Circuit Court for Prince George's County
Case No.: CAL22-28929

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 444

September Term, 2023

BRIAN KEITH WAUGH

v.

DIMENSIONS HEALTH CORPORATION

Arthur,
Leahy,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 4, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Brian Keith Waugh, appellant, sued Dimensions Health Corporation, appellee, in the Circuit Court for Prince George's County, alleging medical malpractice. Waugh alleged that, while having his blood drawn by a medical student after signing an informed-consent form, he advised the student not to probe for a vein if she was unable to draw blood. According to Waugh, she ignored his request and "went deep down inside [his] right armpit[,]" causing it to become "more sore with sharp pain." Waugh did not file his claim with the Health Claims Arbitration Office ("HCAO") before suing in the circuit court. So Dimensions Health moved to dismiss his complaint as prematurely filed. The circuit court granted the motion. This appeal followed.

We review a trial court's grant of a motion to dismiss for legal correctness. *Davis v. Frostburg Facility Operations, LLC*, 457 Md. 275, 284 (2017). In doing so, "we accept all well-pled facts in the complaint, and reasonable inferences drawn from them, in a light most favorable to the non-moving party." *Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 475 (2004). We limit our analysis of the facts to the "four corners of the complaint." *Id.* (cleaned up).

Under the Health Claims Act, a plaintiff claiming a "medical injury" committed by a "health care provider" and more than $30,000 in damages must first file their claims with the HCAO. Md. Code Ann., Cts. & Jud. Proc. § 3-2A-02(a)(1). On appeal, Waugh questions only whether his claim qualified as a "medical injury." The Act defines this as an "injury arising or resulting from the rendering or failure to render health care." *Id.* § 3-2A-01(g). Here, Waugh's alleged injury resulted from the student's rendering health care in a manner contrary to his instruction. It was therefore a medical injury. Waugh does

not allege that his injury "resulted from conduct completely lacking in medical validity in relation to the medical care rendered." *Goicochea v. Langworthy*, 345 Md. 719, 728 (1997). Even if performed in a manner contrary to his instruction, the student's conduct was still medically valid. Waugh was thus required to file with the HCAO before suing in the circuit court, and the court did not err in dismissing his complaint.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.