

STATE OF MINNESOTA
COUNTY OF OLMSTED

DISTRICT COURT
THIRD JUDICIAL DISTRICT
CRIMINAL DIVISION

State of Minnesota,

Court File No. 55-CR-23-7149

Plaintiff

v.

ORDER AND MEMORANDUM

Connor Fitzgerald Bowman,

Defendant.

Pursuant to the Court's Order, issued on April 25, 2025, the above-captioned matter came before the Court. The Court ordered parties to submit briefs on three issues: whether the search warrants in Exhibits 6 and 12 are unconstitutional due to a lack of particularity; whether the search warrants in Exhibits 1, 4, 8, and 9 are invalid due to statutory violations; and whether the search warrants in Exhibits 6 and 8 are unreasonable repeat searches. Defendant filed correspondence, stating that their Motion 12, addressing Exhibit 12, would be amended to address overbreadth so the particularity issue need not be addressed and that the issues related to Exhibits 4 and 8 were moot considering the Court's prior Order. Defendant further stated that Motion 6, addressing Exhibit 6, would be amended as to the repeat search issue and need not be addressed by the Court at this time. The Court took the remaining issues under advisement. Based on all of the files, records, proceedings, and arguments of counsel, the Court hereby makes the following:

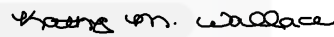
ORDER

1. Defendant's Motion to Suppress based on the particularity of the search warrant is **DENIED** as to Defendant's Motion 6.
2. Defendant's Motions to Suppress based on statutory violations are **DENIED** as to Defendant's Motions 1 and 9.
3. Parties shall submit briefs on the issues of whether the search warrants are unconstitutional due to a lack of probable cause (Motions 1, 4, 7, 8, and 12), specifically whether the use of conclusory statements (Motions 1 and 4) and whether the lack of an evidentiary nexus to criminal activity (Motions 1, 4, 6, 7, 8, and 12) result in a lack of probable cause.
4. If either party seeks to present testimony on any of the issues, please inform the Court so a hearing can be scheduled. If no testimony is needed, parties shall file written submissions on or before August 25, 2025. The Court shall take those matters under advisement on August 26, 2025.
5. Parties should be prepared to address (by introducing exhibits and providing testimony, if needed) the issue of the repeat search warrant (Motion 6) at the August 28, 2025 hearing. A briefing schedule on this issue will be determined at the hearing.

6. The attached Memorandum is incorporated and made part of this Order.

By the Court:

Wallace, Katherine

Kathy M. Wallace

2025.07.10

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Honorable Kathy M. Wallace
Judge of District Court

MINNESOTA
JUDICIAL
BRANCH

MEMORANDUM

PROCEDURAL HISTORY

On October 23, 2023, Defendant Connor Fitzgerald Bowman was charged by complaint with Second-Degree Murder, in violation of Minnesota Statute § 609.19, subd. 1. On January 5, 2024, Defendant was charged by grand jury indictment with First-Degree Murder, in violation of Minnesota Statute § 609.185(a)(1), and Second-Degree Murder, in violation of Minnesota Statute § 609.19, subd. 1. Defendant filed thirteen (13) motions to dismiss on June 6, 2024. Twelve (12) of Defendant's motions relate to issues concerning specific search warrants and/or searches conducted pursuant to those search warrants. The thirteenth motion is a motion to dismiss the grand jury indictment. On August 13, 2024, the State filed correspondence (hereinafter *Needham* Letter), seeking clarification from Defendant regarding Defendant's omnibus motions. In the *Needham* Letter, the State requested clarification on a few separate issues, one of which being Defendant's expectation of privacy in the place searched or items seized for Motions 2-5 and 9-11.

On September 4, 2024, a Contested Omnibus Hearing was held, addressing whether specific search warrants were invalid due to a failure to state a crime and whether Defendant had a reasonable expectation of privacy in the area searched or items seized whereby he could challenge some of the search warrants and searches conducted. At the Hearing, the Court heard testimony from Ms. Teresa Keller and Mr. Chad Nelson. The Court also admitted nineteen (19) exhibits into evidence. Exhibits 1-12 were received without objection and consist of the following:

- Exhibit 1—Application for Search Warrant and Search Warrant, dated August 30, 2023, for any of Betty Bowman’s electronic devices, any of Defendant’s electronic devices, any documents or research referencing death or substances that can result in death, and any evidence of deadly substances, located in Defendant’s home, Defendant’s vehicles, or on Defendant’s person;
- Exhibit 2—Application for Search Warrant and Search Warrant, dated August 30, 2023, for Mayo Clinic internal investigation records related to Defendant’s unauthorized computer access of Betty Bowman’s protected patient health information;
- Exhibit 3—Application for Search Warrant and Search Warrant, dated October 3, 2023, for property, data, and things from the University of Kansas Hospital Authority, including any physical workstations accessed by Defendant during August 2023, Defendant’s emails, and Defendant’s personnel file;
- Exhibit 4—Application for Search Warrant and Search Warrant, dated October 9, 2023, to search fourteen (14) electronic devices previously seized by law enforcement during the August 30 search of Defendant’s residence;
- Exhibit 5—Application for Search Warrant and Search Warrant, dated October 17, 2023, for Betty Bowman’s Mayo Clinic records;
- Exhibit 6—Application for Search Warrant and Search Warrant, dated October 20, 2023, for any evidence of colchicine and all of Defendant’s and

Betty Bowman's financial documents, located in Defendant's home, Defendant's vehicles, or on Defendant's person;

- Exhibit 7— Four (4) separate Applications for Search Warrant and Search Warrants for Apple, Inc. (dated October 30, 2023), Google LLC (dated October 30, 2023), Meta Platforms, Inc. (dated December 1, 2023), and Bumble Trading LLC (dated May 6, 2024);
- Exhibit 8—Application for Search Warrant and Search Warrant, dated November 2, 2023, to search an iPhone seized during the October 20 arrest of Defendant;
- Exhibit 9—Two (2) separate Applications for Search Warrant and Search Warrants, both dated November 6, 2023, for searches of Mark Cuban Cost Plus Drugs and Truepill, for Defendant's account information, administrative notes made on Defendant's accounts as well as any access, use, or transactions made by Defendant from July 9, 2023 until October 20, 2023. The warrants also sought any information about a transaction that occurred on August 11, 2023;
- Exhibit 10—Application for Search Warrant and Search Warrant, dated November 16, 2023, for Defendant's Mayo Clinic employment records, specifically for employment records from July 9, 2023 through October 20, 2023, including emails received and sent by Defendant and any notes or documentation related to Defendant's ordering of prescriptions for himself;
- Exhibit 11—Application for Search Warrant and Search Warrant, dated November 30, 2023, for a search of two (2) University of Kansas Medical Center

(“KUMC”) remote access computers, provided by KUMC to law enforcement on October 11, 2023;

- Exhibit 12—Three (3) separate Applications for Search Warrant and Search Warrants regarding the search, seizure, and freezing of Betty Bowman’s and Defendant’s US Bank accounts as well as the search and seizure of Betty Bowman’s and Defendant’s Emprise Bank account information from the dates of July 9, 2023 through October 30, 2023.

Exhibits 13 and 14 were received over objection and contain the Mayo Clinic Internet Use Policy (Exhibit 13) and Mayo Clinic Acknowledgment Letter (Exhibit 14). Exhibits 15 and 16 were received without objection and consist of the University of Kansas Hospital Employment Confirmation Letter (Exhibit 15) and the University of Kansas Health System Internet Use Policy (Exhibit 16). Exhibits 17-19 were received over objection and consist of the 2021 Mayo Clinic Information Security Training Information (Exhibit 17), the 2022 Mayo Clinic Information Security Training Information (Exhibit 18), and Defendant’s Mayo Clinic Learning History covering the years 2021-2022 (Exhibit 19).

During the Hearing, the Court informed parties that the issues raised in Defendant’s motions will be addressed through a series of orders from the Court, with parties providing separate written briefing for the specific issues being addressed. The Court gave parties the deadline of end of business on September 23, 2024, to file their written submissions addressing the issues of whether specific search warrants (Exhibits 1-5 and 10-11) are invalid due to a failure to state a crime and whether

Defendant had a reasonable expectation of privacy in the areas searched or items seized in Exhibits 2-5 and 9-11. Parties filed written submissions on September 23, 2024, and the Court took these issues under advisement on September 24, 2024.

On October 21, 2024, the Court issued an Order based on the September 2024 Contested Omnibus Hearing. In the Order, the Court denied Defendant's Motions to Suppress regarding the search warrants' failure to state a crime and also denied Defendant's Motions 2, 3, 5, 10, and 11 on the grounds that Defendant did not have an expectation of privacy in the areas searched and/or items seized. The Court found that Defendant had a reasonable expectation of privacy as to the areas searched and items seized in Motion 9, as well as the areas searched and items seized in Motion 4, aside from the KUMC laptop.

In the October 21, 2024 Order, the Court ordered parties to submit simultaneous briefs on the issues of whether the search warrants meet the heightened "scrupulous exactitude" standard (Motions 1, 4, 7, and 8), whether the search warrants provide law enforcement with unbridled discretion and allow exploratory rummaging (Motions 1, 4, 8), and whether the execution of the search warrants violated medical privilege (Motions 1, 4, 9), unless either party sought to present testimony on any of those issues. On October 29, 2024, Defendant requested a hearing to present testimony on those issues. A Hearing was set for December 2, 2024. On November 19, 2024, Defendant requested a continuance of the December hearing. The State objected to the continuance request on November 20, 2024. On November 21, 2024, the Court issued a Judicial Directive stating that the continuance

was granted, but the December hearing date would remain on the schedule to address concerns raised by the State regarding issues of admissibility of testimony to be offered by Defendant's witness.

On December 2, 2024, a hearing was held during which the Court heard argument from parties regarding the admissibility of testimony Defendant intended to elicit from an investigator with the Public Defender's Office. At the hearing, the State withdrew its objection to Defendant's continuance request. The Court directed Defendant to provide relevant items of discovery to the State as those items came in, rather than waiting until Defendant had gathered all of the evidence it may use to address issues of scrupulous exactitude, unbridled discretion, exploratory rummaging, and medical privilege in the search warrants.

On December 17, 2024, a review hearing was held, during which Defendant indicated that the defense investigator should be able to provide the State with a full analysis of what she found by mid-January 2025. The State asked for an additional two weeks after receiving the material from Defendant to review the investigator's analysis. A Contested Omnibus Hearing was then set for February 10, 2025. On January 27, 2025, the State filed correspondence conveying that it had not yet received any discovery material from defense counsel. No later objection was made by the State regarding not receiving discovery materials in preparation for the Contested Omnibus Hearing.

On February 10, 2025, a Contested Omnibus Hearing was held, addressing the issues of particularity, scrupulous exactitude, and medical privilege in the search

warrants contained in Exhibits 1, 4, and 7-9. At the Hearing, the Court heard testimony from Ms. Tara Olson, an investigator with the Public Defender's Office, and Rochester Police Department Detective Brock Neumann. The Court also admitted three (3) exhibits into evidence. Exhibits 20 and 21 were received over objection and consist of spreadsheets, compiled by Ms. Olson and Defendant, listing categories and specific items of data obtained by the State from the search of the Google (Exhibit 20) and iCloud (Exhibit 21) accounts of Defendant and Ms. Bowman. Exhibit 22, which was also received over objection, consists of a zip file containing individual files obtained from Defendant's and Ms. Bowman's iCloud accounts.

The Court gave Defendant the deadline of end of business on March 10, 2025, to file a written submission addressing the issues of whether specific search warrants (Exhibits 1, 4, and 8) are invalid due to a lack of particularity, whether specific search warrants are invalid for failure to meet the scrupulous exactitude standard (Exhibits 1, 4, 7, and 8), and whether specific search warrants violate medical privilege (Exhibits 1, 4, and 9). The Court gave the State the deadline of end of business on April 1, 2025, to file a written response.

Defendant filed three separate written submissions on March 10, 2025: a Memorandum in Support of Motion regarding the particularity of the search warrants in Exhibits 1, 4, 7, and 8; a Memorandum in Support of Motion to Dismiss—Medical Privilege; and a Defense Brief in Support of Motion to Suppress—Scrupulous Exactitude. In the Memorandum regarding the particularity of the search warrants, defense counsel included Exhibit 7 in the particularity analysis, although the

particularity of Exhibit 7 was not initially part of the Court's briefing order. As a result, the Court filed a Judicial Directive on March 21, 2025, requesting that the State also address the particularity of the search warrant in Exhibit 7 in its written submission. The State filed a Memorandum of Law Opposing Motion to Suppress on April 1, 2025. The Court took these issues under advisement on April 2, 2025.

On April 16, 2025, the Court issued an Order, denying Defendant's Motion to Suppress as to Motions 1 and 7, and granted in part and denied in part Defendant's Motion to Suppress as to Motions 4 and 8, as to the issue of particularity. The Court denied Defendant's Motions 4 and 8 as to data showing ownership, possession, or use of the devices, but granted Defendant's Motions 4 and 8 as to the remaining clauses in the Exhibit 4 and 8 search warrants. The Court therefore severed the warrants and struck the following clauses from the Exhibit 4 and 8 search warrants:

- Media including texts, emails, photographs, notes, and/or audio files and videos, including media regarding toxic/hazardous/controlled substances, financial matters, divorce and/or personal relationship information.
- Text messages/communication including conversations about toxic/hazardous/controlled substances, financial matters, divorce and/or personal relationship information.
- Web/Internet browsing history including searches/websites/articles etc. about toxic/hazardous/controlled substances, financial matters, divorce and/or personal relationship information.

The Court also suppressed any evidence obtained pursuant to the stricken clauses in Exhibits 4 and 8.

On April 25, 2025, the Court denied Defendant's Motions to Suppress based on the scrupulous exactitude standard and medical privilege. In the Court's April 25 Order, the Court ordered parties to submit briefs on the issues of whether the search warrants are unconstitutional due to a lack of particularity (Motions 6 and 12), whether the search warrants are invalid due to statutory violations (Motions 1, 4, 8, and 9), and whether the search warrants are unreasonable due to a repeat search (Motions 6 and 8). If neither party sought to present testimony on those issues, the Court ordered Defendant to file written submissions on or before June 2, 2025 and the State to file written submissions on or before June 23, 2025.

On June 2, 2025, Defendant filed three documents. One document was correspondence, clarifying and narrowing the issues Defendant would be addressing in this round of briefing. Defendant informed the Court that Motion 12, addressing Exhibit 12, would be amended to address overbreadth so the particularity issue need not be addressed, and that the issues related to Exhibits 4 and 8 were moot considering the Court's prior order. Defendant further stated that Motion 6, addressing Exhibit 6, would be amended as to the repeat search issue and need not be addressed by the Court at this time. The other two documents filed by Defendant were memoranda addressing the particularity of Exhibit 6 as well as the issue of statutory violations as to Exhibits 1 and 9. On June 23, 2025, the State filed a

Memorandum in Opposition to Motion to Dismiss. On June 24, 2025, the Court took the issues under advisement.

FACTUAL BACKGROUND

Through the criminal complaint and exhibits, the State has presented evidence tending to show the following:

On August 21, 2023, the Southeast Minnesota Medical Examiner's Office alerted the Rochester Police Department ("RPD") to the suspicious death of an adult female, Ms. Betty Bowman, who died at a Rochester, Olmsted County, Minnesota hospital on August 20, 2023. Following further investigation and information received by law enforcement, RPD Detective Alex Kendrick obtained a search warrant for Defendant's home, vehicles, and person on August 30, 2023 (Exhibit 1). The search warrant was executed by law enforcement on the afternoon of August 30, 2023.

After Defendant's University of Kansas Health System laptop was seized pursuant to the August 30 search warrant, the University of Kansas Health System became aware of the seizure. Ms. Teresa Keller, who was an Assistant Chief Legal Officer at the University of Kansas Health System, was concerned about information security and patient data contained within the laptop. Ms. Keller emailed Detective Kendrick on September 5, 2023. Ms. Keller told Detective Kendrick that she would be the contact person at the University of Kansas Health System for any further law enforcement needs. Ms. Keller put a "legal hold" on the data on Defendant's laptop to preserve any data contained on the laptop, and directed the University of Kansas

Health System Information Technology Department (“IT Department”) to preserve as much laptop data as possible. The IT Department later informed Ms. Keller about suspicious data found on the laptop. Ms. Keller then contacted Detective Kendrick about the data found on the laptop, specifically informing Detective Kendrick that Defendant searched for colchicine and attempted to or completed a purchase of colchicine in early August. Ms. Keller also informed Detective Kendrick that none of Defendant’s Poison Control calls involved colchicine.

Following his conversation with Ms. Keller, Detective Kendrick travelled to Kansas. On October 3, 2023, Detective Kendrick obtained a search warrant for data, property, and things from KUMC, including any physical workstations accessed by Defendant during August 2023, Defendant’s emails, and Defendant’s personnel file (Exhibit 3).

On October 9, 2023, Detective Kendrick obtained a search warrant to search fourteen (14) electronic devices seized from Defendant’s residence during the August 30, 2023 search. These fourteen (14) devices included computers, iPhones, hard drives, a smartwatch, and data storage devices. The search included saved, deleted, back-up, and hidden data, as well as data contained within computer applications that related to ownership, possession, and use of the devices, as well as web browsing data, media, text messages, or other communications contained in the devices (Exhibit 4).

On October 20, 2023, two search warrants were issued. The first warrant authorized a search of Defendant's vehicles, residence, and person.¹ A US Bank deposit receipt was located during this search of Defendant's residence. During the execution of this warrant, Defendant was arrested on suspicion of 1st degree murder for the alleged murder of Ms. Betty Bowman, and transported to the Olmsted County Adult Detention Center ("ADC"). The second October 20, 2023 search warrant (Exhibit 6) was issued a few hours after the previous search warrant. This search warrant authorized a search of Defendant's vehicles, residence, and person for "Evidence of colchicine including bottles, labels, prescriptions, tablets, liquids, suspensions, receipts, and/or invoices; All financial documents for [Defendant] . . .; and All financial documents for Betty Jo Bowman."

On November 6, 2023, Detective Kendrick obtained two (2) separate search warrants, for searches of Mark Cuban Cost Plus Drugs and Truepill, respectively, for any of Defendant's account information, any administrative notes made on Defendant's accounts, as well as any access, use, or transactions made by Defendant from July 9, 2023 until October 20, 2023 (Exhibit 9). The warrants also sought any information about a specific transaction that occurred on August 11, 2023.

LEGAL ANALYSIS

Unreasonable searches and seizures are prohibited by both the United States

¹ This first October 20, 2023 search warrant has not been introduced as evidence or otherwise provided to the Court.

and Minnesota Constitutions. U.S. CONST. amend. IV; MINN. CONST. art. I, § 10. “A search is presumptively unreasonable unless it is conducted under a valid warrant or a specific exception to the warrant requirement applies.” *State v. McNeilly*, 6 N.W.3d 161, 175 (Minn. 2024) (citing *State v. Othoudt*, 482 N.W.2d 218, 221-22 (Minn. 1992)). In general, evidence discovered pursuant to an unreasonable search or seizure “must be suppressed.” *State v. Jackson*, 742 N.W.2d 163, 177-78 (Minn. 2007) (citations omitted). Determining whether an unreasonable search or seizure occurred depends “on the facts of each particular case” requiring a “particularized inquiry.” *State v. Davis*, 732 N.W.2d 173, 178 (Minn. 2007) (citations omitted). In moving for the suppression of evidence on constitutional grounds, “[a] defendant . . . bears the threshold burden of proving that he or she has a right protected by the constitution” while “[t]he State bears the burden of establishing that the challenged evidence was obtained in accordance with the constitution.” *State v. Edstrom*, 916 N.W.2d 512, 517 (Minn. 2018) (citations omitted).

Both the Minnesota and the United States Constitutions require that a search warrant only be issued upon a showing of probable cause and that the warrant describe with particularity the place to be searched and the person or items to be seized. U.S. CONST. amend. IV; MINN. CONST. art. I, § 10. The purpose of the search warrant particularity requirement “is to prevent law enforcement officers, in their sole discretion unlimited by the detached and neutral judgment of a magistrate, from engaging in general or exploratory searches.” *State v. Mathison*, 263 N.W.2d 61, 63 (Minn. 1978). “The particularity requirement also ‘prevents the seizure of one thing

under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant.” *McNeilly*, 6 N.W.3d at 175 (quoting *Marron v. United States*, 275 U.S. 192, 196 (1927)).

“[T]he State cannot overcome the argument that a warrant is not sufficiently particular by claiming that other constraints deter the police from carrying out the search in an overbroad manner.” *Id.* at 177. Therefore, the constitutionally required particularity must be found within the search warrant, “not in the supporting documents.” *Groh v. Ramirez*, 540 U.S. 551, 557 (2004) (citations omitted); *See also State v. Fawcett*, 884 N.W.2d 380, 387 (Minn. 2016). In examining the particularity of a search warrant, a court considers the totality of the circumstances including “the circumstances of the case . . . as well as the nature of the crime under investigation and whether a more precise description is possible under the circumstances.” *State v. Miller*, 666 N.W.2d 703, 713 (Minn. 2003) (citations omitted). The court is to make “a case-by-case examination” of the particularity of a search warrant. *State v. Sardina-Padilla*, 7 N.W.3d 585, 601 (Minn. 2024) (citing *Miller*, 666 N.W.2d at 713). Given the fact-specific analysis required in examining the particularity of a search warrant, courts “afford ‘a degree of flexibility to the particularity requirement.’” *Id.* at 599 (quoting *State v. Poole*, 499 N.W.2d 31, 34 (Minn. 1993)). The “general remedy” for the issuance and execution of a search warrant that lacks the constitutionally required level of particularity “is the suppression of the evidence seized under the warrant.” *State v. McNeilly*, 6 N.W.3d 161, 176 (Minn. 2024) (citing *United States v. Calandra*, 414 U.S. 338, 347 (1974)).

The issues addressed by the Court at this time are whether the search warrant in Exhibits 6 meets the constitutional particularity requirement, and whether the search warrants in Exhibits 1 and 9 are invalid due to statutory violations.

I. The search warrant in Exhibit 6 is sufficiently particular given the circumstances of the case and inability of law enforcement to provide a more precise description.

As a preliminary matter, the issue of what documents can be considered by the Court in its analysis of the particularity of the Exhibit 6 search warrant must be addressed. As discussed above, the particularity requirement generally requires particularity in the warrant itself, not in any “supporting documents,” such as a search warrant application or affidavit. *Groh*, 540 U.S. at 557 (citations omitted). However, “if the [search] warrant uses appropriate words of incorporation, and if the supporting document accompanies the warrant,” the search warrant may be construed with “reference to a supporting application or affidavit.” *State v. Fawcett*, 884 N.W.2d 380, 387 (Minn. 2016) (quoting *Groh*, 540 U.S. at 557–58). Additionally, some flexibility may be afforded to construe the search warrant along with the search warrant application or affidavit when “the officer who prepared the warrant and application also executed the search warrant” or “even if the [search warrant] affidavit is merely present at the search.” *State v. Balduc*, 514 N.W.2d 607, 610 (Minn. Ct. App. 1994) (quoting *Rickert v. Sweeney*, 813 F.2d 907, 909 (8th Cir.1987)) (other citations omitted).

Here, no testimony or other evidence was presented regarding whether the search warrant application and affidavit accompanied the Exhibit 6 search warrant.

The search warrant in Exhibit 6 did not use any words of incorporation to incorporate the search warrant application and affidavit into the warrant. There was no evidence offered to show that the law enforcement officers who prepared the search warrant and search warrant application were the same law enforcement officers who executed the search warrant. Nor is there any evidence regarding what documents law enforcement provided to Defendant during the search, leaving it unclear whether the search warrant application and affidavit were present along with the search warrant at the time the search was conducted. As such, there has been no evidence introduced to allow the Court to construe the Exhibit 6 search warrant with reference to the search warrant application and affidavit. Therefore, in analyzing the particularity of Exhibit 6, the Court shall consider only the search warrant.

The search warrant in Exhibit 6 permits the search of a residence in southwest Rochester, Olmsted County, Minnesota, with the search to include “any detached buildings such as sheds or garages directly associated with the address,” as well as the search of two vehicles, identified by each vehicle’s VIN, and Defendant’s person.² Exhibit 6. The search warrant authorizes the search of those locations and Defendant’s person for “Evidence of colchicine including bottles, labels, prescriptions, tablets, liquids, suspensions, receipts, and/or invoices.” *Id.* Defendant is not challenging the particularity of this clause. Rather, Defendant challenges the particularity of the subsequent two clauses, which authorize the search for and

² While Defendant does not contest the particularity of the locations and areas to be searched, the Court finds that the search warrant describes the locations and areas to be searched with sufficient particularity.

seizure of “All financial documents” for Defendant and Ms. Bowman. *Id.* Defendant challenges the clauses on the grounds that the clauses authorizing the search for and seizure of all of Defendant’s and Ms. Bowman’s financial documents lack particularity.

While general warrants are unconstitutional due to a lack of particularity, *State v. Mathison*, 263 N.W.2d 61, 63 (Minn. 1978) (citations omitted), “[a] warrant permitting a broad search can be sufficiently particular if greater specificity is not possible because officers do not know all the circumstances surrounding the alleged crime.” *Sardina-Padilla*, 7 N.W.3d at 599. Furthermore, “the description of items in a warrant must only be ‘as specific as the circumstances and the nature of the activity under investigation permit.’” *State v. McNeilly*, 6 N.W.3d 161, 175-76 (Minn. 2024) (quoting *State v. Hannuksela*, 452 N.W.2d 668, 674 (Minn. 1990)). Therefore, utilizing a description of a “generic class of items” within a search warrant may be sufficiently particular, especially in situations “[w]here the precise identity of goods cannot be ascertained at the time the warrant is issued.” *State v. Miller*, 666 N.W.2d 703, 713 (Minn. 2003) (quoting *United States v. Wayne*, 903 F.2d 1188, 1195 (8th Cir. 1990)).

At the time the search warrant in Exhibit 6 was issued, Defendant had been arrested on suspicion of 1st degree murder. In determining a motive for Ms. Bowman’s death, law enforcement had some information regarding issues in the Bowman’s marriage as well as limited information regarding Defendant’s financial issues. Law enforcement had received information from at least three witnesses that Defendant had significant and “excessive” amounts of debt, potentially in the tens of thousands

of dollars. Witnesses had informed law enforcement that Ms. Bowman knew of Defendant's debts after seeing some bills in the mail. Law enforcement also received information that Defendant had received \$500,000 following Ms. Bowman's death. During the search earlier that day, law enforcement had found a bank deposit receipt for \$450,178, in Defendant's residence. Given this information, law enforcement had a basis for investigating further into a possible financial motive for Ms. Bowman's death.

While law enforcement had some information regarding a possible financial motive at the time the search warrant was issued, the information was limited and the precise motive for Ms. Bowman's death was unknown. Law enforcement had reason to suspect that Defendant had substantial debts, but had no specific information regarding when those debts accrued, to whom those debts were owed, and the exact amount of Defendant's debt. Lacking further specifics about the timing, amount, and source of Defendant's debt, law enforcement had no ability to further tailor their search of Defendant's and Ms. Bowman's financial records. Law enforcement was unable to provide a temporal limit in the search warrant as law enforcement had no information about when the debts accrued. Given the lack of details law enforcement had about Defendant's financial situation, greater specificity in the search warrant was not possible. Due to the possibility of a financial motive for Ms. Bowman's death, but lacking further details about the Bowman's financial situation, and not knowing the precise identity of the financial records needed by law enforcement to acquire further information about the Bowman's financial situation,

the clauses seeking “[a]ll financial documents” were as specific as the circumstances at that time permitted.

Here, the use of a generic class of items, namely “[a]ll financial documents,” was sufficiently particular given the possibility of a financial motive for Ms. Bowman’s death and the otherwise limited information about the Bowman’s finances law enforcement had at the time the search warrant was issued. As these clauses were sufficiently particular, Defendant’s Motion to Suppress based on a lack of particularity in Exhibit 6 is denied.

II. Defendant has not demonstrated any statutory violations occurred nor that exclusion of information in the search warrant application would be the proper remedy if statutory violations had occurred.

Defendant additionally argues that portions of the search warrant affidavits in Exhibits 1 and 9 should be excluded from the search warrant applications as the information was obtained through violations of statutes and from law enforcement’s warrantless questioning of two prescription drug companies. Each exhibit will be addressed separately below.

A. No statutory violations occurred regarding any information sought to be excluded from the Exhibit 1 search warrant affidavit.

Defendant seeks to exclude from the Exhibit 1 search warrant affidavit multiple statements made to law enforcement by the Bowman’s friends and colleagues about Ms. Bowman’s health. Defendant argues that as these witnesses were health care professionals discussing another’s health information, the disclosures were prohibited under the Minnesota Health Records Act (“MHRA”). Defendant also argues that some of the information Dr. Dumais shared with law

enforcement was shared in violation of the Minnesota health care review organization statute (“health care review statute”). Defendant further argues that based on these statutory violations, the information provided to law enforcement should be stricken from the search warrant affidavit. Each of those three arguments will be addressed individually.

1. None of the information shared with law enforcement is protected by the MHRA.

Defendant’s argument that the MHRA protects the information provided by the Bowman’s friends and colleagues is without merit. While it may be technically accurate that the witnesses who provided information to law enforcement were medical professionals communicating “health information”, these disclosures were not prohibited by the MHRA. The MHRA prohibits “[a] provider or a person who receives health records from a provider” from disclosing a patient’s health care records without the patient’s consent, unless specifically authorized by Minnesota law or a specific exception applies. Minn. Stat. § 144.293, subd. 2. None of the statutory exceptions to the consent requirement apply here and the State does not explicitly argue that Minnesota law authorizes the disclosure. However, the disclosures made by the witnesses do not qualify as health records disclosed by a patient’s medical providers, pursuant to statutory definitions.

The MHRA defines a patient as “a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition.” *Id.* § 144.291, subd. 2(g). A provider is defined as “any person who furnishes health care services and is regulated to furnish the services” pursuant to

specific Minnesota statutes. *Id.* subd. 2(i). Reading these definitions together, under the MHRA the “patient” would be the person receiving care from the “provider.” Incorporating these definitions into the MHRA’s provisions, the MHRA prohibits the provider, who provides health care to the patient, from disclosing the health records of a patient, who is receiving health care from the provider, without the patient’s consent. Here, Defendant has presented no evidence that Ms. Bowman was receiving health care services from any of the individuals who provided information to law enforcement, such that the individuals were medical providers for Ms. Bowman. While these individuals were medical providers, they were not Ms. Bowman’s medical providers. Similarly, while Ms. Bowman was a patient being treated by some medical providers, she was not a patient of these medical providers. As the individuals who provided information to law enforcement were not “providers” as defined by the MHRA, and Ms. Bowman was not the “patient” of these individuals, the disclosures made by these individuals were not governed by the MHRA.

Additionally, some of the information Defendant seeks to exclude from the search warrant affidavit is not a health record as defined by the MHRA. The MHRA defines a health record as “any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; [or] the provision of health care to a patient.” *Id.* subd. 2(c). Some of the statements in question involve the witnesses’ own observations or opinions. For instance, one witness “noticed that [Ms. Bowman] didn’t respond appropriately to normal medical interventions.” This statement is a witness’s own

observations of what she noticed about an individual who was not a patient of this witness.³ Another witness informed law enforcement that Defendant asked him to look into Ms. Bowman's medical chart to determine possible causes of Ms. Bowman's illness. This statement does not include information about Ms. Bowman's condition or health care. This same witness also informed law enforcement that he noticed an "open encounter" addressed to Defendant on a medical record. This information is Defendant's observation of what he noticed on a group inbox and does not involve Ms. Bowman's condition or health care. Another statement involves information that Defendant shared with a witness about Defendant having previously had a complaint filed against him with the Board of Medicine. This statement does not involve anyone's medical condition or health care. Therefore, in addition to these statements not involving a provider who is treating a patient, these statements also do not involve health records such that the statements would be protected under the MHRA.

Furthermore, much of the information the witnesses shared with law enforcement was information provided to the witnesses by either Ms. Bowman or Defendant, including information a witness received from Ms. Bowman with Ms. Bowman's assumptions that her illness was related to a drink she had the night before. Other witnesses shared with law enforcement statements made by Defendant about Ms. Bowman's hospitalization, her physical condition, and her alleged

³ Precluding such observational statements made by medical professionals about individuals they are not treating would lead to a nonsensical result, such that a medical professional who observes a car accident could not inform law enforcement about any injuries they noticed or their own observations about the medical condition of anyone involved in the accident. Defendant does not cite to any binding legal authority establishing that the MHRA prohibits medical professionals from making these observational statements to law enforcement.

diagnosis with a rare autoimmune disease HLH. Defendant also informed a witness about a prior complaint filed about him with the Board of Medicine. According to Defendant's argument, as Defendant is a medical professional, he would have violated the MHRA by sharing this information with these witnesses. It is counterintuitive to allow Defendant to violate the MHRA, by sharing this information with his friends and colleagues, but then later attempt to seek the protection of the MHRA by preventing the witnesses from informing law enforcement about what Defendant told them.

Moreover, similar to situations involving the voluntary disclosure of privileged information, "when the holder of a privilege destroys the confidentiality of information by disclosure, the information loses its privileged character and the holder may no longer assert the privilege with respect to the disclosed information." *State v. Gore*, 451 N.W.2d 313, 318-19 (Minn. 1990). Accordingly, "[o]nce a 'secret' is publicly disclosed, it serves little purpose in not allowing it to be restated. At the very least, it must be said that the investigation of truth outweighs the policies against the restatement of information already public." *State v. Clark*, 296 N.W.2d 372, 376 (Minn. 1980). Even assuming the information conveyed by Defendant and Ms. Bowman was health record information, the secretness of that information was lost when that information was then disclosed to third party witnesses. As many of the challenged statements contained information initially received from Ms. Bowman or Defendant, the disclosure of this information by Defendant and Ms. Bowman resulted

in the loss of any privilege, confidentiality, or protection this information may have originally had.

Taking Defendant's argument to its logical conclusion would culminate in an absurd result wherein no medical professional would be able to provide law enforcement with any information related to *anyone's* medical condition, including that professional's family members or persons that professional has never treated medically. Defendant provides no legal authority that the Minnesota Health Records Act prevents such disclosures to law enforcement. In the absence of binding legal authority preventing such disclosures, the Court will not extend the reach of the MHRA to prevent non-treating medical professionals, acting as lay witnesses, from sharing information with law enforcement, even if such information includes an individual's medical condition or health care treatment. As a result, the Court does not find that the statements in Exhibit 1 violate the MHRA.

2. The information Dr. Dumais shared with law enforcement is not privileged under the Minnesota health care review organization statute.

Defendant additionally contends that portions of the information Dr. Mitchell Dumais provided to law enforcement was privileged information disclosed in violation of the Minnesota health care review statute, Minn. Stat. §§ 145.61-145.66. Defendant argues that because of this statutory violation, this information should be stricken from the search warrant affidavit.

The Minnesota health care review statute states that

data and information acquired by a review organization, in the exercise of its duties and functions, or by an individual or other entity

acting at the direction of a review organization, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery.⁴

Minn. Stat. § 145.64, subd. 1. In his interview with law enforcement, Dr. Dumais informed law enforcement that during his August 23, 2023 monitoring of a group inbox for open encounters on patients' medical records, he noticed an open encounter assigned to Defendant, indicating that Defendant had accessed Ms. Bowman's medical records at some point the previous day. Dr. Dumais told law enforcement that he informed his supervisor about this issue and also "relayed his concerns about needing a toxicologist" to investigate Ms. Bowman's death. Assuming, *arguendo*, that Dr. Dumais was part of a health review organization, as defined by the statute, Defendant has not established that the information about needing a toxicologist to investigate Ms. Bowman's death was information acquired by Dr. Dumais in the exercise of the duties and functions of the health review organization. Defendant has not demonstrated that Dr. Dumais had not otherwise acquired this information, based on what Defendant had told him about Ms. Bowman's health, Ms. Bowman's alleged HLH diagnosis, and background information Dr. Dumais acquired during his friendship with the Bowmans. Nor has Defendant demonstrated that Dr. Dumais was not carrying out "one or more of the purposes of the review organization" when he

⁴ The statute further states that "[n]o person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization." Minn. Stat. § 145.64. Defendant has provided no evidence that the information Dr. Dumais shared with his supervisor was shared during a meeting, as opposed to a text message, email, or other non-contemporaneous communication. Thus, Defendant has not established that this clause applies to Dr. Dumais.

shared information with law enforcement. While Defendant has provided some purposes of the Mayo Clinic Internal Medicine Residency Program and the Mayo Clinic School of Graduate Medical Education, the purposes provided by Defendant were not an exhaustive list, nor did the purposes listed prohibit Dr. Dumais from sharing information with law enforcement about suspicions Dr. Dumais had regarding Ms. Bowman's death and Defendant's behavior immediately after her death. As Defendant has not demonstrated that the information Dr. Dumais shared with law enforcement was privileged information prohibited from disclosure under the Minnesota health care review statute, the disclosures made by Dr. Dumais did not violate this statute.

3. Defendant has not established that, even if there were statutory violations, excluding information from a search warrant affidavit is the proper remedy.

Defendant further argues that the alleged statutory violations committed by the witnesses in providing information to law enforcement necessitates that the information provided be stricken from the search warrant affidavit. While the Court has not found that any statutory violations occurred, the Court additionally does not find that excluding the information from the search warrant affidavit is the proper remedy.

"Minnesota's law regarding the suppression of evidence based on a statutory or rule violation is well-established." *State v. Mike*, 919 N.W.2d 103, 112 (Minn. Ct. App. 2018). This well-established law includes the Minnesota Supreme Court ruling that there is no requirement of "suppression of all evidence seized in searches

constituting, or resulting from, a violation of a statute.” *State v. Smith*, 367 N.W. 2d 497, 504 (Minn. 1985) (citing *State v. Lien*, 265 N.W.2d 833, 841 (Minn. 1978)). As “[t]he purpose of suppression is not to vindicate a defendant’s rights nor to affirm the integrity of the courts, but to deter police from engaging in illegal searches,” *State v. Cook*, 498 N.W.2d 17, 20 (Minn. 1993), it follows that suppression is not mandated when law enforcement would not be deterred from engaging in illegal searches. Suppression of evidence that was obtained pursuant to a statutory violation is also not required “unless the violation undermines the purpose of the statute.” *Mike*, 919 N.W.2d at 111.

The purpose of the health care review statute is “to serve the strong public interest in improving the quality of health care . . . reflect[ing] a legislative judgment that improvements in the quality of health care will be fostered by granting certain statutory protections to health care review organizations.” *Kalish v. Mount Sinai Hosp.*, 270 N.W.2d 783, 785 (Minn. 1978). “The purpose of the [statutory] privilege is ‘to assure that the discussions necessary to improve patient care are carried on, despite threats of malpractice and defamation actions.’” *In re Fairview-Univ. Med. Ctr.*, 590 N.W.2d 150, 153 (Minn. Ct. App. 1999) (quoting *In re Parkway Manor Healthcare Ctr.*, 448 N.W.2d 116, 120 (Minn. Ct. App. 1989)).

Defendant argues that by Dr. Dumais informing law enforcement that he noticed Defendant’s open encounter in a medical record, reported this issue to his supervisor, and relayed concerns about needing a toxicologist for Ms. Bowman’s autopsy, Dr. Dumais violated the health care statute requiring exclusion of this

information from the Exhibit 1 search warrant affidavit. However, Defendant has not established that the information conveyed by Dr. Dumais to law enforcement undermines the purpose of the health care review statute. Conveying information to law enforcement regarding concerns about a doctor's unauthorized access to patient records and concerns about a colleague's death has no negative impact on the internal discussions within a health care review organization to improve patient care. In fact, it could be argued that communicating information about suspected criminal behavior allegedly committed by a practicing medical professional to law enforcement improves health care, as patients are assured that law enforcement would be notified of any criminal behavior by medical professionals and medical professionals are further deterred from committing criminal acts. As Defendant has not established that the purpose of the health care review statute would be undermined by Dr. Dumais providing information to law enforcement, suppression and exclusion of this evidence from the search warrant affidavit is not proper.

The purpose of the MHRA has been found to be a “level[ing of] the playing field between [patients and health care providers] regarding health care records” in that “[t]he statute limits to whom, under what circumstances, and for what purpose the healthcare provider may share healthcare records with other persons and entities, and it provides patients with various rights to access their own health care records.” *Findling v. Group Health Plan, Inc.*, 998 N.W.2d 1, 7-8 (Minn. 2023). Therefore, the purpose of the MHRA includes a patient's rights to both access their own health care records, which is not applicable here, and prevent authorized disclosure of these

records to protect their privacy. *Id.*; See also *Yath v. Fairview Clinics, N.P.*, 767 N.W.2d 34, 49-50 (Minn. Ct. App. 2009). There is nothing to indicate that a purpose of the MHRA includes preventing a deceased person's friends and colleagues from sharing their own observations about the person's condition, information they received in text messages from that person, or information provided by that person's spouse while the person was hospitalized. Even accepting Defendant's argument that the information provided from the Bowman's friends and colleagues violated the MHRA, the purpose of preventing unauthorized disclosures of health records to prevent patient privacy is not undermined by this sharing of information. In many situations, a patient may prefer to forgo their privacy in health records to allow law enforcement to investigate a crime perpetrated against them, particularly in a situation when a patient is unable to consent to the release of the health records. As Defendant has not established that a purpose of the MHRA was undermined by the disclosures made by Ms. Bowman's friends and colleagues to law enforcement, suppression or exclusion of this information from the search warrant is not a required remedy.

The statements Defendant seeks to exclude from the Exhibit 1 affidavit do not qualify as disclosures of health records made by a provider about a patient, according to MHRA definitions, nor are Dr. Dumais's disclosures to law enforcement governed by the Minnesota health care review statute. Defendant has additionally failed to establish that even if statutory violations occurred, exclusion of the information from

the search warrants affidavits is the required remedy. Accordingly, Defendant's Motion to Suppress statements from the Exhibit 1 search warrant affidavit is denied.

B. The Court shall not strike information from the Exhibit 9 search warrant affidavit as Defendant has not established that this information is covered under the MHRA.

Defendant's Motion to Suppress seeks to exclude the information obtained via phone calls by Detective Kendrick to Truepill and Mark Cuban Cost Plus Drugs on the grounds that the information was obtained from these online pharmacies in violation of the MHRA.⁵ However, Defendant has failed to demonstrate that the information obtained by Detective Kendrick meets the definition of a health record under the MHRA. For this reason, Defendant's Motion to Suppress and exclude information from the Exhibit 9 search warrant affidavit is denied.

The MHRA defines health record as "any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient." Minn. Stat. § 144.291, subd. 2(c). After obtaining information from Defendant's bank account records revealing that two transactions were made with Truepill in early August 2023, Detective Kendrick contacted Truepill via telephone. During Detective

⁵ In his written brief, Defendant also argues that law enforcement executed an unconstitutional search by questioning employees of the online pharmacies without a warrant. This issue was raised for the first time in the brief and was not mentioned in Defendant's Motion 9. Pursuant to *State v. Needham*, 488 N.W.2d 294, 296 (Minn. 1992), requiring that "[a] pretrial motion to suppress should specify, with as much particularity as is reasonable under the circumstances, the grounds advanced for suppression," this issue is not properly before the Court and shall not be addressed by the Court at this time.

Kendrick's conversation with Truepill, Detective Kendrick obtained information confirming that Defendant made those two purchases and that the purchases were made through Mark Cuban Cost Plus Drugs. Beyond a conclusory statement that prescriptions are health records, Defendant has not presented any information or evidence demonstrating for whom or why the two prescriptions were ordered. Defendant has not established that the two purchases related to any of his own past, present, or future physical conditions or that the purchases related to his role as a medical provider treating patients such that the purchases qualify as a health record under the MHRA. Defendant has not demonstrated these prescriptions related to any patient's health care. As Defendant has not established that the prescriptions related to any provision of health care to a patient, he can likewise not demonstrate that the information related to any payment for the provision of health care to a patient. As a result, Defendant has not shown that the information Detective Kendrick obtained from Truepill meets the MHRA definition of health care record.

During Detective Kendrick's subsequent phone call with Mark Cuban Cost Plus Drugs ("Cost Plus Drugs"), Detective Kendrick obtained information that Defendant had completed the two August 2023 transactions through Cost Plus Drugs, that the first transaction was for sildenafil citrate, that the second transaction was for colchicine, and that Defendant's Cost Plus Drugs account was closed/deleted. Detective Kendrick was also informed that no other information would be provided to him without a search warrant. As with the information obtained from Truepill, Defendant has not established that the information from Cost Plus Drugs meets the

MHRA definition of health record. Defendant has not established that the two medications ordered were related to his past, present, or future physical condition, or that the medications involved a patient that Defendant was treating. Again, Defendant has not presented any information or evidence demonstrating for whom or why the two medications were ordered. Defendant has not provided any information indicating that the prescriptions were related to the provision of health care to anyone, whether himself or a patient he was treating. As Defendant has not demonstrated that the prescriptions were related to the provision of health care to a patient, he is therefore unable to demonstrate that the information related to the payment for the provision of health care to a patient. Additionally, Defendant presents no argument that information about his account status with Cost Plus Drugs meets the definition of a health record.

Defendant argues that as pharmacies “receive health records (i.e. prescriptions) from a provider,” the information obtained by Detective Kendrick from the two online pharmacies naturally meets the definition of a health record under the MHRA. However, nowhere in the MHRA definition of health care is the word “prescription” used. Rather, the definition requires that to be considered a health record under the MHRA, the information must relate to “the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.” *Id.* Defendant has not established that any of the information obtained by Detective Kendrick meets this MHRA definition of health record. As a result, the

Court shall not order that the information obtained by Detective Kendrick during phone calls with two online pharmacies be excluded from the Exhibit 9 search warrant affidavit.

CONCLUSION

The search warrant in Exhibit 6 was sufficiently particular as to the items to be searched for and seized based on the circumstances of the case and the lack of details law enforcement had about the Bowman's financial situation at the time the search warrant was issued. Therefore, Defendant's Motion to Suppress based on a lack of particularity as to the search warrant in Exhibit 6 is **DENIED**.

None of the information Defendant seeks to exclude from the Exhibit 1 and Exhibit 9 search warrant affidavits is subject to the Minnesota Health Records Act, pursuant to the definitions contained within the Act. Defendant has also not demonstrated that the information provided by Dr. Dumais to law enforcement was subject to the Minnesota health care review statute. Additionally, Defendant has not established that exclusion of the information is required even if the information had been obtained following a statutory violation of the Minnesota Health Records Act or health care review statute. For these reasons, Defendant's Motion to Suppress based on statutory violations as to the search warrants in Exhibits 1 and 9 is **DENIED**.

K.M.W.