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AF

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF CLARK

GAIL RENEE RAPHAEL, Plaintiff, v. MARK MANTEI, registered agent for The Vancouver Clinic, Defendant.	Case No. 26-2-01587-06 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came before the Court on June 24, 2026, on a hearing of Plaintiff's request for a preliminary injunction. Plaintiff Gail Renee Raphael appeared and represented herself. Defendant The Vancouver Clinic (the "Clinic") appeared through counsel Thomas G. Bode, Jr., Larkins Vacura Kayser LLP, Portland, Oregon.

The Court received and considered Plaintiff's allegations and arguments contained in the following submissions present in the Court record:

- *Emergency Petition for Writ of Mandamus and Temporary Restraining Order* (the "Petition"), filed May 1, 2026;
- *Motion for Emergency Restraining Order and Writ of Mandamus*, filed May 12, 2026;
- *Declaration in Support of Writ of Mandamus and Emergency Restraining Order*, filed May 12, 2026;

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- *Supplemental Declaration in Support of Emergency Restraining Order/Motion for Writ of Mandamus*, filed May 28, 2026;
- *Petitioner's Emergency Motion to Stay In-Camera Review and Omnibus Motion to Compel Cloud Metadata, Enjoin Data Extraction, and Renew Motion for Adverse Inference*, filed June 8, 2026;[1] and
- *Notice and Declaration Submitting Supplemental Exhibit "JJ" in Support of Petitioner's Omnibus Motion for Hearing June 24–25, 2026 at 9:00 AM*, filed June 15, 2026.

Also before the Court were *The Vancouver Clinic's Pre-Hearing Legal Memorandum* and *Brief of Amici Curiae Washington State Medical Association, Washington State Hospital Association, & American Medical Association*, both filed on June 22, 2026, in addition to other submissions from the parties contained in the Court record.

The Court, having considered the record on file herein, the testimony of witnesses, and the parties' written submissions and oral arguments, and being fully advised of the premises, and for the reasons stated on the record, makes the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

Plaintiff is a former patient of Dr. Lisa Vasanth and Dr. Neyla Pavlenko, both physicians at the Clinic. She had a telehealth encounter with Dr. Pavlenko on March 30, 2026 that was audio recorded by the Clinic's "DAX" system, which assists doctors in preparing entries into a patient's written medical record (the "DAX recording"). At the March 30 encounter, Dr. Pavlenko and Plaintiff discussed Dr. Pavlenko's unsuccessful attempts to obtain a treating rheumatologist for Plaintiff. At the end of the encounter, Dr. Pavlenko stated that she was withdrawing as Plaintiff's physician and would no longer serve as her doctor. After the March 30 encounter, Plaintiff

[1] This emergency motion was denied by the Court on June 9, 2026.

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requested the DAX recording of the encounter from the Clinic, which declined to provide it. Plaintiff then initiated this action and requested the following relief:

1. "Immediate sever of all digital access for discharged providers Lisa Vasanth and Nelya Pavlenko from Petitioner's electronic health record";
2. "Produce the original, unedited EHI [Electronic Health Information] recording of March 30 encounter with Dr Pavlenko and all associated metadata"; and
3. "Cease the destruction of original evidence (Spoliation) under the March 31 Formal Litigation Hold."

Petition at 6.

Plaintiff initially sought a temporary restraining order to obtain that relief. At an appearance on May 29, 2026, the Court denied the request for a temporary restraining order and scheduled an evidentiary hearing for a preliminary injunction for June 24, 2026.

At an appearance on June 12, 2026, the Clinic presented evidence that it had provided all relief sought by Plaintiff:

1. The Clinic had implemented an additional level of security on Plaintiff's medical record and formally instructed Dr. Lisa Vasanth and Dr. Nelya Pavlenko to not access Plaintiff's medical record without a valid reason approved by Clinic management.
2. The Clinic had produced the recording of the March 30, 2026 encounter to Plaintiff.
3. The Clinic had implemented a litigation hold on materials related to Plaintiff.

Accordingly, the Clinic argued, Plaintiff was not entitled to a preliminary injunction.

In response, at the June 12 appearance, Plaintiff contended that the recording she received was incomplete. Thus, the only issue for the Court at the June 24 hearing was Plaintiff's request that the Clinic be ordered to produce the recording of the March 30, 2026 encounter.

At the June 24 hearing, the Court heard testimony from Dr. Pavlenko; Gayle Seiffullin, the Clinic's Director of Medical Affairs; Thomas O'Neal, the Clinic's Chief Information Officer; and Plaintiff.

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The Court finds the following facts from the testimony of Dr. Pavlenko:

1. Plaintiff had been under the care of a rheumatologist, Dr. Lisa Vasanth, until she fired that doctor.
2. Dr. Pavlenko went above and beyond the call of duty in trying to make referrals for Plaintiff, including by calling outside specialists.
3. Dr. Pavlenko did not omit any information from Plaintiff's written medical record.
4. In general, the DAX system uses a recording of a patient's visit to automatically generate a summary of the visit, then inserts the summary into a patient's medical record. The physician can edit the summary to create the final record.
5. The summary of the March 30, 2026 visit created from the DAX recording was populated into the Plaintiff's chart, after which Dr. Pavlenko reviewed the summary and added details the DAX summary had omitted.
6. The Medical Affairs department of the Clinic did not demand that Dr. Pavlenko discharge Plaintiff as a client or otherwise pressure her to make a particular decision.
7. The Clinic discharged Plaintiff because her language was abusive to Dr. Pavlenko and her staff on several occasions, not because of one visit or statement.

The Court finds the following facts from the testimony of Thomas O'Neal:

1. The Clinic uses an outside company to provide the DAX software service. The Clinic does not have the ability to obtain cloud JXML, audit logs, or metadata for the DAX recording. The Clinic only has access to the recordings.

The Court also finds:

1. The Clinic placed a litigation hold on Plaintiff's medical record.
2. The Clinic provided Plaintiff with her electronic medical record.
3. The Clinic did not edit the DAX recording.

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4. The Clinic provided Plaintiff with an unaltered copy of the DAX recording.
5. The Clinic implemented security protocols to protect Plaintiff's medical record.
6. After withdrawing care from Plaintiff, the Clinic did not monitor or interfere with Plaintiff's referrals, put her under surveillance, or make medical decisions for her care.
7. The Clinic has not interfered with Plaintiff's current medical care or obstructed her future medical care.

CONCLUSIONS OF LAW

A. Preliminary Injunction

"To be entitled to [a preliminary injunction], the [petitioner] must establish (a) a clear legal or equitable right, (b) a well-grounded fear of immediate invasion of that right, and (c) that the act complained of will result in actual and substantial injury." *Huff v. Wyman*, 184 Wn. 2d 643, 652 (2015) (citing *Rabon v. City of Seattle*, 135 Wn. 2d 278, 284 (1998)). "Failure to establish any one of these requirements results in a denial of the injunction." *Id.* (citing *Kucera v. Dep't of Transp.*, 140 Wn. 2d 200, 210 (2000). "These criteria must also 'be examined in light of equity, including the balancing of the relative interests of the parties and the interests of the public, if appropriate.'" *Id.* (quoting *Rabon v. City of Seattle*, 135 Wn. 2d at 284).

The *Huff* court noted that "[a] n injunction is 'frequently termed the strong arm of equity, or a transcendent or extraordinary remedy, and is a remedy which should not be lightly indulged in, but should be used sparingly and only in a clear and plain case." *Id.* at 648 (quoting *Kucera*, 140 Wn. 2d at 209). "An injunction is an extraordinary equitable remedy designed to prevent serious harm. Its purpose is not to protect a plaintiff from mere inconveniences or speculative and insubstantial injury." *Kucera*, 140 Wn. 2d at 221. The *Kucera* court found it "illogical to enjoin an action without first finding the action is the cause of the alleged environmental harm and further finding in a factually specific way that the criteria for injunctive relief have been met." *Id.* at 219. And if a petitioner has "an adequate remedy at law in the form of monetary damages, they have not demonstrated they are entitled to the extraordinary remedy of injunctive relief." *Id.* at 210.

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B. Statutory Interpretation

"The purpose of statutory interpretation is to give effect to the intent of the legislature." *Quinault Indian Nation v. Imperium Terminal Servs., LLC*, 187 Wn. 2d 460, 470 (2017). "An unambiguous rule or regulation is not subject to judicial construction." *Cannon v. Dep't of Licensing*, 147 Wn. 2d 41, 57 (2002) (citing *State v. Keller*, 143 Wn. 2d 267, 277 (2002)). "Statutory interpretation is a question of law[.] … The courts do not engage in statutory interpretation of a statute that is not ambiguous. If a statute is plain and unambiguous, its meaning must be derived from the wording of the statute itself. A statute is ambiguous if it can reasonably be interpreted in two or more ways[.]" *Keller*, 143 Wn. 2d at 276. "We give undefined terms their ordinary meaning as defined in the dictionary." *Bayley Constr. v. Dep't of Labor and Indus.*, 10 Wn. App. 2d 768, 791 (App. Div. 1 2019)

C. Access to Medical Records

Under the Uniform Health Care Information Act, chapter 70.02 RCW, Washington patients have a right to obtain health care information from a health care provider:

> (1) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, a health care provider, as promptly as required under the circumstances, but no later than fifteen working days after receiving the request shall:
>
> > (a) Make the information available for examination during regular business hours and provide a copy, if requested, to the patient;

RCW 70.02.080.

A person may bring a civil action under RCW 70.02.170 to enforce compliance with that section.

There are exceptions to the right to obtain health care information. First, "If a record of the particular health care information requested [by a consumer] is not maintained by the health care provider in the requested form, the health care provider is not required to create a new record or reformulate an existing record to make the health care information available in the requested

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form." RCW 70.02.080(2).

Second,"[A] health care provider may deny access to health care information by a patient if the health care provider reasonably concludes that ... [t]he health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes[.]" RCW 70.02.090(1).

In addition, Washington consumers have certain rights relating to deletion of health care data:

> A consumer has the right to have consumer health data concerning the consumer deleted and may exercise that right by informing the regulated entity or the small business of the consumer's request for deletion.
>
> (i) A regulated entity or a small business that receives a consumer's request to delete any consumer health data concerning the consumer shall:
>
> (A) Delete the consumer health data from its records, including from all parts of the regulated entity's or the small business's network, including archived or backup systems pursuant to (c)(iii) of this subsection[.] (Tr. 13:14–14:2)

RCW 19.373.040(1)(c).

D. Discussion

The Clinic argues that the DAX recording is used solely for administrative purposes and therefore exempt from disclosure under RCW 70.02.090(1). The Court agrees with the Clinic. The meaning of "administrative purpose" is a question of statutory interpretation. The ordinary meaning of "administrative purpose" is "for the internal operation or use of an institution." Physicians and the Clinic use the DAX recording to assist with the time-consuming task of preparing a written record of the patient encounter. The Court finds that the use of the DAX recording to assist physicians in preparing the written record of a patient encounter is an "administrative purpose." Thus, the DAX recording is exempt from disclosure under the Uniform Health Care Information Act.

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Plaintiff has not established the three requirements for a temporary injunction. First, she does not have a legal or equitable right to the DAX recording due to its administrative purpose. Second, even if she did have a right to the DAX recording, she does not have a well-grounded fear of invasion of that right. Third, the denial of her preliminary injunction request will not result in any actual or substantial injury.

Therefore, it is hereby ORDERED and ADJUDGED that Plaintiff's Petition is DENIED.

IT IS SO ORDERED.

8/7/28

Judge Gregory M. Gonzales

Submitted by:

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