COURT OF APPEALS
DECISION
DATED AND FILED

September 8, 2011

A. John Voelker
Acting Clerk of Court of Appeals

Appeal No. 2010AP1373 **Cir. Ct. No. 2009CV629**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

REBECCA KNIESS,

PLAINTIFF-RESPONDENT,

V.

SHAUNA LUEDER,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Jefferson County: JACQUELINE R. ERWIN, Judge. *Affirmed*.

Before Lundsten, P.J., Sherman and Blanchard, JJ.

¶1 PER CURIAM. Shauna Lueder appeals a civil judgment that ordered her to pay Rebecca Kniess $14,092 in damages pursuant to WIS. STAT.

§ 146.84(1)(b) (2009-10)[1] for obtaining and disclosing information from Kniess's confidential patient health care records. Lueder does not contest the underlying factual allegations of the complaint—namely that she obtained Kniess's health care records by forging Kniess's signature on a medical release form, and subsequently disclosed information from those records to other persons. Lueder raises a purely legal argument that § 146.84(1)(b) should be interpreted to provide civil liability only for health care providers or records custodians. For the reasons discussed below, we reject Lueder's contention and affirm the judgment against her.

¶2 Statutory interpretation is a question of law that this court reviews de novo. ***State v. Waushara County Bd. of Adjustment***, 2004 WI 56, ¶14, 271 Wis. 2d 547, 679 N.W.2d 514. Statutes are to be interpreted to give effect to their language. ***State ex rel. Kalal v. Circuit Court for Dane County***, 2004 WI 58, ¶44, 271 Wis. 2d 633, 681 N.W.2d 110. Thus, except where specially defined words or technical phases are used, "[s]tatutory language is given its common, ordinary, and accepted meaning." ***Id.***, ¶45. Extrinsic sources, such as legislative history, should be consulted only if the text of the statute is ambiguous, taking into account its context, scope and purpose. ***Id.***, ¶¶46-48.

¶3 WISCONSIN STAT. § 146.84(1)(b) states:

> Any person, including the state or any political subdivision of the state, who violates s. 146.82 or 146.83 in a manner that is knowing and willful shall be liable to any person injured as a result of the violation for actual damages to that person, exemplary damages of not more than $25,000 and costs and reasonable actual attorney fees.

[1] All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

WISCONSIN STAT. §§ 146.82 and 146.83, in turn, provide that all patient health care records are confidential, and then set forth a number of circumstances in which the records can be released to certain persons or entities. By its plain language, then, § 146.84(1)(b) imposes civil liability upon "any person" who violates the patient confidentiality and access statutes. Another subsection of the penalty statute provides criminal liability for whoever requests or obtains information protected by the patient confidentiality statutes under false pretenses or discloses such information knowing the disclosure is unlawful and not reasonably necessary to protect another from harm. WIS. STAT. § 146.84(2)(a).

¶4 Lueder contends that the phrase in WIS. STAT. § 146.84(1)(b) setting forth civil liability for "any person … who violates s. 146.82 or 146.83" is ambiguous because, while the "any person" language seems broad, WIS. STAT. §§ 146.82 and 146.836 actually address the obligations only of health care providers and records custodians. Lueder points out that the version of the civil liability provision passed by the legislature prior to a gubernatorial veto focused on each individual release of information or denial of the right to inspect, and she claims that the governor's partial veto of the original language was intended to shield record custodians from frivolous suits, not to expand the scope of civil liability to non-records custodians. Lueder further argues that the only portion of the statutory scheme explicitly applicable to records requesters is the criminal liability provision in § 146.84(2)(a).

¶5 We need not consider the legislative history of the statute to discern its intended purpose here, because we are not persuaded that the language of the statute is ambiguous within the statutory scheme. First, because the term "heath care provider" is defined in WIS. STAT. § 146.81(1) for the purposes of § 146.81 to WIS. STAT. § 146.84, and the term is used repeatedly elsewhere in those sections,

it is only reasonable to conclude that the legislature meant § 146.84(1)(b) to apply to a broader category than just health care providers when it referred to "any person" who violates the confidentiality and access provisions. The fact that the legislature also provided criminal penalties for "whoever" requests or discloses confidential information under WIS. STAT. § 146.82 and portions of WIS. STAT. 146.83 reinforces, rather than undermines, the idea that the confidentiality provisions are not limited to health care providers or record custodians. To the extent that Lueder is suggesting that the plain language meaning could not have been intended by the legislature because it leads to patently absurd results, we disagree. There is no common sense reason why the legislature would have subjected health care providers to both civil and criminal liability but non-health care providers to only criminal liability, when there would appear to be no discernable difference in the harm done to the patient whose information is disclosed based upon who released it.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.