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APPENDIX A

STATE OF MINNESOTA
IN SUPREME COURT

A22-0421

Hazem M. Hamdan, Petitioner,

Eman S. Hegazy, Petitioner,

vs.

Tim Walz, et al., Respondents,

Joan Gabel, et al., Respondents.

ORDER

Based upon all the files, records, and proceedings
herein,

IT IS HEREBY ORDERED that the petition of
Eman S. Hegazy and Hazem M. Hamdan for
further review be, and the same is, denied.

Dated: November 15, 2022

BY THE COURT:

/s/ Barry Anderson

G. Barry Anderson

Associate Justice

GILDEA, C.J., took no part in the consideration or
decision of this case.

STATE OF MINNESOTA
COURT OF APPEALS
JUDGMENT

Hazem M. Hamdan, Appellant, Eman S. Hegazy,
Appellant, vs. Tim Walz, et al., Respondents, Joan
Gabel, et al., Respondents.

Appellate Court # A22-0421

Trial Court # 62-CV-21-4670

Pursuant to a decision of the Minnesota Court of Appeals duly made and entered, it is determined and adjudged that the decision of the Ramsey County District Court, Civil Division herein appealed from be and the same hereby is affirmed and judgment is entered accordingly.

Dated and signed: November 17, 2022

FOR THE COURT
Attest: Christa Rutherford-Block
Clerk of the Appellate Courts
By: /s/Christa Rutherford-Block
Clerk of the Appellate Courts

APPENDIX B
STATE OF MINNESOTA
IN COURT OF APPEALS

A22-0421 Filed on September 12, 2022

ORDER OPINION

Ramsey County District Court

File Number 62-CV-21-4670

Hazem M. Hamdan, Appellant and Eman S. Hegazy,
Appellant

vs.

Tim Walz et al., Respondents, Joan Gabel, et al,
Respondents.

Considered and decided by Johnson, Presiding
Judge; Bjorkman, Judge; and Larson, Judge.

**BASED ON THE RECORD AND PROCEEDINGS
ON THE FILE AND BECAUSE.**

1. This case concerns various disputes surrounding dental care that was provided to Eman S. Hegazy at an outpatient clinic affiliated with the University of Minnesota School of Dentistry. The district court dismissed the case pursuant to rule 12.02(e) of the rules of civil procedure. We affirm.

2. On September 23, 2019, Hegazy visited the dental school's outpatient clinic for a wisdom-tooth extraction. Four days later, she had

emergency surgery at a hospital to drain an infection arising from the extraction. Upon her discharge from the hospital, she was prescribed an antibiotic, which caused her to suffer acute colitis, which led to a second hospitalization.

3. In late December 2019, Hegazy and her husband, Hazem M. Hamdan, filed complaints with the state board of dentistry against four dentists who are adjunct instructors at the dental school. In July 2020, the board concluded “that the evidence of the case did not provide a sufficient basis for the Board to take disciplinary or corrective action” against the dentists. Hegazy and Hamdan thereafter sent multiple pieces of correspondence to the board, persons employed by the office of the attorney general, the governor, and the interim dean of the dental school. Hegazy and Hamdan sought, among other things, information and documents related to the dental care provided to Hegazy and the complaints that she and her husband had filed with the board.

4. In September 2021, Hegazy and Hamdan commenced this action by serving and filing a 26-page *pro se* complaint with 200 pages of attachments. The named defendants are the governor, the attorney general, the president of the University of Minnesota, the interim dean of the dental school, and the executive director of the board of dentistry. The *pro se* complaint does not identify causes of action with reference to legal

theories. The focus of the complaint is the investigation conducted by the board of dentistry. The complaint is secondarily concerned with the actions or inactions of other defendants who allegedly “ignore[d] Plaintiffs’ pleas” for “intervention.”

5. The defendants associated with the university and the defendants associated with the state filed separate motions to dismiss pursuant to rule 12.02(e) of the rules of civil procedure. After a hearing in January 2022, the district court filed an order in March 2022 in which it granted both motions and dismissed the action.

6. Hegazy and Hamdan appeal. This court applies a *de novo* standard of review to a district court’s ruling on a motion to dismiss pursuant to rule 12.02(e). *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). That rule provides that a district court may grant a motion to dismiss if a complaint “fail[s] to state a claim upon which relief can be granted.” Minn. R. Civ. P. 12.02(e). To state a claim for relief, a complaint need only “contain a short and plain statement of the claim showing that the pleader is entitled to relief.” Minn. R. Civ. P. 8.01. “A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader’s theory, to grant the relief demanded.” *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014).

7. Hegazy and Hamdan's 49-page *pro se* brief identifies seven issues. We have thoroughly reviewed the parties' briefs and the district court record, and we conclude that the district court did not err by granting the motions to dismiss, for reasons that may be summarized as follows.

8. First, appellants argue that the district court erred by concluding that Hamdan does not have standing to assert the claims alleged in the complaint. "Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court." *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 338 (Minn. 2011) (quotation omitted). Standing exists if a plaintiff has suffered an injury-in-fact or if conferred by statute. *Garcia-Mendoza v. 2003 Chevy Tahoe*, 852 N.W.2d 659, 663 (Minn. 2014). In this case, Hamdan has not suffered an injury-in-fact because only Hegazy was a patient of the dental school, and all subsequent interactions with the defendants concerned her rights, not Hamdan's rights. Accordingly, Hamdan has not alleged "a concrete and particularized invasion of a legally protected interest" that may be traced to the challenged actions of the defendants and redressed by a favorable judicial outcome. *See id.* (quotation omitted). In addition, there are no statutes that confer standing on him. Thus, the district court did not err by ruling that Hamdan does not have

standing. We will review the remaining issues only with respect to Hegazy's claims.

9. Second, Hegazy argues that the district court erred by concluding that she has not stated a claim based on the board's alleged wrongful disclosure of her medical records. She contends that the authorization form by which the board shared her medical records during its investigation is invalid because it contains an electronic signature. The district court reasoned that the board's use of an electronic signature complies with section 325L.18 of the Minnesota Statutes, which gives state agencies broad discretion to determine the manner, format, and control processes and procedures relating to electronic signatures. *See* Minn. Stat. § 325L.18(a), (b) (2020). On appeal, Hegazy contends that the board's alleged disclosure is a violation of the Minnesota Health Records Act, Minn. Stat. §§ 144.291-.298 (2020 & Supp. 2021), and the Minnesota Government Data Practices Act, Minn. Stat. §§ 13.01-.90 (2020 & Supp. 2021). But the health records act expressly permits the disclosure of health records if there is "specific authorization in law," Minn. Stat. § 144.293, subd. 2(2), which encompasses the authority in section 325L.18. Similarly, the data practices act expressly permits the disclosure of medical data between governmental entities if "access is authorized," Minn. Stat. §§ 13.384, subd. 3(a), .05, subd. 9, which also encompasses the authority in section 325L.18.

Thus, the district court did not err by ruling that Hegazy did not state a claim based on the board's alleged wrongful disclosure of her medical records.

10. Third, Hegazy argues that the district court erred by concluding that she has not stated a claim based on the board's alleged failure to comply with procedural provisions in chapter 214 of the Minnesota Statutes, which governs health-related licensing boards, including the board of dentistry. *See* Minn. Stat. § 214.103 (2020); *see also id.*, § 214.01 subd. 2. The district court reasoned that chapter 214 does not authorize a private cause of action, either expressly or impliedly. Hegazy does not challenge the district court's reasoning on that point. Thus, the district court did not err by ruling that Hegazy did not state a claim based on the board's alleged failure to comply with chapter 214.

11. Fourth, Hegazy argues that the district court erred on the ground that the board and the dental school did not properly respond to requests that she submitted pursuant to the data-practices act in July 2020. The district court did not analyze such a claim. The district court reasonably did not perceive such a claim given the manner in which appellants presented their arguments in their memorandum of law in opposition to the motions to dismiss. Accordingly, the argument is forfeited because Hegazy did not properly preserve it in the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

12. Fifth, Hegazy argues that the district court erred on the grounds that the dental school did not adhere to academic standards and violated the patient's bill of rights. The district court did not analyze such a claim or claims. Hegazy did not clearly assert any such claim in the district court. In the memorandum she filed in the district court, Hegazy made two fleeting references to the patient's bill of rights in section 144.651 of the Minnesota Statutes, but she did not argue that any one of the numerous rights in the statute was violated. *See* Minn. Stat. § 144.651, subds. 4-33 (2020). Accordingly, the argument is forfeited because Hegazy did not properly preserve it in the district court. *See Thiele*, 425 N.W.2d at 582.

13. Sixth, Hegazy argues that the district court erred on the ground that the dental school might have informed a credit-reporting agency of an unpaid bill. The district court did not analyze such a claim. Hegazy did not clearly assert such a claim in the district court. Accordingly, the argument is forfeited because Hegazy did not properly preserve it in the district court. *See id.*

14. Seventh, Hegazy argues that the district court erred on the ground that she has a constitutional right to a remedy pursuant to article I, section 8, of the Minnesota Constitution, which provides, "Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character,

and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.” Minn. Const. art. I, § 8. The district court did not analyze such a claim. Hegazy did not assert such a claim in the district court. Accordingly, the argument is forfeited because Hegazy did not properly preserve it in the district court. *See Thiele*, 425 N.W.2d at 582. In any event, the argument is without merit. The Remedies Clause “does not guarantee redress for every wrong” but prevents the state legislature “from abrogating recognized common-law causes of action.” *State v. Lindquist*, 869 N.W.2d 863, 873-74 (Minn. 2015) (quotation omitted). Hegazy is not constitutionally entitled to a remedy because she has not stated a viable claim for relief.

15. In sum, the district court did not err by granting respondents’ motions to dismiss pursuant to rule 12.02(e).

IT IS HEREBY ORDERED:

1. The district court’s judgment is affirmed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, *res judicata*, or collateral estoppel.

Dated: September 9, 2020

BY THE COURT

/s/ Mathew Johnson

Judge Matthew E. Johnson

APPENDIX C

State of Minnesota Filed in District Court 3/24/2022 4:10 PM

STATE OF MINNESOTA COUNTY OF RAMSEY	DISTRICT COURT SECOND JUDICIAL DISTRICT
Eman S. Hegazy and Hazem M. Hamdan, Plaintiffs, v. Tim Walz in his official capacity as Minnesota Governor; Keith Ellison in his official capacity as Minnesota Attorney General; Dr. Joan Gabel in her official capacity as President of University of Minnesota; Dr. Keith Mays in his official capacity as Interim Dean of the UMN School of Dentistry; Bridgett Anderson in her official capacity as Executive Director of Minnesota Board of Dentistry, Defendants.	CASE TYPE: Civil Other Honorable Patrick C. Diamond Court File No.:62-CV-21-4670 ORDER GRANTING MOTION TO DISMISS

This matter comes before the Court on Defendants' motion to dismiss under Minnesota Rule of Civil Procedure 12.02(e) for failure to state a claim upon which relief can be granted. Plaintiffs appeared pro se. Defendants Governor Tim Walz, Attorney General Keith Ellison, and Executive Director

Bridgett Anderson of the Minnesota Board of Dentistry (the State Defendants) were represented by Assistant Minnesota Attorneys General Nicholas Lienesch and Keriann Riehle. Dr. Joan Gabel and Dr. Keith Mays (the University Defendants) were represented by University of Minnesota Senior Associate General Counsel Timothy Pramas.

On October 13, 2021, the State Defendants filed an amended motion to dismiss. On November 23, the University Defendants filed motions to dismiss. On December 8, 2021, the University Defendants filed a memorandum in support of their motion. On December 8, 2021, the State Defendants filed a memorandum in support of their motion. On December 20, 2021, Plaintiffs filed a memorandum in response to the motions. On December 28, 2021, the University Defendants filed a reply memorandum. On December 29, 2021, the State Defendants filed a reply memorandum. On January 5, 2022, the Court heard argument. Based on the motions and memoranda of the parties, on the arguments of the parties, and on the records and the file, the Court enters the following Order.

BACKGROUND

The Court has before it motions to dismiss under Minnesota Rule of Civil Procedure 12.02(e) for

failure to state a claim upon which relief can be granted. The question such a motion presents is whether the complaint sets forth a legally sufficient claim for relief. *See Herbert v. City of Fifty Lakes*, 744 N.W.2d 226, 229 (Minn. 2008). The Court must consider only the facts alleged in the complaint, accepting those facts as true. *Bahr v. Capella University*, 788 N.W.2d 76, 80 (Minn. 2010). The Court must also construe all reasonable inferences in favor of the non-moving party. *See Herbert*, 744 N.W.2d at 229. Legal conclusions in the complaint are not binding on the court and, in order to state a claim, a complaint must provide more than “labels and conclusions.” *Bahr*, 788 N.W.2d at 80. The motion to dismiss should be granted and the complaint dismissed if “it appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of the claim.” *See, e.g., Walsh v. U.S. Bank*, 851 N.W.2d 598, 601 (Minn. 2014).

On September 1, 2021, Plaintiffs filed with the Court a 266 page document captioned Plaintiffs’ Brief in Support of Their Motion for Partial Summary Judgment and Declaratory Relief. The document is neither brief nor in support of a motion for partial summary judgment. Notwithstanding the caption,

the first part of the document contains the heading "COMPLAINT." The Court construes the material following as Plaintiffs' Complaint. The document alleges that on September 23, 2019, Hegazy went to the University of Minnesota School of Dentistry outpatient clinic where she had a wisdom tooth extracted. Id. At 8-9. Hegazy suffered complications including infection, phlegm, sinusitis, interstitial hematoma, and tachycardia. On September 27, 2019, Hegazy underwent emergency surgery at Fairview Hospital to drain the infection. Id. At 9. Following surgery, Hegazy was prescribed Augmentin and, as a consequence of the medication, suffered acute colitis. Id. Hegazy was admitted to the hospital emergency room with acute colitis and was kept overnight. Id. The complaint alleges that on December 1, 2019, Hamdan sent an email to Dr. Anderson, the former Dean of the University of Minnesota School of Dentistry, requesting the school investigate the treatment and complications. Id. The complaint alleges Anderson referred the request to a Dr. Thierer, the associate dean for clinical affairs. Id. About two weeks later, the school sent a letter to Hegazy saying the treatment was appropriate. Id. On December 29 and December 30, 2019, Plaintiffs submitted complaints against four faculty or adjunct faculty of the School of Dentistry to the Minnesota

Board of Dentistry using an online complaint process. Id. at 9-10. The online complaint submission forms for the Board of Dentistry contain an authorization for release of medical or dental records. The authorization says in relevant part:

- I have been informed of my rights under the Minnesota Government Data Practices Act and I authorize you to provide a copy of my (or my child's/ward's) dental, medical or other relevant records containing protected health information in your possession for inspection by the Minnesota Board of Dentistry, its agents, and agents of the Attorney General's Office representing the Board.
- I further authorize you to testify to your opinion, without limitation, as to all of your findings and/or treatment referred to in the records.
- I release you, the Minnesota Board of Dentistry, its agents, and the agents of the Attorney General's Office representing the Board, from liability related to releasing the records or testifying to the information present in the record.
- I waive any privilege allowed by law relating to the disclosure or introduction of protected health information into evidence.
- I authorize the Board to use the information its provide's (sic), along with records in any legal proceeding which may arise out of this matter.

Amended Complaint exhibit 4 at p. 172. The authorization contains, in extra large typeface, the following:

Notice to Complainant: You do not need to authorize the release of a copy of your (or child's/wards) patient records, however, the Board may still subpoena a redacted patient record in order to appropriately review your case. Id.

Below this statement are three check boxes. Next to the first checkbox is the statement, "I AGREE to authorize the release of a copy of my patient records." Id. Next to the second checkbox is the statement, "I DECLINE authorization to release a copy of my patient records." The third checkbox says, "Not applicable".¹ Exhibit 4 attached to the complaint shows the checkbox next to the "I AGREE" option was checked. The complaint alleges, "The conscious mind of H. Hamdan is that the purpose of these Google forms is just to screen the complaints to establish jurisdiction of the Board over the complaints." Id. at p. 10. The complaint further alleges Hamdan "read only the title at the top of the page, and he had not scienter that they would be printed as a legit form." Id. The complaint says Hegazy "categorically repudiates these signatures

¹ The records does not disclose who might check the third box and why.

on all forms submitted to the Board” and that the forms “lack essential ingredients of an electronic signature such as date and time of signing” and were not “formatted in the manner specified in other law.” Id. The complaint colorfully alleges that “These Google Forms are worth less than a single 1-ply Scott® sheet to be flushed down the drain.” Id. p. 11.

As it turns out, down the drain is the metaphorical direction the complaint to the Board of Dentistry went. On July 7, 2020, Hamdan received a closure letter from the Board. Id. at p. 12. The complaint alleges that after a “tense exchange with the Board Director” and further efforts with the Dean of the School of Dentistry, Hegazy requested her private data and an investigation from the Attorney General’s Office. Id. The complaint also alleges Plaintiffs sent letters to Attorney General Ellison and letters to Governor Walz on November 2, 2019, and on March 29, 2020, and also submitted three online requests to the Governor’s office seeking a response to the letters but did not receive a response from either. Id. at 20. The complaint also alleges, “Plaintiffs filed an online tip to FBI informing them on the violation of HIPPA associated with committing a crime.” Plaintiffs allege Hegazy lost two months of contract work because of her recovery and that the recovery time was “very distressful to the whole family of five.” Id. at p. 16. Plaintiffs seek a judgment declaring the investigations of the four complaints by the Minnesota Board of Dentistry “void and null,” an

injunction requiring the University of Minnesota to determine the dentists or doctors who may be the proximate causes of Hegazy's dental and medical difficulties, an injunction requiring the Minnesota Board of Dentistry to restart "de novo" and "de integro" investigations, and a judgment finding liability and damages. *Id.* at 24.

CONCLUSIONS

1. Standing.

Both the State and University Defendants challenge Plaintiffs' standing. "Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court." *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 624 (Minn. 2007). A statute may confer standing or it may be attained by suffering (or in this instance pleading) an injury in fact. *See, e.g., Garcia-Mendoza v. 2003 Chevy Tahoe*, 852 N.W.2d 509, 512 (Minn. 2014). The injury must be a "concrete and particularized invasion of a legally protectable interest." *In re D.T.R.*, 796 N.W.2d 509, 512-13 (Minn. 2011). The injury must also be fairly traceable to some challenged action of the defendant and must be redressable by a favorable judicial outcome. *Garcia-Mendoza*, 852 N.W.2d at 512.

Hamdan has no standing. Accepting the allegations of the complaint, Hamdan (1) suffered no

physical injury from his wife's tooth extraction and the alleged complications; (2) suffered no injury from the School of Dentistry's investigation and conclusion that his wife was appropriately treated; (3) suffered no injury from the Board of Dentistry possibly concluding that his action was sufficient authorization to obtain his wife's dental and medical records in order to investigate the complaint he lodged on his wife's behalf; (4) suffered no injury from the Board of Dentistry closing its investigation, apparently without taking action against any of the four people Mr. Hamdan named; (5) suffered no injury from the alleged failures of Governor Walz or Attorney General Ellison to respond to or act upon Mr. Hamdan's letters and emails; and (6) suffered no injury from anything University President Gables or Dean Mays did or did not do.

As to statutory standing, the complaint could be construed as stating a violation of some provision of the Federal Health Insurance Portability and Accountability Act (HIPPA) or perhaps the Minnesota Data Practices Act. Yet, the complaint alleges that the records at issue were those of Hegazy, not those of Hamdan. At best, the complaint alleges Hamdan was the instigator of the alleged statutory violations, not the injured party. Hamdan

may have been the cause of, but was not injured by release of Hegazy's medical records. The complaint does allege that, as a result of her dental treatment and the complications that followed, Hegazy was unable to work and that her family suffered distress. Yet, the complaint nowhere alleges and does not seek to recover for dental or medical care that was substandard in any way. Rather, Plaintiffs in this action seek damages for substantive decisions and procedural violations by the School of Dentistry, the Board of Dentistry, the President of the University of Minnesota, the Dean of the School of Dentistry, the Governor of Minnesota, and the Attorney General of Minnesota relating to decisions to respond or not, to investigate or not, and, in the case of the Board of Dentistry, investigative conclusions reached. These actions or refusals to take action did not cause injury to Hamdan. A decision by this Court could not redress any harm Hamdan alleges. He lacks standing. With respect to Ms. Hegazy, she occupies an identical position to Mr. Hamdan with one exception. Her dental and medical records were apparently obtained by the Board of Dentistry and the Attorney General's Office as the Board's agent. In this respect, the complaint states an injury sufficient to confer standing.

2. Release of Hegazy Medical and Dental Records

The sole remaining claim is that Hegazy's medical and dental records were released without authorization. To the extent the claim purports to be brought under the federal HIPPA statute, HIPPA does not provide a private right of action for the wrongful release of health information. *See* 42 U.S.C. §1320d-6; *Acara v. Banks*, 470 F.3d 569, 571 (5th Cir. 2006); *Adams v. Eureka Fire Prot. Dist.*, 352 Fed. Appx 137, 139 (8th Cir. 2009) ("Since HIPAA does not create a private right, it cannot be privately enforced either via §1983 or through an implied right of action."). In addition, with respect to any state law basis for an unauthorized disclosure claim, the complaint does not contain allegations from which the Court may conclude authorization was invalid. Plaintiffs' complaint alleges "the forms lack essential ingredients of an electronic signature such as date and time of signing." Yet, under Minnesota Statutes section 325L.18, state governmental agencies, including the Board of Dentistry, are allowed to "determine whether, and the extent to which, it will send and accept electronic records and electronic signatures." Minn. Stat. §325L.18(a). In addition, if an agency decides to accept electronic signatures, the agency is given discretion to determine "the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria

that must be met by, any third party used to by a person filing a document to facilitate the process.” Minn. Stat. §325L.18(b)(2).²

Hegazy’s claim that her dental and medical records were released without authority due to the insufficient of the electronic signature authorizing that release must fail.

3. Complaints Against the Board of Dentistry.

Minnesota Statutes chapter 150A establishes a Board of Dentistry and the framework within which it must operate. The Board is given authority to grant licenses to practice dentistry in various capacities in Minnesota. See Minn. Stat. §150A.06. The Board is also given authority to refuse, suspend, revoke, limit or modify the license of a dentist and those in a related practice. See Minn. Stat. §150A.08. The statutes relating to the Board of Dentistry do not give the Board authority to award money damages, injunctive relief, or any other redress to a person who claims to have been the victim of substandard dentistry.

² The complaint does not allege Hamdan was acting without authority when he authorized release of his wife’s medical records by signing his wife’s name to the document. According to the complaint, Hamdan placed his wife’s name in the electronic signature area. The complaint does not allege Mr. Hamdan lacked authority to sign for his wife. The complaint alleges Hamdan did not understand that signing for his wife was legally binding, not that he lacked authority from his wife to sign.

Rather, the statutes limit the Board to taking actions against those seeking a license or those who have a license. In this sense, chapter 150A does not create a private right of action. Therefore, Plaintiffs are not entitled to relief from this Court for acts or omissions of the Board of Dentistry or its executive director.

Statutes chapter 214 covers health related licensing boards in Minnesota, including the Board of Dentistry. See Minn. Stat. §214.01 subd. 2. Chapter 214 also includes general procedural requirements health-related licensing boards must follow in receiving and processing complaints against the licensees of health-related licensing boards. Since those health-related licensing boards do not possess authority to award money damages, injunctive relief, or any other redress to a person who claims to have been a recipient of substandard care but are instead limited to actions against the licensee, chapter 214 does support a private right of action. In other words, since the statutes creating the individual health-related licensing boards (including the Board of Dentistry) do not create a private right of action, chapter 214, which establishes procedures the health-related licensing boards must follow, also does not create a private right of action.

The Court understands Hamdan and Hegazy are disappointed with the dental care Hegazy received. The Court also understands Hamden and Hegazy are disappointed with the investigations of the School of Dentistry and the Board of Dentistry. The Court

understands Hamdan and Hegazy are disappointed that the Governor, the Attorney General, the President of the University of Minnesota, and the FBI were not more responsive. Yet, the system of justice the State of Minnesota has adopted provides a single avenue to compensate Hegazy for any harm caused by any substandard dentistry Hegazy may have received. That avenue is an action in the district court for professional negligence. Yet, that action is one Hamdan and Hegazy have not brought and have apparently made a decision not to bring.

The motions of the State Defendants and the University Defendants to dismiss are granted.

ORDER

1. The motion to dismiss brought on behalf of Defendants Governor Tim Walz, Attorney General Keith Ellison, and Executive Director Bridgett Anderson is GRANTED.
2. The motion to dismiss brought on behalf of Dr. Joan Gabel and Dr. Keith Mays is GRANTED.
3. The matter is dismissed in its entirety with prejudice.

There being no reason for delay, judgment shall be entered forthwith.

Dated: March 24, 2022 3:29 PM

/s/ Patrick C. Diamond
Patrick C. Diamond, District Court Judge

APPENDIX D

Amendment XIV's Section 1 to the US Constitution:

[...]; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

45 CFR Part 164 - SECURITY AND PRIVACY

45 CFR § 164.508 in relevant parts:

Uses and disclosures for which an authorization is required.

(c) Implementation specifications: Core elements and requirements -

(1) Core elements. A valid authorization under this section must contain at least the following elements:

(i) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.

(ii) The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.

(iii) The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.

(iv) A description of each purpose of the requested use or disclosure. The statement "at the request of

the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.

(v) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.

(vi) Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual must also be provided.

(2) Required statements. In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:

(i) The individual's right to revoke the authorization in writing, and either:

(A) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or

(B) To the extent that the information in paragraph (c)(2)(i)(A) of this section is included in the notice

required by § 164.520, a reference to the covered entity's notice.

(ii) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:

(A) The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations in paragraph (b)(4) of this section applies; or

(B) The consequences to the individual of a refusal to sign the authorization when, in accordance with paragraph (b)(4) of this section, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.

(iii) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.

(3) Plain language requirement. The authorization must be written in plain language.

(4) Copy to the individual. If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, the covered entity must provide the individual with a copy of the signed authorization.

**42 CFR § 482.13 - Condition of participation:
Patient's rights.**

A hospital must protect and promote each patient's rights.

(a) Standard: Notice of rights.

- (1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.
- (2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization. At a minimum:
 - (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.
 - (ii) The grievance process must specify time frames for review of the grievance and the provision of a response.

(iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

MINNESOTA STATUTES

[**https://www.revisor.mn.gov/statutes/**](https://www.revisor.mn.gov/statutes/)

MN Constitution's Article I.

Section 1. Object of government. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

Section 8. Redress of injuries or wrongs. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

214.001 POLICY AND REGULATION.

Subdivision 1. Policy.

The legislature finds that the interests of the people of the state are served by the regulation of certain occupations. The legislature further finds: (1) that it is desirable for boards composed primarily of

members of the occupations so regulated to be charged with formulating the policies and standards governing the occupation; (2) that economical and efficient administration of the regulation activities can be achieved through the provision of administrative services by departments of state government; and (3) that procedural fairness in the disciplining of persons regulated by the boards requires a separation of the investigative and prosecutorial functions from the board's judicial responsibility.

214.10 COMPLAINT, INVESTIGATION, AND HEARING.

Subdivision 1. Receipt of complaint; notice.

The executive director or executive secretary of a board, a board member or any other person who performs services for the board who receives a complaint or other communication, whether oral or written, which complaint or communication alleges or implies a violation of a statute or rule which the board is empowered to enforce, shall promptly forward the substance of the communication on a form prepared by the attorney general to the designee of the attorney general responsible for providing legal services to the board. Before proceeding further with the communication, the designee of the attorney general may require the complaining party to state the complaint in writing on a form prepared by the attorney general.

Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the executive director or executive secretary. An officer of that agency shall advise the executive director or executive secretary of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which a licensing board is empowered to enforce shall be forwarded to the executive director or executive secretary of the board to be processed in accordance with this section. No complaint alleging a matter within the jurisdiction of the board shall be dismissed by a board unless at least two board members have reviewed the matter. If a board makes a determination to investigate a complaint, it shall notify a licensee who is the subject of an investigation that an investigation has been initiated at a time when such notice will not compromise the investigation.

Subd. 8. Special requirements for health-related licensing boards. In addition to the provisions of this section that apply to all examining and licensing boards, the requirements in this subdivision apply to all health-related licensing boards, except the Board of Veterinary Medicine.

(b) A board member who has a direct current or former financial connection or professional relationship to a person who is the subject of board

disciplinary activities must not participate in board activities relating to that case.

214.103 HEALTH-RELATED LICENSING BOARDS; COMPLAINT, INVESTIGATION, AND HEARING.

Subdivision 1. Application.

For purposes of this section, "board" means "health-related licensing board" and does not include the non-health-related licensing boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they apply to the health-related licensing boards.

Subd. 1a. Notifications and resolution.

(a) No more than 14 calendar days after receiving a complaint regarding a licensee, the board shall notify the complainant that the board has received the complaint and shall provide the complainant with the written description of the board's complaint process. The board shall periodically, but no less than every 120 days, notify the complainant of the status of the complaint consistent with section 13.41.

(b) Except as provided in paragraph (d), no more than 60 calendar days after receiving a complaint regarding a licensee, the board must notify the licensee that the board has received a complaint and inform the licensee of:

(1) the substance of the complaint;

- (2) the sections of the law that have allegedly been violated;
- (3) the sections of the professional rules that have allegedly been violated; and
- (4) whether an investigation is being conducted.

(c) The board shall periodically, but no less than every 120 days, notify the licensee of the status of the complaint consistent with section 13.41.

(d) Paragraphs (b) and (c) do not apply if the board determines that such notice would compromise the board's investigation and that such notice cannot reasonably be accomplished within this time.

(e) No more than one year after receiving a complaint regarding a licensee, the board must resolve or dismiss the complaint unless the board determines that resolving or dismissing the complaint cannot reasonably be accomplished in this time and is not in the public interest.

(f) Failure to make notifications or to resolve the complaint within the time established in this subdivision shall not deprive the board of jurisdiction to complete the investigation or to take corrective, disciplinary, or other action against the licensee that is authorized by law. Such a failure by the board shall not be the basis for a licensee's request for the board to dismiss a complaint, and shall not be considered by an administrative law judge, the board, or any reviewing court.

Subd. 8. Dismissal and reopening of a complaint.

(a) A complaint may not be dismissed without the concurrence of at least two board members and, upon the request of the complainant, a review by a representative of the attorney general's office. [...]

Subd. 9. Information to complainant.

A board shall furnish to a person who made a complaint a written description of the board's complaint process, and actions of the board relating to the complaint.

Subd. 10. Prohibited participation by board member. A board member who has actual bias or a current or former direct financial or professional connection with a regulated person may not vote in board actions relating to the regulated person.

CHAPTER 13. GOVERNMENT DATA PRACTICES.

13.04 RIGHTS OF SUBJECTS OF DATA.

Subd. 2. Tennessen warning.

An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting government entity; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and

(d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data, pursuant to section 13.82, subdivision 7, to a law enforcement officer.

13.05 DUTIES OF RESPONSIBLE AUTHORITY.

Subd. 4. Limitations on collection and use of data. Private or confidential data on an individual shall not be collected, stored, used, or disseminated by government entities for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) [Irrelevant]

(b) Private or confidential data may be used and disseminated to individuals or entities specifically authorized access to that data by state, local, or federal law enacted or promulgated after the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or entities subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically

delivery of the report by mail or email. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with (1) the legitimate needs of a law enforcement agency as provided in subdivision 3; or (2) any measures necessary to determine the scope of the breach and restore the reasonable security of the data.

13.08 CIVIL REMEDIES.

Subdivision 1. Action for damages.

Notwithstanding section 466.03, a responsible authority or government entity which violates any provision of this chapter is liable to a person or representative of a decedent who suffers any damage as a result of the violation, and the person damaged or a representative in the case of private data on decedents or confidential data on decedents may bring an action against the responsible authority or government entity to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the government entity shall, in addition, be liable to exemplary damages of not less than \$1,000, nor more than \$15,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under this chapter.

144.292 PATIENT RIGHTS.

Subd. 8. Form.

By January 1, 2008, the Department of Health must develop a form that may be used by a patient to request access to health records under this section. A form developed by the commissioner must be accepted by a provider as a legally enforceable request under this section. **This form is here:**
<https://www.health.state.mn.us/facilities/notices/docs/consent.pdf>

The instructions on this form include:

- (1) Include your full and complete name. If you have a suffix after your last name (Sr., Jr., III), please provide it in the "last name" blank with your last name. If you used a previous name(s), please include that information. If you know your medical record or patient identification number, please include that information. All these items are used to identify your health information and to make certain that only your information is sent.
- (5) If you select all health information, this will include any information about you related to mental health evaluation and treatment, concerns about drug and/or alcohol use, HIV/AIDS testing and treatment, sexually transmitted diseases and genetic information.

**144.293 RELEASE OR DISCLOSURE OF
HEALTH RECORDS.**

Subd. 2. Patient consent to release of records.

A provider, or a person who receives health records from a provider, may not release 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.

Subd. 10. Warranties regarding consents, requests, and disclosures.

- (a) When requesting health records using consent, a person warrants that the consent:
 - (1) contains no information known to the person to be false; and
 - (2) accurately states the patient's desire to have health records disclosed or that there is specific authorization in law.
- (b) When requesting health records using consent, or a representation of holding a consent, a provider warrants that the request:
 - (1) contains no information known to the provider to be false;
 - (2) accurately states the patient's desire to have health records disclosed or that there is specific authorization in law; and

- (3) does not exceed any limits imposed by the patient in the consent.
- (c) When disclosing health records, a person releasing health records warrants that the person:
 - (1) has complied with the requirements of this section regarding disclosure of health records;
 - (2) knows of no information related to the request that is false; and
 - (3) has complied with the limits set by the patient in the consent.

144.298 PENALTIES.

Subdivision 1. Licensing action.

A violation of sections 144.291 to 144.298 may be grounds for disciplinary action against a provider by the appropriate licensing board or agency.

Subd. 2. Liability of provider or other person.

A person who does any of the following is liable to the patient for compensatory damages caused by an unauthorized release or an intentional, unauthorized access, plus costs and reasonable attorney fees:

- (1) negligently or intentionally requests or releases a health record in violation of sections 144.291 to 144.297;
- (2) forges a signature on a consent form or materially alters the consent form of another person without the person's consent;
- (2) obtains a consent form or the health records of another person under false pretenses; or

- (4) intentionally violates sections 144.291 to 144.297 by intentionally accessing a record locator or patient information service without authorization.

150A.081 ACCESS TO MEDICAL DATA.

Subd. 2. Access to data on patients.

The board has access to medical records of a patient treated by a licensee under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee must delete data from which a patient may be identified before releasing medical records to the board.

144.691 GRIEVANCE PROCEDURES.

Subd. 2. Patient notice.

Each patient receiving treatment at a hospital or an outpatient surgery center shall be notified of the grievance or complaint mechanism which is available to the patient.

Subd. 3. Rules.

The state commissioner of health shall, by January 1, 1977, establish by rule promulgated pursuant to chapter 15:

- (1) minimum standards and procedural requirements for grievance and complaint mechanism;

- (2) a list of patient complaints which may be processed through a complaint or grievance mechanism;
- (3) the form and manner in which patient notices shall be made; and
- (4) a schedule of fines, not to exceed \$200 per offense, for the failure of a hospital or outpatient surgery center to comply with the provisions of this section.

325L.02 DEFINITIONS.

- (h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

325L.06 CONSTRUCTION AND APPLICATION.

This chapter must be construed and applied to:

- (1) facilitate electronic transactions consistent with other applicable law;

- (2) be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

325L.08 PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.

- (a) If parties have agreed to conduct transactions by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.
- (b) If a law other than this chapter requires a record
 - (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:
 - (1) the record must be posted or displayed in the manner specified in the other law;

(2) except as otherwise provided in paragraph (d), clause (2), the record must be sent, communicated, or transmitted by the method specified in the other law; (3) the record must contain the information formatted in the manner specified in the other law.

325L.09 ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under paragraph (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and as otherwise provided by law.

325L.18 ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.

(a) Except as otherwise provided in section 325L.12, paragraphs (f) and (g), each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store,

process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the governmental agency giving due consideration to security, may specify: (1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

APPENDIX E

Personal Google Form With its Electronic Authorization to Release Health Records.

Complaint Form:

NOTICE TO COMPLAINANT: You may use this form to file a complaint against a dentist, dental therapist, dental hygienist, or a licensed dental assistant. Your complaint may be disclosed to members, employees, and the consultants of the Minnesota Board of Dentistry and to the employees of the Minnesota Attorney General's Office. Under certain circumstances, your complaint or a summary of your complaint may be disclosed the person you are complaining against or to other persons who might have information about the matter. It also may be necessary to disclose and related investigative data to an administrative law judge. You are not legally required to complete and return this form.

IMPORTANT: If you do not know the name of the DENTAL PROVIDER please call their clinic and obtain the information before filling in this form.

Name of Complainant: [Eman Hegazy]

Date of Birth: [....]

Address (Include City, State, and Zip Code)

Phone Number (Cell or Home). [....]

This is the provider that you are filing this complaint against.

Name of Dental Provider (Not Clinic Name). [....]

Name of Clinic and Address (Include City, State, and Zip Code).[....]

Clinic Phone Number. [....]

Complaint Details. [.....]

Please provide a brief summary of your complaint. For example: "my dentist completed a root canal on tooth #14 and I had to have another provider re-do the root canal" (Limit 1000 Characters).

Statement of Complaint. [.....]

I am submitting this complaint on behalf of someone for whom I am the legal guardian and representative.

[] Yes. [X] No.

If yes, enter their name below.

Please provide any additional background information that you believe would help us to understand your complaint. (Limit 1000 Characters.)

[.....]

Additional Providers.

This section is for you to provide the name and contact information for dental provider(s) that you saw to evaluate the situation expressed in your complaint. If you saw multiple providers, there is another section where you can report that below.

Did you see another dental provider(s) regarding the situation in your complaint?

[X] Yes [] No

Additional Provider Name and Provider Address (Including City, State, and Zip Code).

Please List Additional Provider Name (s) and Provider Addresses (Including City, State, and Zip Code)

Authorization to Release Records.

Authorization to Release Records for Patient or Parent/Guardian.

1. TO: Any Doctor, Hospital, Clinic, or Other Institution.
2. I have been informed of my rights under the
3. Minnesota Government Data Practices Act and I
4. authorize you to provide a copy of my (or my
5. child's/ward's) dental, medical or other relevant
6. records containing protected health information in
7. your possession for inspection by the Minnesota
8. Board of Dentistry, its agents, and agents of the
9. Attorney General's Office representing the Board.
10. I further authorize to testify to your opinion,
11. without limitation, as to all of your findings and/or
12. treatment referred to in the records.
13. I release you, the Minnesota Board of Dentistry, its
14. agents, and the agents of the Attorney General's
15. Office representing the Board, from liability
16. related to releasing the records or testifying to the
17. information present in the record. I waive any
18. privilege allowed by the law relating to the
19. disclosure or introduction of protected health
20. information into evidence.
21. I authorize the Board to use the information its
22. provide's, along with the records in any legal
- proceeding which may arise out of this matter.
23. Notice to Complainant: You do not need to
24. authorize the release a copy (or
25. child's/ward's) patient records, however,

26.the Board may still subpoena a redacted
27.patient record in order to appropriately
28.review your case.

29.[X] I AGREE to authorize the release of a copy of
30.my patient records.

31.[] I DECLINE authorization to release a copy of
32.my patient records.

33.[] Not Applicable.

34.[] I AGREE to authorize the release of a copy
35.(child's /ward's) patient records.

36.[] I DECLINE authorization to release a copy of
37.(child's/ward's) patient records.

38.[x] Not Applicable

39. Electronic Signature and Date

40.The parties agree that this authorization may be
41.electronically signed. The parties agree that the
42.electronic signatures appearing on this agreement are
43.the same as handwritten signatures for the purposes of
44.validity, enforceability and admissibility. I attest that
45.this statement is true and correct to the best of
47.knowledge by electronically signing below.

48.[Eman Hegazy]

49.Email Address

50.Please provide your email address to receive electronic
51.acknowledgment of your complaint submission.

52.[hamd0008@umn.edu]

50a

RE: Legal question Mon, Oct 17, 2022 at 8:14 AM

Christensen, Stacie (ADM)

<stacie.christensen@state.mn.us>

To: HAZEM HAMDAN <hamd0008@umn.edu>

Dear Hazem,

Government entities are allowed to collect and store private data under Minnesota Statutes, section 13.05, subd. 3, if it is limited to that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government. Any collection of private data must include a “Tennessee warning,” which is described in Minnesota Statutes, section 13.04, subd. 2.

Regards,

Stacie

**Stacie Christensen | Deputy Commissioner
and General Counsel**

200 Administration Bldg., 50 Sherburne Ave.

Saint Paul, MN 55155

(651) 201-2500

stacie.christensen@state.mn.us

From: HAZEM HAMDAN

<hamd0008@umn.edu>

Sent: Friday, October 14, 2022 5:57 PM

To: Christensen, Stacie (ADM)
<stacie.christensen@state.mn.us>
Subject: Legal question

Deputy Commissioner Christensen:

Hello,

Which MN statute allows a government agency to store private information, including protected health information, on personal Google forms belonging to a state employee?

MN Statute 325L and Chapter 15 on retention of government records preclude this. Is this true?

Respectfully,
Hazem Hamdan
651-227-5720

PS. I am not affiliated with UMN.