosure of this information to Advocate's competitors would irreparably harm Advocate as its competitors would gain knowledge of the market research and other hospital trend analyses that Advocate utilizes. As set forth in the Declaration of Thomas J. Babbo, Advocate continues to utilize the data and types of analyses contained in Exhibits 3-7 and 11. See Babbo Declaration at ¶¶ 6, 7, and 10.

Based upon the above facts, and the details set forth more fully in the Declaration of Thomas J. Babbo, Advocate has adequately demonstrated the secrecy and materiality set forth in Bristol-Myers, and therefore, should be afforded in camera status for the documents listed and described herein.

IV. In Camera Treatment for the Above Documents Should Be Indefinite

The nature of the highly confidential information contained in the documents, for which in camera protection is sought, if publicly disclosed, would place Advocate at a significant competitive disadvantage in the marketplace. The documents disclose confidential business information, business decisions as well as strategies for the future. The information will continue to be of a sensitive nature for some time. The information relates to Advocate's ongoing and future business practices and will remain secret and material to Advocate for the foreseeable future. The length of in camera protection may be significantly extended where the information in question will remain competitively sensitive. See e.g. In the Matter of E.I. DuPont de Nemours & Co., 2000 WL 1877720, F.T.C. (Dec. 21, 2000) (extending in camera protection of documents for an additional ten years beyond the initial ten year protection period). For these reasons, Advocate respectfully requests in camera treatment for the above documents for an indefinite period of time. Alternatively, Advocate requests that the court grant in camera treatment for the above documents for a period of not less than ten (10) years.

Dated: January 4, 2005

Respectfully submitted,

Advocate Health Care

By: 

One of Its Attorneys

John P. Marren
Laura C. Liu
Kelly A. McCloskey
J. Michael Tecson
Hogan Marren, Ltd.
180 N. Wacker Drive, Suite 600
Chicago, Illinois 60606
(312) 946-1800

PUBLIC VERSION

PROPOSED ORDER

On January 4, 2005, Non-Party Advocate Health Care (“Advocate”) filed a motion for in camera treatment of confidential business information contained in certain documents that have been identified by respondents Evanston Northwestern Healthcare Corporation and ENH Medical Group, Inc. (collectively “Respondents”) as potential evidentiary exhibits.

IT IS HEREBY ORDERED that Advocate’s motion for in camera treatment of these documents is GRANTED. The information set forth in the Advocate documents numbered as follows will be subject to in camera treatment under 16 C.F.R. § 3.45 and will be kept confidential and not placed on the public record of this proceeding for an indefinite period of time.

Advocate’s Bates Range
AHC 01541-60
AHC 00727-8
AHHC 00363-73
AHHC 000374-000384
AHHC 000385-000395
AHHC 001088-23; 001125-28
AHHC 001197-001237
ALGH 01676
ALGH 001729-30
ALGH 001675-76
ALGH 000556-000588
ALGH 001505
ALGH 000540-000588
ALGH 001264-336
ALGH 001439-60
ALGH 001461-88
ALGH 001492-94
ALGH 001495-99
ALGH 001500-04
ALGH 001505-29
ALGH 001619-66
ALGH 000606-22

IT IS FURTHER ORDERED that only authorized Federal Trade Commission (“Commission”) personnel, and court personnel concerned with judicial review may have access to the above-

referenced information, provided that I, the commission, and reviewing courts may disclose such in camera information to the extent necessary for the proper disposition of the proceeding.

ORDERED:

Administrative Law Judge

Dated: _____

EXHIBIT LIST

- Exhibit 1 – [REDACTED]
- Exhibit 2 – [REDACTED]
- Exhibit 3 – [REDACTED]
- Exhibit 4 – [REDACTED]
- Exhibit 5 – [REDACTED]
- Exhibit 6 – [REDACTED]
- Exhibit 7 – [REDACTED]
- Exhibit 8 – [REDACTED]
- Exhibit 9 – [REDACTED]
- Exhibit 10 – [REDACTED]
- Exhibit 11 – [REDACTED]
- Exhibit 12 – [REDACTED]
- Exhibit 13 – [REDACTED]
- Exhibit 14 – [REDACTED]
- Exhibit 15 – [REDACTED]
- Exhibit 16 – [REDACTED]
- Exhibit 17 – [REDACTED]
- Exhibit 18 – [REDACTED]
- Exhibit 19 – [REDACTED]
- Exhibit 20 – [REDACTED]
- Exhibit 21 – [REDACTED]
- Exhibit 22 – [REDACTED]

**DECLARATION OF THOMAS J. BABBO
IN SUPPORT OF NON-PARTY ADVOCATE HEALTH CARE'S MOTION FOR IN
CAMERA TREATMENT OF CERTAIN DESIGNATED HEARING EXHIBITS**

1. I, Thomas J. Babbo, declare and state as follows:
2. I am Assistant General Counsel for Advocate Health Care ("Advocate").
3. I submit this declaration in support of Non-Party Advocate's Motion for In Camera Treatment of Certain Designated Hearing Exhibits. I have reviewed Exhibits 1 through 22 of Advocate's motion which are the documents for which Advocate seeks in camera treatment. As Assistant General Counsel, I am familiar with the information contained in the subject documents. Based upon my knowledge of the documents, Advocate's business and the confidentiality protection Advocate provides for the information contained in the documents, it is my belief that disclosure of these documents to the public, Advocate's competitors and other providers, payors and/or healthcare insurance networks would cause serious competitive injury to Advocate.
4. Exhibit 1 (RX-0630) is a participating hospital agreement between Advocate Health and Hospitals Corporation and Unicare Life & Health Insurance Company. The agreement was entered into by the parties in October 1999 and is still in effect. The agreement specifically provides that "Hospital and Unicare agree to keep confidential, except as otherwise required by applicable law or this Agreement, the terms and conditions of this Agreement and any amendments thereto." (See Exhibit 1 at AHC 01551). The structure of the agreement is unique as it pertains to Advocate's hospital system and public disclosure of the structure and terms of the agreement to Advocate's competitors as well as other insurance networks will result in a competitive disadvantage for Advocate. Moreover, the agreement contains fee schedules and compensation information (See AHC 01545-46, 01558) which is highly confidential and

commercially sensitive business information. The disclosure of information in Exhibit 1 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

5. Exhibit 2 (RX-1507) is an amendment to the managed care agreement between one of the Advocate entities and Cigna Health Care of Illinois, Inc. The amendment is dated June 13, 2003 and is currently in effect. The two page document specifically sets forth the payment rate schedule for the Advocate hospitals. Information on payment rates is highly confidential and commercially sensitive. The disclosure of the information in Exhibit 2 would result in irreparable competitive injury to Advocate as its competitors and other insurance networks would have knowledge regarding insurance rates which Advocate dedicates a substantial amount of time in negotiating.

6. Exhibits 3, 4 and 5 are Growth Reports for: a) Year End 2000 (Exhibit 3, RX 1053); b) First Quarter 2001 (Exhibit 4, RX 1095); and c) Second Quarter 2001 (Exhibit 5, RX 1141). All three reports contain analysis regarding individual Advocate hospital trends with regard to hospital admissions, outpatient business lines, enrollment, physician network development and web site activity. The reports also contain analysis regarding individual Advocate hospital positions vis-à-vis other hospitals with regard to inpatient market share and enrollment trends. The information in Exhibits 3, 4 and 5 are highly confidential and contain sensitive business information. The public disclosure of the information would disclose to Advocate's competitors the process by which Advocate analyzes various market data in order to effectively compete. Moreover, much of the analysis is based upon the financial statements or other financial sources or reports of Advocate or other Advocate entities which again are

confidential. (See AHHC 000366-70, 000372-73; AHHC000377-81; 000383-84; AHHC000388-92; 000394-95). Advocate continues to use this data in analyzing its growth in various sectors and therefore the data contained in the exhibits remain highly confidential.

7. Exhibits 6 and 7 (RX 0928 and RX 1718) contain an analysis performed by Advocate regarding the merger of two specific hospitals in the Chicago area. Both Exhibits contain an analysis dated August 24, 2000 and rely upon the same data. The purpose of the analysis is to show the impact of the merger on one of Advocate's hospitals. The documents include information regarding the two merging hospitals and also contain the following: a) primary service area analysis; b) market share trends; c) product line market share analysis; d) health services utilization; e) consumer market research; f) physician analysis; g) payor mix; h) cost profiles; and i) financial performance analysis. The information contained in Exhibits 6 and 7 are highly confidential and contain sensitive business information. The public disclosure of the information in Exhibits 6 and 7 would reveal to Advocate's competitors its thought processes and analysis in examining the impact of the merger of two Chicago hospitals. Advocate continues to use the data set forth in Exhibits 6 and 7 in analyzing its growth in various sectors and therefore the data contained in the exhibits remain highly confidential.

8. Exhibit 8 (RX 0076) and Exhibit 10 (RX 0233) contain an amendment to the agreement between an Advocate hospital and Preferred Plan, Inc. The amendment is dated January 1, 1995 and is currently in effect. The document specifically sets forth the negotiated discount rate for one of the Advocate hospitals. Information on discount rates is highly confidential and commercially sensitive. The disclosure of the information in Exhibit 8 would result in irreparable competitive injury to Advocate as its competitors and other insurance networks would have knowledge regarding insurance rates which Advocate dedicates a

substantial amount of time in negotiating. In addition, the first page of Exhibit 10 (ALGH 001675) also sets forth amended terms of the agreement between the parties which Advocate believes is confidential as it discloses the negotiated terms and conditions between itself and an insurance network

9. Exhibit 9 (RX-0195) is an amendment to an agreement between one of the Advocate hospitals and Rush Prudential HMO, Inc. The amendment is dated December 16, 1996 and is currently in effect. The two page document sets forth the confidential payment schedule and charges for the Advocate hospital. Information regarding charges is highly confidential and commercially sensitive. The disclosure of the information in Exhibit 9 would result in irreparable competitive injury to Advocate as its competitors and other insurance networks would have knowledge regarding insurance rates which Advocate dedicates a substantial amount of time in negotiating.

10. Exhibits 11 (RX 1328) and 13 (RX 1328 at ALGH000556-588) contain Advocate's analysis of market share trend data for one of Advocate's hospital vis-à-vis other hospitals in the Chicago area. The Exhibits also contain information regarding another hospital for purposes of Advocate's development strategy for one of its hospitals (ALGH 000585-588). The information in Exhibits 11 and 13 are highly confidential and contain sensitive business information. The public disclosure of the information would disclose to Advocate's competitors the process by which Advocate analyzes various market data in order to effectively compete. Advocate continues to use this data in analyzing its growth in various sectors and therefore the data contained in the exhibits remain highly confidential. Exhibit 13 also contains information regarding one of Advocate's hospital's record retention policies (ALGH 000540-555). Advocate

believes that its retention policy is confidential and should not be disclosed to its competitors or other entities.

11. Exhibit 12 (RX-1988) and 20 (RX-0297) is an agreement between one of Advocate's hospitals and Health Care Service Corporation (i.e. Blue Cross Blue Shield of Illinois) (Exhibit 12 is the one page cover sheet to the agreement). The agreement is dated September 10, 1987 and is currently in effect. Advocate believes that the terms of the agreement are confidential and should not be disclosed as the disclosure of the agreement would reveal Advocate's negotiating and contracting processes to its competitors. Moreover, the agreement contains information regarding compensation rates and the payment process (ALGH 001509-11; ALGH 001519-29) which is highly confidential and commercially sensitive business information. The disclosure of information in Exhibits 12 and 13 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

12. Exhibit 14 (RX-1173) is a hospital participation agreement between Advocate Health and Hospitals Corporation, Advocate Northside Health Network and UnitedHealth Networks, Inc. The agreement was entered into by the parties on November 1, 2001. The structure of the agreement is unique as it pertains to Advocate's hospital system and public disclosure of the structure and terms of the agreement to Advocate's competitors as well as other insurance networks will result in a competitive disadvantage for Advocate. Moreover, the agreement contains fee schedules and compensation information for the various hospitals (See ALGH 001267-1269; ALGH 001276-1336) which is highly confidential and commercially sensitive business information. The disclosure of information in Exhibit 14 would have a

detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy. The agreement also provides that Advocate may not disclose specific rates to a member. (ALGH 001272).

13. Exhibit 15 (RX-0072) is an agreement between one of Advocate's hospitals and Community Care Network, Inc. The agreement is dated October 1, 1994 and is currently in effect. Advocate believes that the terms of the agreement are confidential and should not be disclosed as the disclosure of the agreement would reveal Advocate's negotiating and contracting processes to its competitors. Moreover, the agreement contains information regarding the payment process (ALGH 001447-1449) which is highly confidential and commercially sensitive business information. The agreement specifically provides that "The Reimbursement Amounts of this Contract shall remain confidential and each party shall take reasonable precautions to prevent unauthorized disclosure except . . . as is required by law." (ALGH 001453). The disclosure of information in Exhibit 15 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

14. Exhibits 16 through 19 are the hospital service agreement dated November 1, 1988 between one of the Advocate hospitals and Chicago HMO, Ltd. (Exhibit 16, RX-0009) and its amendments, i.e. Amendment dated March 6, 1990 (Exhibit 17, RX-0016), Amendment dated November 1, 1991 (Exhibit 18, RX-0032) and Amendment dated November 1, 1992 (Exhibit 19, RX-0039). The agreement is currently in effect. Advocate believes that the terms of the agreement and the amendments are confidential and should not be disclosed as the disclosure of the agreement would reveal Advocate's negotiating and contracting processes to its competitors.

Moreover, the agreement and amendments contain information regarding the payment of charges (Exhibit 16 at ALGH 001463, 1467-1488; Exhibit 17 at ALGH 001492-94; Exhibit 18 at ALGH 001495-99; Exhibit 19 at ALGH 001500-1504) which is highly confidential and commercially sensitive business information. The disclosure of information in Exhibits 16-19 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

15. Exhibit 21 (RX-0036) is the hospital agreement dated April 13, 1992 between one of the Advocate hospitals and Private Healthcare Systems and its amendments. The agreement is currently in effect. Advocate believes that the terms of the agreement and the amendments are confidential and should not be disclosed as the disclosure of the agreement would reveal Advocate's negotiating and contracting processes to its competitors. Moreover, the agreement and amendments contain information regarding the payment of charges (ALGH 001624-25, 1650-51, 0164-1658, 1661-62, 1665-66) which is highly confidential and commercially sensitive business information. The disclosure of information in Exhibits 21 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

16. Exhibit 22 (RX 1036) is the managed care agreement between Advocate Health and Hospitals Corporation and Aetna U.S. Healthcare of Illinois, Inc. The agreement was entered into by the parties in February 2001 and is still in effect. The structure of the agreement is unique as it pertains to Advocate's hospital system and public disclosure of the structure and terms of the agreement to Advocate's competitors as well as other insurance networks will result

in a competitive disadvantage for Advocate. Moreover, the agreement contains fee schedules and compensation information (See ALGH 000607-09, 0620-22) which is highly confidential and commercially sensitive business information. The disclosure of information in Exhibit 22 would have a detrimental effect on Advocate's ability to negotiate in a competitive environment as its competitors and insurance networks would be privy to confidential information and Advocate's contracting strategy.

17. Advocate expended a significant amount of money and resources in preparing the documents in Exhibits 1-22. Specifically, a considerable amount of resources were used in the negotiations of the subject agreements and amendments (See Exhibits 1, 2, 8 -10, 12, 14 -22). Moreover, Advocate exhausted a substantial amount of money and resources in the compilation and analysis of the data contained in the documents (See Exhibits 3-7, 11, 13).

18. Advocate takes considerable measures to protect the secrecy of the information set forth in Exhibits 1 through 22. The contracting documents and the data and analysis contained in the exhibits are disclosed to a limited number of employees at Advocate. Moreover, it would be extremely difficult for Advocate's competitors to obtain the information in the subject documents. Advocate takes every reasonable step in order to protect the confidentiality of the information contained in Exhibits 1 through 22. In this particular matter, Advocate submitted the subject documents under the auspices of a protective order. It was Advocate's understanding that all of the documents would be subject to the confidential treatment set forth in the order. In addition, Advocate requested that many of its documents be afforded the "Restricted Confidential – Attorneys Eyes Only" protection set forth in the order. In matters involving disputes with payors or other entities, Advocate always insists that a protective order

be entered or agreed upon prior to the production of information or documents similar to the information and documents contained in Exhibits 1-22. .

19. The information contained in Exhibits 1 through 22 is material to Advocate's business and competitive position in the market. Disclosure of the information contained in the documents would result in a loss of business advantage and cause serious irreparable injury to Advocate. The disclosure of said information would provide Advocate's competitors and/or payors with information that is confidential and critical to Advocate's business.

I declare, under penalty of perjury, that the above statements are true and correct.

Executed this 4th day of January, 2005.



Thomas J. Babbo

