STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1293

Munda Forbort, et al.,
Appellants,

vs.

St. Mary's Medical Center,
Respondent.

Filed May 4, 2026
Affirmed
Jesson, Judge[*]

St. Louis County District Court
File No. 69DU-CV-23-2561

William D. Paul, William D. Paul Law Office, Duluth, Minnesota (for appellants)

Tracy A. Schramm, Geraghty O'Loughlin & Kenney, P.A., Duluth, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Connolly, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Munda Forbort sued respondent St. Mary's Medical Center (SMMC) for medical malpractice, claiming nursing staff broke her spine while she was recovering from

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

surgery and rendered her paraplegic. The district court dismissed the complaint for failure to meet the expert-affidavit requirements set forth in Minnesota Statute section 145.682 (2024). Forbort argues that because the allegations in her complaint are within the "general knowledge or experience of laypersons," the district court erred by determining that she was required to submit expert affidavits pursuant to the statute. Alternatively, Forbort contends that the court erred in concluding that her expert affidavit failed to establish a prima facie case of medical malpractice. Because we conclude that an expert affidavit was required and Forbort's expert affidavit is insufficient because it does not outline the chain of causation, we affirm.

FACTS

Forbort, who was 65-years old during the events of this case, has a history of degenerative disc disease, scoliosis, sagittal imbalance, stenosis, radiculopathy, and neurogenic claudication.[1] On September 11, 2019, Forbort underwent elective spinal surgery at SMMC in an attempt to alleviate her chronic back pain. The surgery fused her T10 vertebra to her ilium, and Forbort was discharged from SMMC a week later. But after experiencing recurrent back pain, Forbort came to the SMMC emergency room on September 25. The surgical area had become infected, and testing revealed that Forbort had possible fluid collection and a new fracture of the T10 vertebra. Forbort was admitted to SMMC and had another surgery on September 25, which extended the spinal fusion to

[1] The facts are derived from the records submitted alongside the parties' motions for and against dismissal.

her T9 vertebra. She remained at SMMC while she recovered. The alleged injury took place overnight on October 4.

On the evening of October 4, Forbort was able to stand unassisted and walk to and from bed with the assistance of two staff which was "no differen[t] from previous shifts." Although Forbort looked "exhausted," and reported feeling progressively worse, her extremities tested at a 4 out of 5 for strength. Forbort's husband was concerned that she had not napped that day and that she was experiencing a recent change in pain medication. The nurse noted these concerns in Forbort's medical chart at 7:50 p.m. and left Forbort to rest.

According to Forbort, sometime that night nursing staff repositioned her in such a way that she felt an acute increase in pain in her back. At the same time, she felt the "energy" leaving her legs. Immediately afterward, nursing staff assisted Forbort to and from the bathroom. Walking back into the room, Forbort felt her "legs buckling," and nursing staff had to "drag" her across the floor with her "limp legs . . . dragging behind [her]."

At 6:00 a.m. the next morning, Forbort called a nurse for assistance going to the bathroom because she felt too weak to get out of bed. Forbort stated that she was "paralyzed," and unable to move or feel her legs. The nurse observed that Forbort was moving her legs independently at that time and discussed the difference between weakness and paralysis. Another nurse reported that Forbort was "very focused on a bad experience she encountered last night with decreased function."

Later that morning, Forbort reported to her physician's assistant that she experienced "total loss of function of her [legs], starting last night after sitting on bedside commode." She stated that she felt "pops" in her back and was concerned she had broken something. As the physician's assistant observed Forbort, he noted that she could move her toes and knees and could react to sensation. He scheduled her for a CT scan at around 10:30 a.m. The CT scan revealed additional swelling, a worsening fracture of Forbort's T10 vertebra, and a new fracture in her T9 vertebra. To address this, Forbort had another spinal-fusion surgery one day later and was ultimately discharged on October 18. Medical records indicate that at that time, Forbort could move both legs and respond to sensations in each foot.

Forbort sued SMMC for medical malpractice. Her complaint alleged that SMMC nursing staff "repositioned [Forbort] with such excessive force and in such a manner that [Forbort's] lower back was fractured." She alleged that due to this injury, she was rendered paraplegic and sought damages in excess of $10 million. Forbort subsequently filed three medical-expert affidavits in support of her claim. SMMC moved to dismiss the complaint, arguing that Forbort failed to comply with the affidavit requirements of Minn. Stat. §145.682, subd. 4(a). In response, Forbort argued that expert testimony is not required in this case, and alternatively, that her expert affidavits are legally sufficient.

The district court granted SMMC's motion to dismiss. It concluded that expert testimony was required and that none of Forbort's expert affidavits established a prima facie case of medical malpractice. The case was dismissed with prejudice. *See id*., subd. 6.

Forbort appeals.

DECISION

To succeed in a medical-malpractice case, plaintiffs must prove "(1) the standard of care recognized by the medical community as applicable to the particular defendant's conduct, (2) that the defendant in fact departed from that standard, and (3) that the defendant's departure from the standard was a direct cause of the patient's injuries." *Dickhoff ex rel. Dickhoff v. Green*, 836 N.W.2d 321, 329 (Minn. 2013) (quotation omitted). Early in a medical-malpractice action, plaintiffs are generally required to submit an expert affidavit which states, with respect to issues of malpractice or causation, the "substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion." Minn. Stat. § 145.682, subd. 4(a). Unless an exception applies, failure to submit a compliant affidavit results in mandatory dismissal. *Id.*, subd. 6(c). On review of a district court's dismissal for failure to comply with the affidavit requirements, we will not reverse absent a showing that the district court abused its discretion. *Tousigant v. St. Louis County*, 615 N.W.2d 53, 58 (Minn. 2000). But interpretation of the requirements of section 145.682 is a question of law which we review de novo. *Id.*

Here, the district court concluded that no exception applied and Forbort was required to provide expert affidavits. It further determined that none of Forbort's expert affidavits complied with section 145.682 such that dismissal was required. Forbort challenges each determination, which we address in turn.

I. Expert testimony is required to prove Forbort's claim.

Generally, proving all three elements in a medical-malpractice claim requires an expert to assist the jury in understanding "complex issues of science or technology."

Id. at 59. An exception applies for those "rare" cases when "the alleged negligent acts are within the general knowledge or experience of laypersons." *Id.* at 58 (quotation omitted); *Mercer v. Andersen*, 715 N.W.2d 114, 122 (Minn. App. 2006). To determine whether this exception applies, we consider whether the rational inferences following a proved sequence of events are sufficient to "establish causal connection without any supporting medical testimony." *Rygwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 430 (Minn. 2024) (quotation omitted); *see also Tousignant*, 615 N.W.2d at 58 (stating that whether section 145.682 applies is a legal question we review de novo).

The district court concluded that this is not an exceptionally rare case where expert testimony is not required to establish a prima facie medical-malpractice case. We agree. A plaintiff must support their claim with expert testimony "[i]f a layperson could not reasonably understand and make inferences concerning the connection between the breach of duty and injury." *Rygwall,* 6 N.W.3d at 435. Forbort's diagnosis includes several medical conditions which led to chronic back pain and an initial spinal-fusion surgery on September 11. After experiencing an unexplained fracture to the T10 vertebra, a second surgery extended the spinal fusion to the T9 vertebra. Forbort claims that during her post-operative recovery, SMMC staff caused an additional fracture to her T9 vertebra which rendered her paraplegic. We cannot conclude that a layperson would understand the interplay between Forbort's medical history, multiple spinal surgeries, and post-operative recovery to make the necessary inferences between SMMC's conduct on October 4 and Forbort's alleged injuries. Nor could a layperson reasonably understand how an injury to the T9 vertebra could cause paralysis. Finally, it is exceptionally unlikely that a layperson

could reasonably understand why Forbort's earlier spinal fractures did not cause paralysis, but her alleged injury did. This requires expert testimony.

To persuade us otherwise, Forbort compares her circumstances to *Tousignant,* arguing that it is "common sense" that medical staff should not reposition a patient in such a violent manner that would fracture their spine. We are not persuaded. In *Tousignant*, the plaintiff was admitted to a nursing home while she was recovering from hip surgery. *Tousignant*, 615 N.W.2d at 55-56. The plaintiff's patient form specifically advised staff that the plaintiff needed to have a "vest restraint on at all times" to prevent her from falling. *Id.* at 56. She was subsequently left unattended and unrestrained, and as a result, fell and re-fractured her hip. *Id.* In concluding that expert testimony was unnecessary to establish a prima facie case of medical malpractice, the court reasoned that "[i]t is a matter of common knowledge and experience that an elderly person, confused and recovering from a fractured hip, who was likely to attempt to walk without assistance if left unattended, also likely would fall" and "[t]hat a fall by such a person would result in . . . injuries." *Id.* at 61.

But unlike in *Tousignant*, Forbort's allegations are highly disputed. Generally, when expert testimony is not required, it is because "breach and causation are undisputed and are a matter of common knowledge and experience." *See Daulton v. TMS Treatment Ctr., Inc.*, 2 N.W.3d 331, 339 (Minn. App. 2024) (quotation omitted). But here, medical records indicate that Forbort's new spinal fracture may have been caused by her already existing spinal infection, poor bone quality, the nature of the first surgery, her preferred sitting position, *or* a traumatic incident. The average layperson

is not adequately equipped to assess these factors and determine that Forbort's injuries were caused by SMMC's actions on October 4. Thus, unlike *Tousignant*, this is not the "rare" case where expert testimony is not required.[2] 615 N.W.2d at 58 (quotation omitted).

In sum, the district court did not err in concluding that Forbort's claim was subject to the expert-affidavit requirements pursuant to Minn. Stat. § 145.682.

II. Because Forbort's expert affidavit failed to establish a prima facie case as to the element of causation, the district court did not abuse its discretion by dismissing her claims.

A plaintiff's expert affidavit must "[a]t a minimum . . . disclose specific details concerning their experts' expected testimony, including the applicable standard of care, the acts or omissions that plaintiff alleges violated the standard of care and an outline of the chain of causation between the violation of the standard of care and the plaintiff's damages." *Lindberg v. Health Partners, Inc.*, 599 N.W.2d 572, 577 (Minn. 1999) (quotation omitted). As recently discussed by the supreme court, the chain of causation must include "reference to specific facts in the record connecting the conduct of

[2] Alternatively, Forbort argues that res ipsa loquitur applies in this case. We disagree. Res ipsa loquitur, or "the thing or situation speaks for itself," is available in a medical-malpractice action to infer negligence when the plaintiff can prove three things: "(1) that ordinarily the injury would not occur in the absence of negligence; (2) that the cause of the injury was in the exclusive control of the defendant; and (3) that the injury was not due to plaintiff's conduct." *Hoven v. Rice Mem'l Hosp.,* 396 N.W.2d 569, 572 (Minn. 1986); *see also Hestbeck v. Hennepin County,* 212 N.W.2d 361, 365 (Minn. 1973). Forbort does not address any of these prongs on appeal. Even so, there is no evidence that the circumstances of this case support res ipsa loquitur. *Cf. Hestbeck,* 212 N.W.2d at 365 (concluding that "[w]hen an operation leaves a sponge in the patient's interior, the thing speaks for itself without the aid of any expert's advice" (quotation omitted)). As discussed, the complexities of Forbort's injury require expert testimony. Res ipsa loquitur does not apply.

the defendant provider to the injury suffered by the harmed patient." *Rygwall*, 6 N.W.3d at 434. "[B]road and conclusory statements as to causation" are insufficient. *Teffeteller v. Univ. of Minn.,* 645 N.W.2d 420, 428 (Minn. 2002).

But a district court need not reach these expert-affidavit requirements unless the witness is qualified to give an expert opinion. *Id.* at 427. Here, the district court determined that of Forbort's three experts, two were unqualified to provide relevant expert testimony. It reasoned that these experts, while physicians, did not have any experience in spinal-fusion surgery and were thus unqualified to testify as to the standard of care or causation. Forbort does not challenge these determinations on appeal, and we do not address them.

Forbort's remaining expert, Nurse Hoppenrath, is a critical-care nurse with experience providing post-operative care in a neurological recovery setting. The district court determined that Nurse Hoppenrath was qualified to provide expert testimony as to the *standard of care* for "post-operative nursing." But significantly, the district court did not state that Nurse Hoppenrath was qualified to testify as to causation. As previously discussed, expert testimony is required to establish each element of a prima facie case of medical malpractice. *See Rygwall*, 6 N.W.3d at 431. Given the district court's conclusions as to expert qualifications—which Forbort does not challenge—we are not persuaded that Forbort provided *any* qualified expert as to causation. *See* Minn. Stat. § 145.682, subd. 3(1) (requiring an expert to be qualified to opine as to how "defendants deviated from the applicable standard of care and *by that action caused injury to the plaintiff*" (emphasis added)).

Nonetheless, the district court proceeded to find that Nurse Hoppenrath's affidavit failed to establish causation.[3] We discern no abuse of discretion in this determination. *See Teffeteller*, 645 N.W.2d at 426 (holding that we will only reverse a district court's dismissal for failure to comply with the affidavit requirements for an abuse of discretion). In relevant part, the affidavit states that "the attending critical care nurses breached the applicable standard of care in repositioning Ms. Forbort in such a rough and careless manner as to cause a fracture in her spine." It continues that after this repositioning, "two nurses dragged [Forbort] to the bathroom without putting her in her back brace," and that "[i]f a stat CT had been completed, that would have shown the presence of a new fracture and an expeditious decompression and stabilization surgery could have been performed." It ultimately concludes that these "acts and omissions were . . . the sole, direct and proximate cause both of [Forbort's] spinal injury on October 4, 2019 and her present permanent paralysis for failure to obtain treatment of the new fracture as soon as possible." These broad and conclusory statements—while they may have articulated a prima facie case for breach of a nursing standard of care—are insufficient to establish that the breach *caused* Forbort's injuries.

In reaching this conclusion, we turn first to *Lindberg*. There, a plaintiff alleged that medical staff failed to instruct her to seek an immediate physical examination after she

[3] The district court also concluded that Nurse Hoppenrath's affidavit failed to articulate the applicable standard of care or how SMMC's actions reflect a breach of the standard of care. Because we conclude that Forbort's expert affidavit is insufficient to establish a prima facie case for causation, we do not address whether it sufficiently delineates the standard of care or breach.

reported concerning pregnancy symptoms, and that this failure caused her to have a stillbirth. 599 N.W.2d at 574. As to causation, her expert affidavit opined:

> [I]t is more probable than not, that if, among other things, [the plaintiff] had been instructed to seek medical treatment at the time of her phone call on the morning of March 28, 1994, [decedent] would not have died.
>
> [Decedent] died as a result of the negligent and careless conduct of the Defendants and/or their agents and employees, including [the midwives].

Id. at 575. The supreme court concluded that these statements fell short of the affidavit requirements, reasoning that the affidavit did not connect the "failure to instruct [the plaintiff] to seek immediate medical attention with the stillbirth of the decedent and it fails to even identify the medical condition for which [the plaintiff] allegedly was not given attention." *Id.* at 578.

Similarly, Nurse Hoppenrath's affidavit states that Forbort's spine was fractured when she was repositioned in a "rough and careless manner," but fails to explain the nature of the fracture, how it was caused through "repositioning," or, most fundamentally, how this fracture—as opposed to the previous fractures—caused her paralysis. *See Teffeteller,* 645 N.W.2d at 429 n. 4 (stating that the purpose of the expert-affidavit requirement is to illustrate "how" and "why" the alleged malpractice caused the plaintiff's injuries). [4] And while the nurse's affidavit opines that Forbort's paralysis was caused by

[4] Moreover, while Nurse Hoppenrath's affidavit states that Forbort was dragged across the floor without her back brace, it makes no attempt to connect this act to any injury.

failure to receive earlier treatment, precedent supports our conclusion that this statement is insufficient to establish causation.

In *Maudsley*, an expert affidavit opined:

> It is more likely than not that if treatment had been initiated on June 27, rather than June 28, [plaintiff] would not have lost the vision in her right eye. She may have suffered some impairment to that vision, but she would not have lost it totally. When infections are present, it is generally true that better outcomes are the result of earlier treatment; in fact, every hour counts.

Maudsley v. Pederson, 676 N.W.2d 8, 10 (Minn. App. 2004). We held that these statements were insufficient, reasoning that they "fail[ed] to outline specific details explaining how and why [the staff's] . . . delay in treatment caused [the plaintiff's] blindness." *Id.* at 14. By comparison, Forbort's affidavit contains even fewer details—it alleges that an earlier CT scan would have prompted an "expeditious" surgery but does not explain how the delay in treatment caused Forbort's ongoing paralysis. And further, unlike *Maudsley* where the expert was a qualified physician, Forbort's affidavit is provided by a nurse who the district court concluded was not qualified to address the causation issue. But even if the witness was qualified, the affidavit itself only contains the kind of "empty conclusions" that are insufficient to outline the chain of causation. *See Rygwall*, 6 N.W.3d at 432.

We acknowledge that an expert affidavit does not need to be overly detailed. *See id.* (explaining that an expert need not make a "detailed disclosure" to establish a prima facie case (quotation omitted)). But it must provide enough information that a jury will not speculate as to the cause of the plaintiff's injury. *See id.* at 435. And it must be provided

by a qualified expert. *See Teffeteller*, 645 N.W.2d at 427; Minn. Stat. § 145.692, subd. 4. Given the exclusion of Forbort's two proposed experts on causation, which she does not challenge on appeal, and the inadequacy of Nurse Hoppenrath's affidavit with regard to the causation element, we cannot conclude that a jury will have sufficient information to draw a connection—without speculating—between SMMC's conduct and Forbort's injuries. *See Rygwall*, 6 N.W.3d at 435.

In sum, the district court did not abuse its discretion in dismissing Forbort's claim with prejudice for failure to comply with the affidavit requirements pursuant to Minn. Stat. § 145.682.

Affirmed.