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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1367**

Davenia Porter,
Appellant,

vs.

Allina Health Systems, d/b/a United Hospital, et al.,
Respondents.

**Filed May 14, 2018
Affirmed
Smith, John, Judge***

Ramsey County District Court
File No. 62-CV-16-4601

A. L. Brown, Capitol City Law Group, LLC, St. Paul, Minnesota (for appellant)

Kelly A. Putney, Christine E. Hinrichs, Bassford Remele, P.A., Minneapolis, Minnesota
(for respondents)

Considered and decided by Connolly, Presiding Judge; Jesson, Judge; and Smith,
John, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm the district court's order granting respondent's motion to dismiss appellant's complaint under Minn. R. Civ. P. 12.02(e) because appellant did not state a claim under the Minnesota Health Records Act for which relief can be provided.

FACTS

On February 5, 2016, appellant Davenia Porter checked in at United Hospital, now known as respondent Allina Health Systems, for tubal removal surgery. Upon checking in, Porter told the nurses at the nursing station that they should not share details of her procedure with her family, but may let her family know that she is okay. Porter repeated this instruction to the nurses before surgery. She also shared this instruction with her physician, but she stated that her physician could disclose her medical information to her mother, as she had previously explained to her physician in the past. Her physician acknowledged this request.

Porter underwent surgery, woke up, and was experiencing "greater than expected pain." She learned that her father and uncle visited her after her surgery later in the day, while she was sleeping. Porter asked the hospital staff if they informed her father or uncle of any medical information, and the hospital staff stated that they did not. Her uncle and father visited her again that same day. While they were present in the room, Porter asked a nurse why she was bleeding, had so much pain, and had a catheter. The nurse answered her question by informing her that she had a hysterectomy. This was the first time that Porter heard that she did not simply undergo a tubal removal surgery, but instead underwent

a hysterectomy. Porter was upset that she had a hysterectomy and that her uncle and father heard this information. She then told her father and uncle that the nurse did not know what she was talking about. The nurse then repeated to Porter that she had undergone a hysterectomy.

The next day, Porter was in her hospital room, again with her uncle and father. She complained to a nurse that she was experiencing pain. The nurse stated, “Well, that is what happens when you get a hysterectomy.” The nurse left the room and Porter’s father asked her about the hysterectomy. Porter did not know what to say because her physician still had not informed her about the procedure. Porter eventually learned that her physician discovered a large mass during the tubal removal surgery that required him to perform a hysterectomy.

Porter’s father and uncle shared this information with her family, and Porter claims that she suffered emotionally, psychologically, and physically from the nurse’s disclosure of her medical information to her family. Porter filed a complaint with the district court, alleging that Allina violated the Minnesota Health Records Act, Minn. Stat. §§ 144.291-.34 (2016), by sharing her health information with her father and uncle, violated her privacy, and that Allina was vicariously liable for the nurse who shared the medical information with her father and uncle.

Allina moved to dismiss Porter’s claim under Minn. R. Civ. P. 12.02(e), arguing that her complaint failed to state a claim upon which relief could be granted, and requested the district court to dismiss the claim as a matter of law. Allina also moved for an award of sanctions against Porter and Porter’s attorney under Minn. R. Civ. P. 11.03, arguing that

their claim had no evidentiary support, and that Porter had no legal claim under Minn. Stat. §§ 144.291-.34, invasion of privacy, or vicarious liability.

The district court granted Allina's motion to dismiss the complaint for failure to state a claim. The district court reasoned that Allina did not violate its statutory duty of releasing Porter's records without authorization under Minn. Stat. § 144.293, subd. 2, because the hospital was required to answer Porter's question regarding her medical condition under Minn. Stat. § 144.292, subd. 2. The district court also reasoned that, even if Allina had released her medical information to another person, Porter could not recover under Minn. Stat. § 144.293, subd. 2, because she waived her statutory right by asking the nurse a medical question in the presence of her father and uncle. Porter appeals the district court's order granting Allina's motion to dismiss.

D E C I S I O N

In reviewing a complaint dismissed for failure to state a claim, we review de novo whether the complaint "sets forth a legally sufficient claim for relief." *Hebert v. City of Fifty Lakes*, 744 N.W.2d 226, 229 (Minn. 2008). We are to consider only the facts alleged in the complaint, accept those facts as true, and must construe all reasonable inferences in favor of the nonmoving party. *Id.* A complaint "will be dismissed only if it appears to a certainty" that no facts consistent with the complaint could be introduced that would support granting the requested relief. *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010).

In her complaint, Porter alleged that Minn. Stat. § 144.293, subs. 1-2, prohibited Allina from disclosing her health information to her father and uncle in the hospital room.

“When interpreting a statute we give the words and phrases of the statute their plain and ordinary meaning.” *A.A.A. v. Minnesota Dep’t of Human Servs.*, 832 N.W.2d 816, 819 (Minn. 2013). We examine the language of a statute as a whole to give effect to all of its provisions. *Id.* (citing Minn. Stat. § 645.16 (2012)). We must first examine the statute’s language to determine whether it is clear and unambiguous. *A.A.A.*, 832 N.W.2d at 819. “A statute is ambiguous if, as applied to the facts of the case, it is susceptible to more than one reasonable interpretation. If the statute is clear and not ambiguous, then we apply its plain and ordinary meaning.” *Id.* (quotation omitted).

Minn. Stat. § 144.293, subd. 2, prohibits a provider from releasing a patient’s health records to a person without “(1) a signed and dated consent from the patient or the patient’s legally authorized representative authorizing the release; (2) specific authorization in law; or (3) a representation from a provider that holds a signed and dated consent from the patient authorizing the release.” A “health record” includes information that relates to the physical health or condition of a patient, or a provision of health care to a patient, whether oral or recorded. Minn. Stat. § 144.291, subd. 2(c). A “patient” means “a natural person who has received health care services from a provider for treatment.” *Id.*, subd. 2(g). A person who negligently or intentionally requests or releases a health record in violation of Minn. Stat. § 144.293, subd. 2, “is liable to the patient for compensatory damages caused by an unauthorized release . . . plus costs and reasonable attorney fees.” Minn. Stat. § 144.298, subd. 2. Under the plain meaning of the statute, Allina is a provider, Porter is a patient, and Allina shared Porter’s health care record with another person by stating that she had a hysterectomy in front of her uncle and father.

But a hospital may share a patient's medical information with another person without violating Minn. Stat. § 144.293, subd. 2, if it is specifically authorized to do so under the law. See Minn. Stat. § 144.293, subd. 2(2). Minn. Stat. § 144.292, subd. 2, provides that, "Upon request, a provider shall supply to a patient complete and current information possessed by that provider concerning any diagnosis, treatment, and prognosis of the patient in terms and language the patient can reasonably be expected to understand." The statute does not define request. In defining words, we examine their plain meaning and often consider dictionary definitions. *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016). Request is defined as "[t]o express a desire for." *The American Heritage Dictionary of the English Language* 1492 (5th ed. 2011). Porter expressed a desire to obtain information relating to her diagnosis, treatment, or prognosis by asking the nurse why she was suffering great pain, had a catheter, and why she was bleeding, when she was in the hospital room with her father and uncle. Therefore, Allina was specifically authorized under Minn. Stat. § 144.292, subd. 2, to provide Porter with her health information when she requested it.

Porter argues that Allina cannot avoid liability by sharing her health information with her father and uncle simply because Porter asked the nurse a question. We do not find Porter's argument persuasive. First, under the plain meaning of Minn. Stat. § 144.293, subd. 2(2), Allina is not liable for sharing Porter's medical information if it was authorized in law to do so. Here, Minn. Stat. § 144.292, subd. 2, authorized Allina to release Porter's health record when Porter requested information. Second, Porter's argument ignores Minn. Stat. § 645.16 (2016), which requires that we examine the language of a statute as a whole

to give effect to all of its provisions. If we conclude that a hospital may not share a health record with the patient upon the patient's request, we would be essentially ignoring that Minn. Stat. § 144.292, subd. 2, allows a patient access to her own health record. Third, in ascertaining the intent of the legislature, we may assume the legislature did not intend an absurd result. See Minn. Stat. § 645.17(1) (2016). Porter's interpretation of Minn. Stat. § 144.293, subd. 2, would require a provider to obtain a signed and dated consent form before a doctor or nurse could communicate with the patient about her own medical care during the course of treatment. Porter's interpretation of Minn. Stat. § 144.293, subd. 2, would create an absurd result, and therefore is not persuasive. Instead, we conclude that the plain language of Minn. Stat. §§ 144.293, subd. 2(2), and 144.292, subd. 2, authorized the nurse to share Porter's health record with her when she requested her medical information in her hospital room.

Porter also argues that she is entitled to relief for the conversation she had with the nurse the day after she had surgery, when the nurse again informed her, in the presence of her father and uncle, that she underwent a hysterectomy. The district court concluded that Porter did not allege facts that would entitle her to relief based on the second interaction because she could not prove damages from the disclosure since her father and uncle already learned of the procedure the day before. We agree with the district court that Porter could not prove she suffered damages resulting from the nurse's second disclosure because her uncle and father already knew that she underwent a hysterectomy.

Lastly, Porter argues that the district court erroneously concluded that a party may waive their rights under Minn. Stat. § 144.293, subds. 1-2, without a signed and dated

consent form. Because we have determined that Allina had express statutory authority to release Porter's health record when Porter requested information, we need not reach the issue of whether a patient may waive their right to privacy under the Minnesota Health Records Act. Assuming all facts in Porter's complaint are true, we conclude that the complaint does not allege facts that state a claim under Minn. Stat. § 144.293, subd. 2, upon which relief can be granted.

Affirmed.