FILED
APR 27 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

195

STATE OF IOWA,	)	
Plaintiff,	)	Filed April 27, 1982
vs.	)	
THE IOWA DISTRICT COURT,	)	2-97 2-66684
Defendant.	)	

Certiorari to Polk District Court - Joel D. Novak, Judge.

The state appeals via certiorari the district court's ruling which modified a grand jury subpoena duces tecum to allow the physician-witness to exclude from production any information in the requested medical records pertaining to patient history, medical diagnosis, and treatment. The state asserts the district court erred in concluding that such information, in the circumstances under which it was sought, was covered by the physician-patient privilege as provided in section 622.10, The Code 1981. WRIT ANNULLED.

Thomas J. Miller, Attorney General of Iowa, and Shirley Ann Steffe, Assistant Attorney General, for plaintiff.

Merrick S. Rayle and Donald L. Perelman of Sonnenschein, Carlin, Nath & Rosenthal, Chicago, Illinois, and Mary R. Ottoson of Gamble, Riepe, Burt, Webster & Davis, Des Moines, for defendant.

Considered by Donielson, P.J., and Snell, and Carter, JJ.

PER CURIAM

The state appeals via certiorari the district court's ruling which modified a grand jury subpoena duces tecum to allow the physician-witness to exclude from production any information in the requested medical records pertaining to patient history, medical diagnosis, and treatment. The state asserts the district court erred in concluding that such information, in the circumstances under which it was sought, was covered by the physician-patient privilege as provided in section 622.10, The Code 1981. We annul the writ.

I.

On March 19, 1981, the Polk County grand jury issued a subpoena duces tecum directed at the Plastic Surgery Institute, P.C., and Dr. James O. Stallings, M.D., the corporation's registered agent. The subpoena required the production before the grand jury with respect to a certain person of "any and all records pertaining to [that person] including, but not limited to, all medical records discussing patient history, medical diagnosis, treatments, office visits, and all records pertaining to financial charges incurred and all records pertaining to payment made by [that person] or any other individual or company in his behalf." On March 25, 1981, the Plastic Surgery Institute and James O. Stallings filed a motion to quash, modify or dismiss the subpoena, asserting that the production of the documents sought would violate the physician-patient privilege set forth in section 622.10, The Code. The state subsequently claimed that the statutory privilege did not cover the discovery of a doctor's records.

At hearing on the motion, the person whose medical records were sought filed a motion endorsing the arguments of the movant that the subpoenaed matters were protected under section 622.10, The Code.

In a ruling filed on April 23, 1981, the district court modified the subpoena to exclude any "information pertaining to the patient history, medical diagnosis and

treatment." The district court found that the requested materials were protected under the privilege set forth in section 622.10, The Code. The district court rejected the state's position that it need give no reason for requesting the documents and found that the state had failed to demonstrate that the records were "either necessary or appropriate to the work of the Grand Jury."

On May 1, 1981, the state filed a timely notice and application for discretionary review concerning the order. On May 29, 1981, the supreme court granted the application, but indicated that it would be treated as a petition for writ of certiorari.

II.

The state asserts the district court erred as a matter of law in modifying the March 19, 1981, grand jury subpoena duces tecum to exclude from disclosure "any information pertaining to the patient history, medical diagnosis and treatment" on the basis of the physician-patient privilege contained in section 622.10, The Code 1981. We disagree and annul the writ.

In Newman v. Blom, 249 Iowa 836, 843, 89 N.W.2d 349, 354 (1958), the Iowa Supreme Court said that the policy of section 622.10, The Code, was to provide for great freedom of disclosure by a patient to his physician. In order to further this policy the supreme court liberally construed section 622.10 to achieve its "manifest purpose to make consultation by a patient with his physician entirely confidential and free from anticipation or fear that his confidence will be broken by the examination of the physician, directly or indirectly, as a witness in some legal proceedings," Id. 249 Iowa at 844, 89 N.W.2d at 355, and held that hospital records were also privileged under section 622.10. The trial court applied this holding to the facts of the instant case and concluded that information in the patient's medical records pertaining to the patient's actual history, medical diagnosis and treatment were covered by the privilege of section 622.10. While

the patient's name is not privileged, we agree with the trial court's analysis that the actual facts of the patient's history, medical diagnosis and treatment are privileged. If we were to hold otherwise, it would defeat the general purpose of section 622.10 and thereby hamper communications between physicians and patients which are necessary to encourage proper medical treatment.

WRIT ANNULLED.