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1 EIGHTH JUDICIAL DISTRICT COURT
 2 COUNTY OF CLARK, STATE OF NEVADA
 3
 4 BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
 5 DISTRICT COURT
 6
 7 STATE OF NEVADA
 8 Plaintiff,
 9 vs. CASE NO. 09BGJ049A-C
 10 DIPAK KANTILAL DESAI,
 11 RONALD ERNEST LAKEMAN,
 12 KEITH MATHAHS,
 13 Defendants.
 14
 15 Taken at Las Vegas, Nevada
 16 Thursday, May 6, 2010
 17 2:00 P.M.
 18 REPORTER'S TRANSCRIPT OF PROCEEDINGS
 19 VOLUME 6
 20
 21
 22
 23
 24
 25 REPORTED BY: LISA BRENSKE, CCR #186

1 GRAND JURORS PRESENT ON THURSDAY, MAY 6, 2010:
 2
 3 PAMELA YOUNG, Foreperson
 4 JOSEPH WILLOUGHBY, Assistant Foreperson
 5 LOUISE ZUNIGA, Secretary
 6 SVEN BRADLEY
 7 CONSTANCE CABILES
 8 LISA CAMP
 9 AGNES PARKER
 10 YOLANDA PARKER
 11 BIANCA ROBERSON
 12 ROBERT ROSE
 13 STEVEN SHLUKER
 14 ALICE SZURAN
 15 MICHAEL THOMPSON
 16 THOMAS UHRHAN
 17 ANNE ZARATE
 18
 19
 20 ALSO PRESENT AT THE REQUEST OF THE GRAND JURY:
 21 MICHAEL STAUDAHER, ESQ.,
 22 Deputy District Attorney
 23 JEFFREY SEGAL, ESQ.,
 24 (On behalf of the witness)
 25

FILED
 JUN 08 2010
 Clerk of Court

1 WITNESSES
 2 EXAMINED
 3 ANN MARIE LOBIONDO 8
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1 LAS VEGAS, NEVADA, THURSDAY, MAY 6, 2010
 2 * * * * *
 3
 4 LISA BRENSKE,
 5 having been first duly sworn to faithfully
 6 and accurately transcribe the following
 7 proceedings to the best of her ability.
 8
 9 MR. STAUDAHER: On the record again in the
 10 case of state of Nevada versus Dipak Kantilal Desai,
 11 Ronald Ernest Lakeman and Keith H. Mathahs, grand jury
 12 case number 09BGJ049A through C.
 13 Ladies and gentlemen, as in the previous
 14 presentations that have been before the Grand Jury I
 15 have to tell you two things or I have to at least
 16 discuss two issues with you. First of all for those of
 17 you who were not here during any portion of the prior
 18 proceedings it is incumbent upon you prior to
 19 deliberating -- and you will not be asked to deliberate
 20 today -- but prior to deliberating in order to
 21 deliberate all of you must have read all the
 22 transcripts or been present for the entirety of the
 23 Grand Jury proceeding. Is that understood?
 24 THE JURY MEMBERS: Yes.
 25

MR. STAUDAHER: Do I have a general acknowledgment that you will all follow that?

THE JURY MEMBERS: Yes.

MR. STAUDAHER: You have been afforded at various times and will before this case is done an opportunity to have a chance to review those transcripts if you haven't done so. And the evidence that's before you that's marked as all the exhibits that you have.

In addition I told you at the outset of each and every presentation that I would ask each of you if after hearing the presentations from the prior time or any time before that or if anything has come about since the last proceeding, if any of you have changed your prior view as to being in a position where you can remain unbiased, I wanted you to tell me. Is there anyone now who has had something happen, come across any information, heard any testimony or reviewed any evidence which changes their belief or opinion that they can remain unbiased in this case and just listen to the evidence and render a deliberation based on that evidence? General acknowledgment that they still can remain unbiased; is that correct?

THE JURY MEMBERS: Yes.

MR. STAUDAHER: With that I will bring in

the next witness. Ladies and gentlemen, I only anticipate this one witness for today. So if after this proceeding is done you have some time and want to continue to look at any of the transcripts or any of the evidence you may do it and from that point we'll go forward.

THE FOREPERSON: Would you please remain standing and raise your right hand.

You do solemnly swear that the testimony you are about to give upon the investigation of this Grand Jury shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE FOREPERSON: You are advised that you are here today to give testimony in the investigation pertaining to the offenses of performance of act in reckless disregard of persons or property, criminal neglect of patients, insurance fraud, obtaining money under false pretenses and racketeering involving Dipak Desai, Ronald Ernest Lakeman and Keith H. Mathahs.

Do you understand this advisement?

THE WITNESS: Yes, I do.

THE FOREPERSON: Could you please state your first and last names spelling them for the record.

THE WITNESS: My first name is Ann Marie,

A-n-n M-a-r-i-e. My last name is Lobiondo, L-o-b-i-o-n-d-o.

THE FOREPERSON: Thank you.

MR. STAUDAHER: And, ladies and gentlemen of the Grand Jury, in addition to having Miss Lobiondo here she's accompanied by her attorney Mr. Segal.

If you could put your name on the record for the Grand Jury.

MR. SEGAL: Jeffrey Segal, S-e-g-a-l.

MR. STAUDAHER: Mr. Segal is aware that he cannot participate in this proceeding but he is here to give advice to his client if she so desires during the proceeding.

That being said, ladies and gentlemen, the testimony that you are going to hear from this witness I need to ask a couple of predicate questions of this witness to make sure that she's aware of what the obligations are, what her at least belief is as to the circumstances that she has relating to her testimony.

ANN MARIE LOBIONDO,

having been first duly sworn by the Foreperson of the Grand Jury to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. STAUDAHER:

Q. Miss Lobiondo, you are going to give testimony in this case today; is that correct?

A. Yes.

Q. Are you aware that you have been granted use immunity for your testimony today by both the State and the federal authorities?

A. Yes.

Q. And as a matter of fact did I not communicate with you a couple of days ago that I'd spoken with the U.S. attorney Crame Pomerantz who informed me that in fact you were not only not a target in the federal investigation but that nothing you say today could or would be used against you in any federal prosecution?

A. Yes.

Q. And are you aware that I am now giving you also that same immunity from state prosecution?

A. Yes.

MR. STAUDAHER: Any issues with that, Mr. Segal?

MR. SEGAL: No.

1 BY MR. STAUDAHER:

2 Q. That being said I want to go ahead and ask
3 you a few questions of background at the beginning.
4 Can you tell us first of all what your profession is,
5 what you do for a living?

6 A. I am a certified registered nurse
7 anesthetist.

8 Q. What is a nurse anesthetist?

9 A. I have gone through -- I have a Bachelor's
10 of Science degree in nursing, it was a four-year
11 degree. After that I worked as an RN in critical care
12 situations. I went back to school after that for a
13 master's degree at Columbia University as a
14 pediatric -- my master's degree in nursing with a major
15 in pediatric nurse practitioner. So I was a nurse
16 practitioner first.

17 I worked in that profession and then I
18 went back to school for another two years for another
19 master's degree program which was as a nurse
20 anesthetist which included a residency in anesthesia.
21 So I also took a certifying exam with the American
22 Association of Nurse Anesthetists and I'm certified by
23 any state that I wish to practice in.

24 I applied for a certification through --
25 I'm certified in Nevada and California right now to

1 I also then went back to school at the
2 State University of New York, Downstate Medical Center,
3 Kings County School of Anesthesia and after that I was
4 employed as a nurse anesthetist at New York University
5 Hospital.

6 Q. When was that?

7 A. That was in 1990.

8 Q. When did you come out to Las Vegas?

9 A. After that I went to Los Angeles,
10 California in 19 -- late '91, 1992. I worked in Los
11 Angeles at the Veteran's Administration Hospital at
12 Long Beach. I also worked per diem at Kaiser
13 Permanente Hospitals and I also worked for two private
14 groups called Beverly Hills Anesthesia and Nigel
15 Anesthesia in Los Angeles.

16 Q. So when did you actually get out to Las
17 Vegas?

18 A. I moved to Las Vegas in 1994.

19 Q. When you came to Vegas what position did
20 you take?

21 A. I was a nurse anesthetist at Southwest
22 Medical Center and I left there when I was -- I got
23 pregnant and then I continued to work again on a per
24 diem basis. I worked for a group of orthopaedic spine
25 surgeons and I did anesthesia. It was at that time

1 practice as a nurse anesthetist which means I give --
2 I'm able to assess patients preoperatively, administer
3 anesthesia for surgical procedures and assess them
4 postoperatively and provide anesthesia care throughout
5 a surgical experience.

6 Q. Now, that being said you mentioned some
7 places that you had been trained in your background,
8 your bachelor's degree and your master's and so forth.
9 Where were the locations you had your training?

10 A. I did my undergraduate work at the State
11 University of New York at Downstate Medical Center. I
12 then worked at Memorial Sloan Kettering Cancer Center.
13 I worked at several hospitals in the New York City
14 area; Cornell, St. Vincent's, several hospitals.

15 Then I went to school at Columbia
16 University in New York and that's where I got my
17 master's degree. That included a lot of clinical
18 experience in the hospitals affiliated with Columbia
19 Presbyterian, St. Luke's Roosevelt -- the Columbia
20 Presbyterian hospitals. After that I did work again at
21 Memorial Sloan Kettering Cancer Center, I worked in the
22 bone marrow transplant center unit, the critical care,
23 ICU. I worked at a place called New Alternatives for
24 Children, children who face chronic illnesses to help
25 them transition from the hospital to home.

1 called Lake Mead Hospital which is now renamed North
2 Vista Hospital. I worked with the spine and
3 orthopaedic surgeons there. And then I had two
4 children so I came and left various times. And I
5 worked also for several pain management physicians in
6 Las Vegas at different facilities. Do you want to
7 know --

8 Q. That's fine. Let me ask you a couple
9 additional questions in there. Do you know an
10 individual by the name of Dipak Desai?

11 A. Yes.

12 Q. Did you ever work for him?

13 A. Yes, I did.

14 Q. How was it that you came to work for him?

15 A. I worked for him -- began working for him
16 in September of 2000. I met him -- I was working --
17 prior to September of 2000 I was working a short period
18 of time for a plastic surgeon named Dr. Gordan and a
19 physician came into that facility and asked me if I
20 would be interested in working full-time for Dr. Dipak
21 Desai at the gastroenterology center. So I went over
22 and interviewed with him.

23 Q. Now, the person that came over, was that
24 Dr. Desai?

25 A. No. It was Dr. Maduka.

1 Q. So when you went over to the -- was it the
2 gastroenterology center?
3 A. Yes.
4 Q. When you went over to that location did
5 you actually meet with Dr. Desai?
6 A. I did.
7 Q. Did he hire you?
8 A. Yes, he did.
9 Q. Is this back in September of 2000?
10 A. Yes, it is.
11 Q. Is that when you actually started work for
12 him?
13 A. Yes. I began working for him in September
14 of 2000.
15 Q. What kind of work did he have you do?
16 A. I was providing anesthesia to patients
17 undergoing endoscopy procedures, upper endoscopies and
18 EGDs, esophagogastroduodenoscopies, and colonoscopies.
19 Q. Now, the name that you just said,
20 esophagogastroduodenoscopy, does that refer to the path
21 that you take down the esophagus into the stomach and
22 into the duodenum?
23 A. Yes.
24 Q. So that's the place that the scope or
25 whatever would go to look at things; is that correct?

1 Q. Now, if I understand you correctly,
2 though, you would rotate to other locations during the
3 time you worked; is that correct?
4 A. Yes.
5 Q. So is it fair to say that you didn't work
6 at Shadow Lane or Desert Shadow or the hospital
7 full-time?
8 A. It's fair to say that I started to rotate
9 to other facilities when they hired the second CRNA.
10 Q. Were you the first CRNA that was hired?
11 A. Yes, I was.
12 Q. So prior to --
13 A. As far as I know I was.
14 Q. Well, when you came into the facility were
15 there other CRNAs?
16 A. There were no other CRNAs.
17 Q. Just to make it a little easier the court
18 reporter here is taking down all the words that are
19 being said so it's important that you let me finish my
20 question and I'll try and let you finish your answer
21 because it's kind of hard for her to take down when
22 we're talking over each other.
23 A. I'm sorry.
24 Q. No, that's all right. I do it too. So
25 I'll try to do my part if you do yours.

1 A. Yes, that's correct.
2 Q. And then there's the other thing, the
3 colonoscopy; is that correct?
4 A. Yes.
5 Q. And I assume that looks in the colon?
6 A. Yes.
7 Q. So both ends?
8 A. Yes.
9 Q. Is that primarily what you did, was do
10 anesthesia work for those types of procedures at the
11 clinic?
12 A. Yes. I also maybe about a year after that
13 began rotating to the hospital which was Lake Mead
14 subsequently North Vista Hospital and I would do
15 anesthesia for the same type of procedures at the
16 hospital.
17 Q. Did you work out of all of the clinics?
18 A. Eventually I was the person that rotated,
19 covered, and others did it, but I was the only one that
20 went to the hospital and I also went to the Desert
21 Shadow location, the one that is near Desert Springs
22 Hospital.
23 Q. What about the Shadow Lane location?
24 A. Well, Shadow Lane was where I worked in
25 September of 2000 where I worked most of the time.

1 Getting back to the facility and how many
2 CRNAs they had, you're the first, or at least the only
3 one that's present when you come to work, correct?
4 A. Yes.
5 Q. Were there other anesthesiologists,
6 doctor, MD anesthesiologists working at the clinic from
7 time to time when you were there?
8 A. Yes. They would cover -- when I was there
9 from 2000 until 2004 there was only one procedure room
10 so they would cover when I was not available when I had
11 to take a day off or go elsewhere.
12 Q. So primarily were you the one that was
13 doing the procedures, the anesthesia procedures unless
14 you were gone and had to be covered?
15 A. I was until they hired the second CRNA.
16 Q. Yes. Well, that's what I meant.
17 A. Yes.
18 Q. So the second CRNA, when approximately did
19 that person get hired, if you remember?
20 A. I don't really remember the exact timing
21 of that.
22 Q. Was it a year, two years later, how long?
23 A. It was approximately a year or two years
24 later.
25 Q. Eventually did you leave the Endoscopy

1 Center?

2 A. I left in early 2004.

3 Q. What was the reason for leaving?

4 A. I left to work at another facility. I

5 mean there were reasons that I really didn't like

6 working there.

7 Q. Why did you not like working there?

8 A. It got very stressful. It started out

9 with 20 patients a day and it went to 40 or more.

10 Q. In one room?

11 A. In one room, yes.

12 Q. And that's stressful?

13 A. Pardon me?

14 Q. Is that stressful?

15 A. Well, you're working very hard non-stop.

16 It's very stressful. It's stressful to the people, all

17 the employees, it was stressful to the staff, it was

18 stressful also to the patients.

19 Q. So you leave in 2004. Do you come back at

20 any time?

21 A. I came back in 2000 -- I'm trying to

22 remember the exact. 2006. September of 2006.

23 Q. And how long did you stay at that time?

24 A. I took some time off that November for

25 personal health problems. My dad passed away and so I

1 I was not happy with the working conditions there at

2 Dr. Desai's facility.

3 Q. Now let's talk about a couple things

4 regarding that facility. When you first came in you're

5 the only CRNA at the facility working, correct?

6 A. Yes.

7 Q. Who was your supervisor at the time?

8 A. I considered Dr. Desai to be my

9 supervisor.

10 Q. And were you associated with any MD

11 anesthesiologist at any time during the periods that

12 you worked for Dr. Desai?

13 A. No. As far as being supervising my work?

14 Q. Yes.

15 A. No.

16 Q. If some issue came up and you needed to

17 question someone about that or ask, who would you ask?

18 And I'm talking about anesthesia related things.

19 A. I would consult colleagues that I've known

20 over the years but not that have any supervisory or any

21 administrative duties over me in the Endoscopy Center.

22 If I had a question I would consult a colleague of my

23 own. There was no one in the facility to refer to.

24 Q. And what I mean by that also is if, for

25 example, you had a patient that you're working on and

1 came back probably not until January or February of

2 2006 -- I mean seven. And then since I left in 2004

3 when I came back, I came back as a per diem employee

4 which means I worked three days a week usually and I

5 worked wherever they told me they needed me.

6 Q. So when you say per diem, does that mean

7 by the day?

8 A. By the day. I was not a full-time

9 employee with benefits. I was working by the day, by

10 the hour.

11 Q. So are you telling me that after that 2007

12 time when you finally came back after the personal

13 reasons were you pretty much working at the facility at

14 that time thereafter or did you have another break

15 somewhere in between?

16 A. I left again in June of 2007 I believe.

17 Yes, it was June of 2007 and I never returned after

18 that.

19 Q. So the last time you quit working period

20 for Dr. Desai was in June of 2007?

21 A. Yes.

22 Q. And what was the reason why you left at

23 that time?

24 A. I accepted another position at a surgical

25 facility working for Centennial Spine and Pain Center.

1 there's some problem you need to consult right now,

2 would you turn to Dr. Desai or someone else to get

3 help?

4 A. I would turn to whatever physician was

5 there, yes.

6 Q. Were any of the physicians that were in

7 the practice ever designated as being somebody who was

8 your immediate supervisor beside Dr. Desai?

9 A. Towards the end of my employment they

10 started to -- the administration started to say that,

11 which was in 2007, that Dr. Carol was the person to go

12 to for any issues, but again he's not an

13 anesthesiologist so I didn't feel that goes with the

14 issues we were going to him for. But he was the

15 person -- it always -- it's always been Dr. Desai ran

16 the facility.

17 Q. So he called the shots so to speak?

18 A. Yes.

19 Q. As far as that issue did you ever see him

20 delegate responsibility for hiring, firing, doing

21 anything like that to anybody else?

22 A. I believe he would delegate to Tonya

23 Rushing the administrator.

24 Q. So she had some say in the practice as

25 well?

1 A. Yes.
 2 Q. When it came to actually managing even
 3 small aspects of the practice, though, who was the
 4 person or persons that were involved with that?
 5 A. Mostly Dr. Desai.
 6 Q. Let's move on a little bit here. Now, you
 7 had mentioned the procedures, the colonoscopies and
 8 upper endoscopies; do you recall that?
 9 A. Yes, sir.
 10 Q. During the time that you were
 11 administering anesthesia for those types of procedures,
 12 and I'm not talking about initially when there were MD
 13 anesthesiologists that were coming in to cover you when
 14 you couldn't be there, but at any time when you were
 15 there or even after they started hiring other CRNAs did
 16 you ever see an MD anesthesiologist anywhere on site
 17 doing work?
 18 A. No.
 19 Q. If you were there were you the person that
 20 would do the anesthesia work even initially?
 21 A. Yes.
 22 Q. And you understand how anesthesia billing
 23 goes, correct?
 24 A. Yes. I never had to do my own billing,
 25 but I understand that there are units.

1 A. I would say -- before I left in 2004?
 2 Q. In six, before you left in 2006.
 3 A. It was up to 60 to 80 a day.
 4 Q. Sometimes more than that possibly?
 5 A. Sometimes even more I would say.
 6 Q. And I know you said you didn't
 7 particularly like that whole process, the number of
 8 patients and so forth, but what was the general
 9 atmosphere within the practice?
 10 A. You mean at the surgery center?
 11 Q. Yes.
 12 A. Rushed, hurried, sometimes chaotic, just
 13 very busy.
 14 Q. Did you ever feel any pressure to do your
 15 work and do it quickly?
 16 A. Yes.
 17 Q. Ever feel any other pressure to try and
 18 move things along, keep the schedule from bogging down
 19 at all?
 20 A. Yes.
 21 Q. Was there a person or persons who were
 22 involved in the pressure to hurry up and keep going?
 23 A. Usually that would be Dr. Desai.
 24 Q. And how would you get that? Would he say
 25 things that would tell you that he wanted you to move

1 Q. And we'll get to that in a minute. I just
 2 wanted to know if you were familiar with it.
 3 Now, you had mentioned that you didn't
 4 particularly like working in the facility because of
 5 the numbers and volume and things like that. Did that
 6 ever get better?
 7 A. No. It just got worse.
 8 Q. When you left in June of '06 were you
 9 still in this just one room at that Shadow Lane
 10 facility?
 11 A. When I had left in 2004 they were starting
 12 to work on reconstructing the other side of the
 13 building to make two surgical suites and when I came
 14 back in 2006 that was completed. I don't know exactly
 15 the date they completed it and started using it. And
 16 then they had also hired other CRNAs.
 17 Q. So when you come back to the facility
 18 they've got now two suites that they're using?
 19 A. Uh-huh.
 20 Q. Were the numbers of the patients still
 21 down in the 40 range then?
 22 A. No.
 23 Q. What do you remember as being the average
 24 number of patients that you guys would do in a day
 25 before you left?

1 and get going or how would that happen?
 2 A. He would say things, yes.
 3 Q. Now, who decided how many patients a day
 4 were on that schedule?
 5 A. I believe it was Dr. Desai.
 6 Q. And why do you say that?
 7 A. He was always coming over and looking at
 8 the schedule and just -- I think he dictated how many
 9 patients were scheduled for the day.
 10 Q. Is that based on your observations of
 11 seeing him involved in looking at the schedules and
 12 doing things with related to the schedule?
 13 A. Yes.
 14 Q. Did you ever see him add patients to the
 15 schedule during the day because there weren't enough
 16 patients?
 17 A. He would at times add to the schedule
 18 patients that he had seen in the clinic.
 19 Q. So on the medicine side you mean?
 20 A. Yes.
 21 Q. For the very same day you mean?
 22 A. Yes. Usually -- well, they had to be the
 23 upper endoscopy. You couldn't add a colonoscopy
 24 because the patient wasn't prepped.
 25 Q. Did you ever get in trouble for not moving

1 fast enough?

2 A. Not in trouble, but he could reprimand

3 you, yes.

4 Q. What do you mean by reprimand? What would

5 he do to reprimand you for not moving fast enough?

6 A. He would tell you.

7 Q. You mean verbal type reprimand?

8 A. Verbal, yes.

9 Q. But it was coming from him specifically?

10 A. Yes.

11 Q. Did you ever have any of the other doctors

12 come to you and try and push the schedule along or say

13 you needed to move faster?

14 A. I'd say there were times when other

15 doctors tried to move us along, but I think it was the

16 general -- it was just the general mood there.

17 Everybody had to move fast.

18 Q. Was there ever an instance where you were

19 written up for exerting your medical judgment in not

20 doing a patient?

21 A. Yes.

22 Q. Can you describe that situation.

23 A. There was a time when I refused to give a

24 patient anesthesia because I had seen the patient

25 drinking water and that means they weren't NPO.

1 A. I did.

2 Q. What happened as a result of that?

3 A. An argument ensued.

4 Q. With who?

5 A. With Dr. Desai. Tonya Rushing showed up.

6 Others were involved. I know that one of the medical

7 assistants was there and the patient also got upset

8 because the patient wanted to have the procedure, but I

9 absolutely refused and said I wasn't going to do it and

10 that I would -- as they insisted. I said well, then I

11 am going to leave the facility. I'm not going to do

12 it.

13 Q. Now, just so I'm clear on this, Dr. Desai

14 was insisting that you proceed anyway?

15 A. Dr. Desai was, Tonya Rushing was, both of

16 them.

17 Q. And did you in fact leave the facility?

18 A. I left. I left the facility.

19 Q. Were you fired or what happened?

20 A. I went into the parking lot and got in my

21 car and Tonya followed me out and said if you leave

22 we're going to get the lawyers.

23 Q. You still continued to work --

24 A. But I did leave. I didn't do it.

25 Q. Did that kind of thing happen, maybe not

1 Q. What does NPO mean?

2 A. It's a Latin word which means nothing to

3 eat or drink after midnight.

4 Q. Why is that a problem?

5 A. Because then if there's something in your

6 stomach it changes the PH of your stomach, stomach

7 fluids when you're not in control of your airway, which

8 would be under anesthesia, or if there's going to be a

9 surgical procedure, if the patient is not in control of

10 their airway, stomach contents can go from their

11 esophagus into their lungs and cause an aspiration

12 pneumonitis they call it. But aspiration.

13 Q. Does aspiration mean stuff moving from the

14 stomach into the lungs essentially?

15 A. Yes.

16 Q. I assume that's a bad thing?

17 A. It's a bad thing. You can wind up in the

18 hospital on a ventilator for that. I mean that's the

19 worst case.

20 Q. So if you saw a patient that you were

21 about to give anesthesia to eating or drinking, would

22 that make you concerned?

23 A. Yes. I absolutely wouldn't do it.

24 Q. And in the instance you're referring to

25 did you refuse to do anesthesia on that patient?

1 to that extreme level, but did that kind of thing

2 happen during the time that you were there on a regular

3 basis where you would have a patient that you thought

4 for one reason or another should not have anesthesia

5 that day and there was pressure to go ahead and give

6 them anesthesia anyway?

7 A. There were times when those situations

8 would come up.

9 Q. And who was the person or persons that

10 were mainly involved in wanting you to go forward?

11 A. I would say would be Dr. Desai. If it

12 were other physicians and you had a medical issue what

13 normally would happen there would be a discussion and

14 you would work it out. Dr. Desai, if he insisted,

15 sometimes he would talk to the patient and if they

16 agreed, he would do the procedure without anesthesia,

17 if the patient agreed to it. There were those

18 situations.

19 Q. How often in a week would this kind of

20 thing happen?

21 A. Two to three times maybe.

22 Q. So it wasn't an infrequent thing to occur?

23 A. No.

24 Q. I mean I know you have large numbers; is

25 that correct?

1 A. Yes.
 2 Q. And you told us that eventually is that
 3 the reason why you left primarily was because of the
 4 numbers and volume and so forth?
 5 A. Yes. Everyone -- the general atmosphere
 6 everyone is complaining and nobody likes the high
 7 numbers.
 8 Q. Now, if you weren't happy about the high
 9 numbers and the situation why did you ever come back to
 10 the center anyway?
 11 A. Well, the reality is that there aren't
 12 many positions for CRNAs in Las Vegas. I needed to
 13 work and I felt that I could maintain what I thought
 14 was a good -- I could take good care of my patients and
 15 despite that atmosphere just do my best and provide my
 16 patients with good anesthesia care and try to maintain
 17 my standards. But basically I needed to work.
 18 Q. So is that the reason why you went back?
 19 A. Yeah, and I needed a schedule where I
 20 could work and take care of my kids.
 21 Q. Did you look for another job where that
 22 might work for you too during this whole process?
 23 A. I always was looking for another job and
 24 eventually I found a job that I was very happy when I
 25 had left in 2007. I don't think I ever would have gone

1 A. Yes.
 2 Q. And what is that drug, what does it do?
 3 A. It is a drug that's a class of drug called
 4 an alkylphenol and it sedates a patient, it's used for
 5 sedation during surgical procedures. We use it to
 6 induce general anesthesia, but it also is used as a
 7 sole agent also during short procedures to maintain
 8 sedation.
 9 Q. Like a colonoscopy or endoscopy?
 10 A. Yes.
 11 Q. Now, as far as the drugs that you first
 12 started with when you were there back in I think you
 13 said 2000 was it when you came to work for Dr. Desai?
 14 A. Yes.
 15 Q. Were you using propofol at that time?
 16 A. No. We used Versed which is also called
 17 midazolam which is a classic drug called a
 18 benzodiazepine which is kind of in the Valium group.
 19 And also we used Demerol which is an opioid and we used
 20 those two medications at that time.
 21 Q. Eventually was there a shift to using
 22 propofol?
 23 A. Yes.
 24 Q. After the shift was made did you go back
 25 and use Demerol and Versed on occasion?

1 back.
 2 Q. Now, you said you left in 2007, correct?
 3 A. Yes.
 4 Q. Now, while you were there beside the
 5 physicians I know you said that Dr. Desai was your main
 6 supervisor you thought, correct?
 7 A. Yes.
 8 Q. Were there any other nurses that
 9 supervised you or supervised the CRNAs? And I'll give
 10 you an example, do the names Katie Maley and Jeff
 11 Krueger ring a bell to you?
 12 A. Yeah, both of those nurses were
 13 supervisors of nurses; however --
 14 Q. You're a nurse, aren't you?
 15 A. I am an RN and a CRNA.
 16 Q. Did they supervise the CRNAs?
 17 A. They would make rules for the facility
 18 that affected CRNAs which I didn't think was their -- I
 19 didn't think it was in their jurisdiction or I didn't
 20 think it was their place.
 21 Q. Were you pretty vocal about that?
 22 A. Yes.
 23 Q. I want to take you into sort of the
 24 medical realm for just a minute. I assume you're
 25 familiar with the drug propofol; is that correct?

1 A. On occasion if there were a patient that
 2 for some reason had had a reaction to propofol or sulfa
 3 drugs which there's a preservative in propofol that has
 4 a sulfite in it.
 5 Q. Is it an important thing to know how a
 6 patient reacts to anesthetic agents and drugs?
 7 A. Yes.
 8 Q. I mean from an anesthesiologist's
 9 standpoint.
 10 A. I'm sorry?
 11 Q. Is that an important thing to know if a
 12 patient would have an adverse reaction, bad reaction to
 13 a drug?
 14 A. Yes.
 15 Q. So if a patient tells you that yeah, I've
 16 had this drug and they gave it to me for like three
 17 hours or something in the procedure, would you feel
 18 comfortable giving that patient that drug again?
 19 A. If they said?
 20 Q. If they said I had this drug before during
 21 this type of procedure?
 22 A. Yes.
 23 Q. I wouldn't have a problem with it?
 24 A. Yes, of course.
 25 Q. But if they said they had a problem during

1 some point during the procedure, that would be
 2 important for you to know I assume?
 3 A. Yes.
 4 Q. Now let's walk through a typical procedure
 5 that you were involved with. We already know a layout
 6 of the rooms, we've got a map over there if you need to
 7 look at it at any time, it's in evidence. We know the
 8 way the rooms were laid out. We know there was a preop
 9 area and postoperative area as well as the procedure
 10 room, correct?
 11 A. Yes.
 12 Q. Where did you float within that room?
 13 Where did you pretty much work?
 14 A. I would mostly work in the patient room.
 15 If I had time or depending where the patient was, how
 16 many CRNAs were in the facility, I would speak to a
 17 patient -- I would always speak to a patient first and
 18 obtain a preoperative assessment, but sometimes it
 19 would be done in the preoperative area or it would be
 20 done in the patient room.
 21 Q. You mean where they take them after the
 22 procedure you mean?
 23 A. Yeah. Where they took them after was pre
 24 and postoperative. And you could also find a
 25 patient -- they also had an IV preparation room.

1 Q. So let's walk through what would typically
 2 happen during a procedure. Let's just assume at this
 3 point that you're in the procedure room. A patient
 4 gets wheeled into the room. Tell us what happens.
 5 A. I would get their chart and review it,
 6 review any medical records, lab values, any medications
 7 that they're on, previous procedures that they've done
 8 and if there's -- just review it for any pertinent
 9 information. And then I would start talking to the
 10 patient and do a preoperative assessment and fill out a
 11 record for that.
 12 Q. And then what happens? Doctor comes in
 13 the room at some point?
 14 A. And then also if the patient has an IV,
 15 that's fine, I would look at it and make sure it's
 16 patent, it's working. And if they didn't have one, I
 17 would place one.
 18 Q. And patent means open?
 19 A. Open, working, it's not clotted, the vein
 20 is good.
 21 Q. So now you've done your little assessment
 22 thing, correct? About how long does that process take?
 23 A. Anywhere from five to ten minutes,
 24 although there was pressure not to take ten minutes.
 25 Q. Did it ever really take ten minutes by and

1 Sometimes you could interview a patient there also.
 2 Q. Now, with the volume of patients that were
 3 running through the facility and knowing the pressure
 4 to keep things moving did you have a lot of time to go
 5 out and deal with patients outside the procedure room?
 6 A. Well, as the situation necessitated
 7 whatever --
 8 Q. Let me ask it a different way. Typical
 9 day, let's take 80 patients are rolling through the
 10 facility. That's a lot of patients in one day, right,
 11 correct?
 12 A. Yes.
 13 Q. So 80 patients rolling through the
 14 facility do you have a lot of time -- even 60 patients
 15 rolling through the facility do you have a lot of time
 16 to go out into the preop area and deal with the patient
 17 and then follow them out to the postop area and deal
 18 with them for awhile or are you pretty much tied to the
 19 room that you're doing the procedures in most often?
 20 A. You're most often in the room where you're
 21 doing the procedures, but if a procedure is taking long
 22 and there's more than two CRNAs, then you can feasibly
 23 go out into the preoperative area and interview a
 24 patient. But most of the time you're in the procedure
 25 room.

1 large?
 2 A. Well, there were some patients there were
 3 language barriers --
 4 Q. I'm not talking about some patients here
 5 and there.
 6 A. Okay.
 7 Q. I'm saying about the average patient
 8 rolling through. How long is your prep time before the
 9 doctor rolls in to do the procedure?
 10 A. It's about I'd say five minutes is where
 11 they wanted you to keep it.
 12 Q. So around five minutes. Now, once the
 13 procedure is done about how long does it take before
 14 the patient gets wheeled out of the room?
 15 A. You look -- while the patient is in the
 16 room -- we missed the part where we put the monitors
 17 on. But of course you put monitors on before you start
 18 a procedure, you check their vital signs and you get a
 19 baseline. And after the procedure I would always get
 20 at least one set of vital signs just to make sure that
 21 they're okay after the procedure and there are no
 22 adverse reactions, blood pressure drops, heart rate
 23 changes, oxygen saturation, all those things.
 24 Q. So some physicians do the procedures at
 25 different rates than others within the group?

1 A. Yes.
 2 Q. Who was the fastest?
 3 A. Dr. Desai.
 4 Q. Just a little bit faster or a lot faster?
 5 A. A lot faster.
 6 Q. Typically for him to do an upper endoscopy
 7 how much time are we talking about to do the procedure
 8 roughly on average?
 9 A. I wish I knew an average and I would say
 10 it's very fast, though. Maybe --
 11 Q. Well, are we talking about ten minutes or
 12 are we talking about two minutes, what are we talking
 13 about?
 14 A. Maybe five minutes. I'm not sure exactly.
 15 Q. What about a colonoscopy, did you do more
 16 of those with him?
 17 A. I don't know more, but I did -- yes.
 18 Q. How much time did it take him on average
 19 to do a colonoscopy?
 20 A. Well, those were always longer. Your
 21 colon is longer and it depended on what was found. If
 22 there were polyps to remove, biopsies to take, if the
 23 patient was well prepped or not. I mean but generally
 24 he was faster than any of the other physicians.
 25 Q. I am going to ask you that question one

1 talking about differences between upper endoscopies
 2 taking a shorter period of time and colonoscopies
 3 taking a longer period of time.
 4 A. So in an hour in one room for me?
 5 Q. How many patients? Would you see one
 6 patient or would you see ten patients? I mean how many
 7 patients are going to roll through in an hour?
 8 A. With Dr. Desai?
 9 Q. Let's talk about Dr. Desai first. With
 10 Dr. Desai how many patients in an hour roughly?
 11 A. It could be anywhere from three to five.
 12 Q. With the other physicians, let's say Dr.
 13 Carrera, how many patients could he do in about an
 14 hour?
 15 A. One and a half maybe.
 16 Q. And some of the other doctors, did they
 17 range in between there?
 18 A. Yes.
 19 Q. As far as the use of drugs within the
 20 facility primarily for anesthetic you're using
 21 propofol, correct?
 22 A. Yes.
 23 Q. Propofol, do you know how that came, what
 24 were the sizes of the bottles that you used?
 25 A. When I first started there it was only

1 more time. Roughly how long did it take him to do a
 2 procedure and I'm talking about a colonoscopy-type
 3 procedure? Are we talking about twenty minutes or less
 4 or more, what are we roughly talking about?
 5 A. I would say less. Much less.
 6 Q. Do you remember telling people that you
 7 thought the low end or the fastest end was around four
 8 minutes or so that he might do a procedure, a
 9 colonoscopy?
 10 A. He might have done one in four minutes.
 11 Q. So on average was it around that time, a
 12 little longer?
 13 A. On average I think it would be longer than
 14 that.
 15 Q. Would it be unusual for him to do a
 16 colonoscopy lasting more than ten or fifteen minutes?
 17 A. That again would be unusual for him unless
 18 he had several polyps or biopsies to take. But
 19 normally he would do them faster than that.
 20 Q. As far as the other physicians did they
 21 generally take longer time to do those procedures?
 22 A. Yes.
 23 Q. In a typical hour in the room that you
 24 were in how many patients would roll through there for
 25 procedures, typical hour in a day? And I know we're

1 20CC vials.
 2 Q. So did that change at some point?
 3 A. When I worked there in 2000 -- I believe
 4 it was 2006 or seven -- there were other size vials
 5 available. I mean there were 50CC vials available at
 6 that time.
 7 Q. So you did use 50s?
 8 A. They started to order those and, yeah, I
 9 always complained about it and sometimes they would
 10 have both sizes there and they'd say well, you have to
 11 use the 50s first.
 12 Q. Why did you complain about that?
 13 A. Because I didn't like -- because propofol
 14 is -- once you open a vial you want to use that vial on
 15 one patient and I didn't like having that vial open.
 16 So I would do what I did and drop, if it was a 20CC
 17 vial, two 10CC syringes so it would be two sterile
 18 syringes. If it was 50CCs I would drop five, but I
 19 didn't like having all that propofol in use at one
 20 time.
 21 Q. We'll get to issues regarding propofol a
 22 little more extensively, but just in general at this
 23 point are you aware of whether or not that was
 24 considered a multi use or a single use drug?
 25 A. It's a single use drug.

1 Q. So do you know if there's any packaging on
2 either the inside labeling or the exterior labeling of
3 the bottles that indicates it's a single use only drug?
4 A. I believe it says that on the bottle.
5 Q. When you say single use, are you talking
6 about single patient use drug?
7 A. Yes.
8 Q. So you could actually use the propofol
9 from a bottle on a patient but not necessarily use that
10 same bottle on the next patient; is that right?
11 A. Can you repeat that?
12 Q. Sure. Single use to you means what?
13 A. Use on one patient.
14 Q. So you got one bottle, one patient?
15 A. Yes.
16 Q. Do you ever have a situation where you
17 think that it's appropriate to use a bottle of propofol
18 for one patient and then if there's any left over use
19 it on the next patient?
20 A. The only situation where I would do that
21 is if I removed all the contents from the bottle in two
22 separate syringes because we had 10CC syringes. So I
23 would remove, if it were a 20CC vial, two 10CC syringes
24 in a sterile manner with separate syringes, separate
25 needles, and if it were a 50CC vial, I would remove

1 A. If it were a 20CC vial and it's one
2 patient, the same patient, you can, and we would do it
3 everywhere in all the hospitals. If it's the same
4 patient and that vial is for that patient.
5 Q. So nothing wrong with that?
6 A. No. I would always change the needle in
7 between just to make sure that -- lessen the chance of
8 anyone getting stuck with a needle that's already been
9 used. But if it were the same patient you can go into
10 that vial because that's how it was distributed
11 everywhere for years and that's how it was at the
12 hospital, come out of machines and if you had one
13 patient, you get one 20CC vial, you would use that vial
14 for that patient. If you had to go in twice. At the
15 end if you had some left, you throw the vial away.
16 Q. Is that what you typically did?
17 A. I did do that. Yes. I did do that, but I
18 usually would empty the vial so that I didn't have to
19 throw it away because there was pressure not to waste
20 any.
21 Q. And we'll get to that in a minute also,
22 but sticking with what we're talking about here
23 regarding the withdrawal, so it's not really a problem
24 to take a bottle, 50CC, 20CC bottle, open it up and use
25 one syringe, go in and out of that bottle for a single

1 five 10CC syringes prior to starting the procedure with
2 any patient.
3 Q. So on each patient --
4 A. I would set it up that way.
5 Q. On each patient you would be using a
6 minimum then of two syringes for each patient because
7 each one of those vials is going to be 20CCs minimum,
8 correct?
9 A. What I'm saying is I would take two
10 sterile syringes separately and if it's a clean vial
11 you go into it with a sterile syringe and a sterile
12 needle, you take out 10CCs, you put it down in your
13 area and you take another sterile syringe with a
14 sterile needle and take out another 10CC syringes -- I
15 mean 10CCs in one syringe so that you have two 10CC
16 syringes from that bottle and they're both clean. If
17 you want to use 10 on one patient you can, and then you
18 can use the other 10 on the other patient.
19 Q. But for that patient then you might only
20 use one syringe, correct?
21 A. Yes.
22 Q. Would you ever have a situation where you
23 would take a syringe that you had drawn up from a
24 bottle, use it on a patient and then take that same
25 syringe and re-enter that vial to draw out more drug?

1 patient as long as that bottle doesn't move onto the
2 next patient, correct?
3 A. If you're only going in one time with one
4 syringe --
5 Q. I'll take it in parts. I just want you to
6 follow me for just a minute. You've got a single
7 bottle, it doesn't matter what size, 50, 20, whatever,
8 you draw out with a single syringe. You inject the
9 patient. You go back into the bottle because the
10 patient needs more anesthetic. You go back into the
11 patient. That bottle now you've been into twice. Are
12 you with me?
13 A. Uh-huh.
14 Q. Would it ever be appropriate to then take
15 that bottle and use it on the next patient?
16 A. No.
17 Q. Did you ever do that?
18 A. No.
19 Q. Now, so according to you would that be
20 below the standard of care?
21 A. Yes.
22 Q. So now you've got a bottle, you draw out
23 the two syringes that are sterile without touching a
24 patient or anything. You could use one of the syringes
25 on this patient and then use the second syringe on

1 another patient?
 2 A. Yes.
 3 Q. As long as you didn't enter any bottles
 4 and do anything like that?
 5 A. Right.
 6 Q. That would be okay?
 7 A. Yes.
 8 Q. Let's say you drew up 100Cs out of a 500C
 9 bottle and you used that on a patient but you never
 10 went back into the bottle so the bottle has only been
 11 entered one time with the sterile syringe -- are you
 12 with me?
 13 A. Yes.
 14 Q. -- would it be appropriate to use that
 15 bottle on the next patient?
 16 A. If you haven't gone into it with anything
 17 else like you said.
 18 Q. So even though it says single use that
 19 wouldn't be something that wouldn't be unheard of?
 20 A. Right. But again if you don't mind me
 21 saying I would empty that bottle out so there's never
 22 any question and take everything out of the 500C or
 23 200C bottle to start with so there's never any
 24 question.
 25 Q. I'm just asking you not necessarily about

1 what you do but what your experience is and what the
 2 standard of care would be in this case.
 3 A. Okay.
 4 Q. Single use means single use, does it not?
 5 A. Yes.
 6 Q. You could do it certainly, there wouldn't
 7 be a contamination issue for the patient in that
 8 particular case, right?
 9 A. No.
 10 Q. So even though you wouldn't do it that
 11 way, if somebody were to take a 500C bottle, draw out
 12 100Cs, give it to patient, not ever go into that bottle
 13 again, theoretically could that leftover 400Cs of
 14 propofol be used on the next patient?
 15 A. It could be because if that's all you're
 16 given that's how someone may have made it work.
 17 Q. If the warning label had not been single
 18 use, it had been like a saline bottle, is that
 19 permissible to do just the way I just described it?
 20 A. It's not ideal.
 21 Q. But is it permissible?
 22 A. I know that it's done because for years
 23 you would get in other drugs too in 500C but you have
 24 to -- that's why I think you have to empty out the
 25 bottle so that you know what's in your syringes.

1 Q. Did you ever reuse syringes while you were
 2 there, and when I say reuse, I'm not talking about the
 3 same patient but I'm talking about between patients?
 4 A. Never.
 5 Q. Would that be below the standard of care
 6 to do that?
 7 A. Yes.
 8 Q. I know you talked about the method that
 9 you take propofol out of the bottles. Did you ever do
 10 like I described where you take some out of the bottle
 11 and then use that bottle on a subsequent patient?
 12 A. Again I would try not to do it that way
 13 because there's too many chances of -- I wouldn't want
 14 that bottle to be unopened.
 15 Q. So there's a risk potentially if that
 16 happens?
 17 A. I think so -- with a larger bottle I think
 18 it's a lot more risky.
 19 Q. Now, were you ever during the time that
 20 you were in the clinic ever offered partially full
 21 bottles of propofol to use on patients?
 22 A. Yes, I was offered.
 23 Q. Would you ever use them?
 24 A. No.
 25 Q. Was there a reason why you wouldn't do

1 that?
 2 A. Because I don't know what is the integrity
 3 of that bottle. I don't know.
 4 Q. Was that an occasional thing or did that
 5 happen on a regular basis?
 6 A. I would say occasional.
 7 Q. Was it more toward the end of the day or
 8 the beginning of the day that that would happen?
 9 A. I'd say definitely at the end of the day.
 10 Q. Now, were you aware of anybody else in the
 11 practice that was doing the kinds of things I described
 12 where using one part of a bottle on one patient and
 13 then using the rest of the bottle on the next patient?
 14 A. Honestly I didn't really look at how they
 15 were doing their anesthesia because we're in the rooms
 16 alone. I'm not in the room with them when they're
 17 doing it.
 18 Q. I'm just asking personal observations.
 19 A. I am not aware of it.
 20 Q. So I'm not asking you for anything anybody
 21 said to you, just did you ever see that kind of thing
 22 happening?
 23 A. I didn't see it -- you know, again, I
 24 wasn't really watching anyone else give anesthesia in
 25 the room.

1 Q. Fair enough. Now, I want to move onto a
2 different area. Do you recall an issue with Dr. Desai
3 regarding saline flushes of the heplocks, the little
4 places where you push the anesthetic into the patient?

5 A. Yes.

6 Q. Tell me about that.

7 A. There was a time in 2000 that I think it
8 was six when this began, it may have been later, I'm
9 not sure of the exact time, but there was an idea I
10 believe it was of Dr. Desai that we would flush each
11 heplock after we gave the propofol with 50Cs of saline
12 solution.

13 Q. What was the rationale behind that?

14 A. I questioned it. I never got a reliable
15 answer. And I never did it because I didn't see the
16 rationale, but I believe that Dr. Desai's rationale was
17 to push the propofol in faster so that it would work
18 faster so that the patient would be ready faster and he
19 could begin without waiting the couple seconds that it
20 takes or minutes for the drug to be active.

21 Q. Did you ever hear him voice this to
22 anybody?

23 A. Yes.

24 Q. So when you say you believe, that's based
25 on what you heard from him?

1 A. What I heard from him, yes. And others.

2 Q. Specifically related to that you never did
3 that procedure, though, correct?

4 A. No. I never did.

5 Q. Let's talk about the anesthetic procedures
6 themselves with Dr. Desai I'm talking about
7 specifically at this point. Did you ever experience
8 times when Dr. Desai would start procedures before you
9 had the anesthetic into the patient?

10 A. Yes.

11 Q. Did that happen a number of times?

12 A. Yes.

13 Q. Was that a problem?

14 A. Yes.

15 Q. Did you tell Dr. Desai this?

16 A. Yes.

17 Q. Did this happen with other doctors?

18 A. Not frequently, no. I mean, most of them
19 would wait for you to tell them.

20 Q. How often would this happen with Dr.
21 Desai?

22 A. Frequently. On a daily basis.

23 Q. When I say starting a procedure before
24 somebody is given anesthesia, I'm saying before you
25 actually injected anything into the patient?

1 A. Oh, I mean that was more rare. He would
2 see you injecting but not wait.

3 Q. So he would see you inject but not be able
4 to say okay, the patient's ready to go or something
5 like that?

6 A. Yes. He would not wait until the patient
7 was ready.

8 Q. You mentioned that was a problem. Why was
9 that a problem?

10 A. Well, I mean obviously because the patient
11 is not asleep yet and the patient may feel the pain.

12 Q. Did the patients react to what he was
13 doing in that situation?

14 A. There were many times when a patient would
15 actually say I'm not asleep yet. Or ouch.

16 Q. Was this for both the upper endoscopies
17 and the lower or just one or the other?

18 A. Mostly for the lower because it's really
19 difficult to do an upper endoscopy. A patient has a
20 mouthpiece in and if they're not sleeping they are
21 going to move. And in either case you can perforate
22 either the esophagus or the colon with patient
23 movement. But with the upper procedures he would wait
24 longer.

25 Q. So it poses a risk to the patient to have

1 then writhing around on the table or whatever when the
2 scope is going into them?

3 A. Yes.

4 Q. What was his response when you would say
5 wait or the patient isn't asleep yet or something along
6 those lines? Would he stop and say oh, my gosh, I
7 didn't realize this or what would he do?

8 A. Sometimes he would wait and sometimes he
9 would continue.

10 Q. Now, how would you characterize Dr.
11 Desai's colonoscopies, let's talk about those for a
12 minute. Was he faster going in or faster coming out?

13 A. Faster coming out.

14 Q. Let's talk about the coming out part. Was
15 there ever an issue with him removing the scopes
16 quickly?

17 A. Yes.

18 Q. Describe the issue with regard to that.

19 A. You mean that I think it's dangerous or
20 the issue that how he did it?

21 Q. Just tell us how he did it and why you
22 thought that was a problem, if at all.

23 A. He would pull scopes out very quickly.

24 Q. What would happen when he would pull the
25 scopes out quickly?

1 A. Well, we would all be shocked. I think
2 it's dangerous for the patients.
3 Q. But was there anything that happened as a
4 result of that?
5 A. Oh, I mean, well, when you do a
6 colonoscopy there's body fluids, fecal matter, blood,
7 mucous, things would splatter.
8 Q. Would it get on you sometimes?
9 A. Yes.
10 Q. Would it get on other people?
11 A. Yes.
12 Q. Would it get on the places in the room?
13 A. Yes.
14 Q. The floor, the walls, whatever?
15 A. Yes.
16 Q. Anybody else do that? And when I say
17 anybody else, I'm talking about the doctors.
18 A. I never saw anybody else do it that way.
19 Q. Was that an infrequent or frequent
20 occurrence?
21 A. I'd say frequent.
22 Q. Let's talk about anesthesia time for a
23 second. You know what anesthesia time is, correct?
24 A. Yes.
25 Q. What is it?

1 A. Or six. But that would be to make sure
2 that each procedure was -- that you wrote down your
3 anesthesia time was 31 minutes.
4 Q. Did he actually say that?
5 A. Yes.
6 Q. On more than one occasion?
7 A. Yes.
8 Q. On a regular occasion?
9 A. Yes.
10 Q. When would he say those kind of things?
11 A. Usually as he was leaving the room or just
12 if he was passing through the facility he'd tell you,
13 remember 31 minutes.
14 Q. He'd actually say that?
15 A. Yes.
16 Q. Now, anesthesia time, when does it start,
17 when does it stop? Typically the average facility.
18 A. Typically anesthesia time starts when you
19 take a patient into the room and you begin putting on
20 monitors, the anesthesia provider and the RN in the
21 room will confer times. It's up to the anesthesia
22 provider to say -- the nurse will say anesthesia,
23 what's your time in and you both look at the clock or
24 you look at your clock and say this is the time.
25 That's when the procedure starts.

1 A. The billing for anesthesia is directly
2 related to anesthesia time. Each procedure is assigned
3 a number of units according to what the procedure is
4 and then there's another assignment of units which I
5 mean billing units, how they can charge for a procedure
6 according to increments of 15 minutes.
7 Q. So let's say that there was a procedure
8 where the base was five units. You would then add
9 units on for the actual time of the procedure on top of
10 that?
11 A. Yeah. That's how it was done. We weren't
12 responsible for -- we'd just fill out the records. But
13 I know that that's how it was done.
14 Q. So every fifteen minute increment is a
15 unit then?
16 A. Yes.
17 Q. Beyond the baseline?
18 A. Yes.
19 Q. Now, do you ever recall Dr. Desai -- and
20 I'm asking you specifically about Dr. Desai right
21 now -- do you ever recall Dr. Desai making any mention
22 of specific times that needed to be placed on the
23 anesthesia records?
24 A. Yes. It didn't start until 2005.
25 Q. And then what would that be?

1 Q. When does the procedure end?
2 A. The procedure ends when you take a patient
3 to recovery room and you and the nurse who is in the
4 room who walked to the recovery room with you, the
5 nurse who is in the recovery room and anesthesia, the
6 three of you, confer after you've given the patient to
7 the recovery room nurse and the vital signs are taken
8 and everyone is in agreement that the patient is okay
9 and you can safely leave the patient with the recovery
10 room nurse, you all look at the clock and say this is
11 the time out. And that's the time out.
12 Q. So once you do that, if you get a chance
13 to do it, you go back to the room and start the next
14 procedure but your anesthesia time should have stopped?
15 A. It's ended. When you leave the patient.
16 Q. Is that typically when it happens for most
17 facilities?
18 A. For any other facility I've ever been in
19 that's how it happens.
20 Q. You said any other facility. Is that the
21 way it happened at the endoscopy clinic?
22 A. No.
23 Q. Tell us how it happened in the endoscopy
24 clinic.
25 A. It was a little less organized. You would

1 actually write your anesthesia start time on the
 2 record. I would always talk to the nurse, tell the
 3 nurse what my time in was going to be, my start time.
 4 And again that's when you're with the patient putting
 5 on the monitors, the patient is in the procedure room.
 6 And it could be that you're still taking a history
 7 then, but that's still the time that the patient is
 8 actually in the procedure room.

9 And then the time out wasn't in the
 10 recovery room there because we were moving so fast
 11 there wasn't time for us to even -- most of the time
 12 walk the patient into the recovery room. So you'd have
 13 to take your time out and then go look at your patient
 14 and make sure it was okay or know that the nurses would
 15 tell you if there were any concerns for you to go back
 16 and check a patient. But we did not -- it wasn't --
 17 the time out wasn't that organized there. We didn't
 18 have time to go to recovery room.

19 Q. The typical procedure lasted less than 30
 20 minutes, though, correct? I'm talking about anesthesia
 21 time.

22 A. I would say typically, yes, but there are
 23 other longer procedures.

24 Q. Let's just talk about a single day and we
 25 talked about 60, 80 patients in a day, is that right,

1 something like that?

2 A. Yes.

3 Q. Sixty being the low end of the patient
 4 range, correct?

5 A. Yes.

6 Q. If you had this 31 minutes that you're
 7 talking about that Desai is saying and you added that
 8 up for 60 patients and you said there are two rooms,
 9 right?

10 A. Yes.

11 Q. So 30 patients roughly in each room?

12 A. Yes.

13 Q. And that's the low end, correct?

14 A. Yes.

15 Q. So 30 patients at 30 plus minutes a day or
 16 30 plus minutes ends up to be quite a long time,
 17 doesn't it?

18 A. Yes.

19 Q. So that's actually more hours than you
 20 were working in the facility on that day?

21 A. I would agree to that usually.

22 Q. So if he bumped it up to 80, it would be
 23 even worse, correct, if they were all 30 some odd
 24 minutes?

25 A. Yes.

1 Q. But it's your testimony that Dr. Desai is
 2 saying all the anesthesia records need to be 31 minutes
 3 or more?

4 A. Yes.

5 Q. He says that on a regular basis?

6 A. Yes.

7 Q. So you would put your start time down so
 8 if you were putting 31 minutes down on the records, did
 9 you just put the start time and then just calculate
 10 what it would be to 31 and put that time down?

11 A. I didn't always do that.

12 Q. Did you do it sometimes at least?

13 A. I did it sometimes, but I didn't do it all
 14 the time. I didn't consistently do that.

15 Q. If you didn't do that, if you left a time
 16 off or didn't have it at that level, would people come
 17 back and talk to you about it or have you address your
 18 anesthesia records?

19 A. They would give you anesthesia records.
 20 I'd usually have a pile to finish or they'd circle in
 21 yellow highlighter what you needed to fix on there.

22 Q. Would you do it all the time?

23 A. If I didn't complete a time -- and a lot
 24 of times that would happen because we were so busy and
 25 I was rushing and I didn't put the ending time down, I

1 would look at my record and check my vital signs and
 2 check the nurse's record to see. I mean, it's not
 3 always -- you can't remember after weeks later.

4 Q. Was there pressure to put down 31 or more
 5 minutes on the anesthesia records?

6 A. Yes.

7 Q. Did you feel pressure to do so?

8 A. Yes.

9 Q. Did you do so because of that pressure at
 10 least some of the time?

11 A. I would say yes, but I didn't consistently
 12 do it. I didn't do a lot of the things that Dr. Desai
 13 requested.

14 Q. Like what?

15 A. Well, I didn't flush the IVs, I never
 16 flushed it with any of those 50C syringes. I took my
 17 time with the patient as best I could and I spent a lot
 18 of time with patients afterwards to lay anxiety and
 19 just to -- a lot of times patients were upset
 20 afterwards because maybe the doctor didn't talk to them
 21 so I would spend time with patients as much as I could.

22 Q. When you heard Dr. Desai say 31 minutes,
 23 make sure it's 31 minutes, whatever it was, something
 24 along those lines, was he talking directly to you or
 25 was he talking to someone else?

1 A. Sometimes he would say it to me and
2 sometimes he would say it to the nurses, the other
3 CRNAs and he would just say it, remember 31 minutes.
4 Q. Was this something that was generally
5 well-known throughout all levels of the practice?
6 A. I think it was.
7 Q. And I'm talking about the CRNAs, the
8 nurses, the techs, everybody?
9 A. Yeah. I don't know how much the techs --
10 I'd say the nurses, the CRNAs.
11 Q. Was there ever an issue regarding
12 Pacificare patients about how they should be brought in
13 or scheduled?
14 A. Again, when I had come back in 2006 I
15 remember the other CRNAs telling me you can't do two
16 Pacificare patients together and the nurses would also
17 say that and everybody would be looking at the schedule
18 and say not two Pacificare together and I always
19 questioned that and never really got an adequate
20 answer. But that was something that they would say.
21 Q. So in general it was kind of known that
22 you did not schedule two Pacificare patients back to
23 back?
24 A. Or if they were scheduled that you
25 wouldn't do their procedures back to back.

1 A. I did feel pressured. I didn't always do
2 it.
3 Q. And who was the person giving you the
4 pressure?
5 A. Dr. Desai.
6 Q. Now, clearly you would agree I hope that
7 if you put 31 minutes down on a procedure on an
8 anesthesia record for billing purposes and that is not
9 the correct time, it's less than that, that would mean
10 that that was a fraudulent time being placed on the
11 record, correct?
12 A. Can you just say that again.
13 Q. That would be falsifying the record
14 essentially, you would be putting something down that
15 was not correct and you knew that was going to go for
16 billing purposes?
17 A. I think that would be true.
18 Q. Obviously you don't like that situation I
19 think you've said, correct?
20 A. No. I tried to rationalize all the time.
21 I would actually try to spend that time with the
22 patient.
23 Q. Did you feel your job was ever in jeopardy
24 if you did not do that?
25 A. Yes. I mean you wanted to cooperate, you

1 Q. That you'd put somebody in between?
2 A. Yes.
3 Q. Do you know why there was this issue with
4 31 minutes?
5 A. Well, I believe it was a billing issue,
6 although I did ask and I asked Tonya and I never got an
7 answer.
8 Q. I was going to say don't tell us what she
9 said. But in general you thought it was a billing
10 thing?
11 A. Yes.
12 Q. So if you go from 30 minutes, which would
13 be two units, correct, to 31 minutes, what would that
14 mean?
15 A. That would be another unit of time that
16 you could bill.
17 Q. And specifically did you tell other
18 investigators that you believed that colonoscopies for
19 Desai were for the most part in the four- to
20 five-minute range?
21 A. I said that's how short -- I believe
22 that's what I said, that's how short he could do one.
23 Q. And again so I'm clear did you or did you
24 not feel pressured to put 30 plus minutes on those
25 records?

1 wanted to get along with him.
2 Q. Is it fair to say then that units
3 essentially equals money, you bill more units, you get
4 more money?
5 A. Yes.
6 Q. Did any of the other physicians in the
7 practice come by and say 31 minutes or make sure you
8 put 31 minutes on the record, anything like that?
9 A. No.
10 Q. So just Dr. Desai?
11 A. Yes.
12 Q. Now let's move forward to the scopes and
13 was there any issue regarding the use of scopes in the
14 facility with Dr. Desai?
15 A. Can you be more specific?
16 Q. Certainly. Was there ever an issue where
17 the schedule was moving along, there was the need of a
18 scope and one was not available, had not been processed
19 yet or was not ready to be used?
20 A. He would get very upset.
21 Q. What would he typically do in that kind of
22 a situation?
23 A. He would actually go into the scope
24 cleaning room and come out with a scope sometimes.
25 Q. Now, if I understand you correctly this is

1 at a point where there may not be a scope ready to go?
 2 A. Yeah. I didn't know where or how he got
 3 that scope sometimes.
 4 Q. And I'm not asking you to speculate.
 5 A. Right.
 6 Q. Just that scopes aren't ready, he goes
 7 into the room, comes back --
 8 A. Comes out with a scope.
 9 Q. Did that more than once?
 10 A. Yes.
 11 Q. Happen a number of times?
 12 A. Yes.
 13 Q. Did that give you concern?
 14 A. Yes.
 15 Q. Were you concerned about any of the people
 16 that were actually processing the scopes?
 17 A. Yes, I was.
 18 Q. Why were you concerned about that?
 19 A. Because I felt that some people weren't
 20 adequately trained. I didn't know what their
 21 credentials were. I knew that some were medical
 22 assistants who aren't trained, they're not GI
 23 technicians. GI technician is specialized as surgical
 24 technicians are specialized. There's special training
 25 for that and I didn't see a lot of them going through

1 that training.
 2 I thought people were hired in who weren't
 3 trained and maybe trained on the job, but I didn't
 4 think they were adequately trained. And there also
 5 were students from the technical institutes who would
 6 be working and a lot of times they were left alone and
 7 I would complain about that all the time.
 8 Q. Was there any issue about the order of the
 9 patients, I'm talking about patients that may have had
 10 an infectious disease like known, when you go through
 11 your records or they were a patient of the clinic's or
 12 something like that, but any issue of how those
 13 patients should be scheduled in the day with a known
 14 infectious disease like HIV or Hepatitis B or
 15 Hepatitis C or anything like that?
 16 A. Yes. That bothered me when I first
 17 started working there in 2000 and I asked if we could
 18 make a policy at that time where if we had a known
 19 infected patient, a known infected with Hepatitis B or
 20 C or HIV, if we could do them at the end of the day and
 21 I asked the doctors and the staff if we could schedule
 22 that. I had to get it okayed with Dr. Desai. And at
 23 first everybody went along with it I thought but then
 24 kind of they told me well -- because I used to get
 25 upset if I found it wasn't --

1 Q. I want to be cautious about when you say
 2 they told me. At this point my concern would be the
 3 individuals, either if Ronald Lakeman said something
 4 like that to you or Keith Mathahs or Dr. Desai, any of
 5 those people, if they said it to you. If it was
 6 somebody else, I don't really want you to say that.
 7 A. Okay.
 8 Q. Did any of those three persons tell you
 9 that it didn't matter or we're going to divert from
 10 that policy or whatever?
 11 A. I'd say Dr. Desai.
 12 Q. Now, you had just said that you'd
 13 previously talked to Dr. Desai about why you wanted to
 14 do it that way, correct?
 15 A. Yes.
 16 Q. And you mentioned that even if there was a
 17 breach in universal precautions or something then maybe
 18 having a patient at the end of the day would be less
 19 chance of that person infecting somebody else?
 20 A. Yes.
 21 Q. Is that right?
 22 A. That's what my feeling was, just in case.
 23 I mean there's never any absolute. Just to minimize
 24 anything that might happen.
 25 Q. And you did actually institute that policy

1 as of when?
 2 A. It was sometime when I first started there
 3 in 2000 and I don't know exactly and people did go
 4 along with it for awhile.
 5 Q. And you actually had to get that okayed by
 6 Dr. Desai to institute that?
 7 A. I believe it was Dr. Desai. Yes. He made
 8 all the rules.
 9 Q. Did you ever talk to him about this issue?
 10 A. Yes.
 11 Q. Did he agree with it?
 12 A. He did initially.
 13 Q. And then later on did he change his tune
 14 or what?
 15 A. Later on it just stopped happening and
 16 then it totally wasn't even an issue when I returned to
 17 the facility after 2004, it was not an issue at all.
 18 Q. Let's talk about Dr. Desai and who is in
 19 charge of the facility. Who was in charge of the
 20 facilities?
 21 A. Dr. Desai.
 22 Q. Did he manage different aspects or all
 23 aspects of the practice?
 24 A. I think he managed all aspects. I
 25 believe.

1 Q. Would you consider him a micromanager of
2 the practice at all?
3 A. Yes.
4 Q. And you know what I mean by that?
5 A. He's in every detail.
6 Q. Yes. Is that a fair assessment?
7 A. Yes.
8 Q. I am going to ask you some questions about
9 some specific things. Was there ever a discussion, I'm
10 talking about specific discussions or communications or
11 interactions with Dr. Desai on this, was there ever an
12 issue about the use of alcohol wipes for example?
13 A. He would always tell me not to use so many
14 alcohol wipes or not to use another alcohol wipe.
15 Q. What are you using them for, what's the
16 purpose?
17 A. If you're putting in an IV, you are going
18 to clean the patient's skin vigorously with an alcohol
19 wipe and if you're wiping off a port or a bottle or
20 something.
21 Q. So it was for aseptic technique
22 essentially?
23 A. Yes.
24 Q. Trying to prevent infection?
25 A. Trying to prevent infection. Bacteria

1 patient.
2 Q. If I understand you correctly, just so I
3 know what these are for the Grand Jury, are they a
4 square-type pad that is plastic on one side and
5 absorbent on the other side?
6 A. Yes.
7 Q. What was the issue related to those?
8 A. He thought we were using too many of those
9 so he would have someone cut them in half with the
10 scissors so he could use less.
11 Q. What about propofol, the drug?
12 A. Well, I mean you knew that -- he would say
13 he didn't want you to use a lot, just sometimes he'd
14 tell you how much to use on each patient, but he didn't
15 want you to use a lot on each patient. You knew that
16 that was a cost issue.
17 Q. Was there any issue about wasting that
18 drug?
19 A. I don't remember him ever telling me to --
20 he would say don't waste it but not to reuse it and if
21 he did, I don't know if anyone would listen to that.
22 Q. Was there pressure not to waste the drug?
23 A. Yes.
24 Q. Now, did you feel comfortable if you were
25 in a room and let's say you had a 500C bottle of the

1 static.
2 Q. He was saying you shouldn't use so many of
3 those?
4 A. Yes.
5 Q. Are they big expensive items?
6 A. That's what I said to him. I said it's
7 just pennies. And I would laugh.
8 Q. Did that seem to matter though?
9 A. No.
10 Q. To him?
11 A. No.
12 Q. What about masks and gowns, things like
13 that?
14 A. He would not like us using a lot of any
15 masks or gowns and there was one physician who used to
16 use them every time and he would always --
17 Q. When you say "he", are you talking about
18 Dr. Desai?
19 A. Dr. Desai would always kind of reprimand
20 him for that.
21 Q. Are these gowns that would get stuff on
22 them like fecal material and things like that?
23 A. Yes, that's why that doctor used them.
24 Q. What about things called Chux?
25 A. Chux, blue pads that they put under the

1 drug and you hadn't done your five syringe thing that
2 you talked about and you drew up some and you never
3 re-entered the bottle, you use it on a patient and
4 gosh, there's 30 or 400Cs left, would you feel
5 comfortable while he was in the room discarding that?
6 A. No.
7 Q. What would you do typically if you were in
8 a situation like that?
9 A. If I had to disregard it I would do it
10 after he left the room.
11 Q. Is that because you didn't want him to see
12 you discard it?
13 A. Yes.
14 Q. What about bite blocks?
15 A. Initially when I worked there he would
16 reuse bite blocks. I think they did the whole time. I
17 don't know if that ever changed, but they would wash
18 them or sterilize them, the techs would be in charge of
19 that. But they were reused.
20 Q. They would go into the room where the
21 scopes were and be cleaned?
22 A. Washed, cleaned.
23 Q. And then what about forceps, I'm talking
24 about disposable type forceps?
25 A. Again during the first years of my

1 employment there in 2000 they were reusing and
 2 supposedly sterilizing or cleaning the forceps.
 3 Q. Did you ever see that continue on?
 4 A. I know that they had stopped doing it. I
 5 don't know exactly when, but they weren't doing it when
 6 I came back and I always was very adamant about it and
 7 I complained about it but I don't know when exactly
 8 they stopped doing it. But they did stop doing that.
 9 Q. Why were you complaining about it?
 10 A. Because I didn't know how well they were
 11 cleaning and if they could even clean them well enough.
 12 They're like little clips and stuff -- it's hard to
 13 clean that.
 14 Q. I want to ask you about an incident and
 15 this goes back to the use of propofol with Dr. Desai.
 16 Were there times when you were in the procedure room
 17 and procedures are going on and you think based on the
 18 patient is reacting or acting that you need to give
 19 more anesthesia to this patient.
 20 A. Yes.
 21 Q. In situations like that would Desai ever
 22 chime in as to his view as to whether you should give
 23 or not give anesthesia?
 24 A. Frequently.
 25 Q. What would he say?

1 patient that either hadn't had anesthetic on board
 2 enough yet meaning you either hadn't given it at all or
 3 you were just starting it where there caused a problem
 4 and you got injured as a result?
 5 A. Yes. There was a time when I needed to
 6 give the patient more anesthetic because they were
 7 moving and I was trying to hold the patient and give
 8 anesthetic at the same time he was telling me not to
 9 and the patient moved and I got stuck with a dirty
 10 needle. I wrote an incident report and had to get
 11 tested and still do get tested. And I also had to ask
 12 the patient to get their blood drawn and get tested
 13 after that.
 14 Q. Did that make you pretty unhappy?
 15 A. Yes, of course.
 16 Q. Now, let's just address this billing thing
 17 again, the 31 minutes for three billing increments.
 18 Are you with me?
 19 A. Yes.
 20 Q. Did you know if that was a goal or a
 21 desire of Desai to be able to bill for that many units?
 22 A. I believed it was.
 23 Q. Was that based on what he was telling you
 24 or what he was saying when he wanted you to put that
 25 much time down and that kind of thing?

1 A. Don't give more.
 2 Q. Do you know why he would say that, did he
 3 tell you?
 4 A. I would hope it would be he was concerned
 5 about the patient, but usually it was because he didn't
 6 want you to waste -- use any more of the drug.
 7 Q. So patient in your opinion needs more
 8 anesthetic and he's telling you do not give it?
 9 A. Yes.
 10 Q. Do you abide by that?
 11 A. Most of the time I didn't. I would try to
 12 quickly do what I thought was right and he would
 13 express his -- he would disagree with me and get mad.
 14 Q. So he would get mad at you for doing that,
 15 giving the patient additional anesthetic?
 16 A. Uh-huh.
 17 Q. Did you feel it was medically appropriate
 18 for them to give the patient additional anesthetic at
 19 that point?
 20 A. Yes. If I was getting ready to do that,
 21 yes.
 22 Q. Was this a fairly frequent occurrence?
 23 A. Yes.
 24 Q. With regard to that particular issue were
 25 there any instances where Dr. Desai was working on a

1 A. You know, I thought that that's what he
 2 was implying and I asked him and, you know, he would
 3 say it's bill for 31 minutes. So I knew that that's
 4 what he was thinking, but I would continually ask him
 5 and I never really got a direct answer.
 6 Q. Did Dr. Desai ever ask you to recommend a
 7 supervising anesthesiologist for --
 8 A. Yes. He asked me a lot if I had any -- if
 9 I knew anyone that would work with him and again I
 10 didn't really understand what capacity because we were
 11 all able to work without a supervising
 12 anesthesiologist. But yes, he would ask me.
 13 Q. Did you ever give him names?
 14 A. No.
 15 Q. Did you ever see any supervising
 16 anesthesiologists on site during the time that you were
 17 there?
 18 A. You know, again, no, I never saw any, but
 19 I think I may have once mentioned a name to him but he
 20 didn't use that person. So I just wanted to be clear
 21 on that.
 22 THE FOREPERSON: Excuse me. It's 3:30 and
 23 we need to call a break.
 24 MR. STAUDAHNER: I'm just about done with
 25 her and I'd like to finish with her if that's all

1 right. I'll make it quick.
 2 BY MR. STAUDAHER:
 3 Q. Did the CRNAs ever move from room to room?
 4 A. Yes.
 5 Q. What was the reason or reasons?
 6 A. If there were only one of them in there,
 7 two doctors doing procedures?
 8 Q. The situation where two procedure rooms,
 9 two CRNAs going --
 10 A. To cover for breaks?
 11 Q. Or go to the bathroom, things like that.
 12 A. Go to the bathroom, go to lunch.
 13 Q. So there were times when they would move
 14 from room to room?
 15 A. Yes.
 16 MR. STAUDAHER: I have nothing further of
 17 this witness.
 18 THE FOREPERSON: Any questions from the
 19 jury?
 20 BY A JUROR:
 21 Q. Just one quick one. When you walked out
 22 into the parking lot where you were going to leave when
 23 you had that incident --
 24 A. Oh, I left.
 25 Q. Yeah, when you said you left and the

1 A. Things happened a little bit more quickly
 2 and if I thought the patient needed -- if they were
 3 moving or reacting and I gave it to them and if I did
 4 it, it was usually done. So I know that he was angry
 5 at me and it kind of ended there.
 6 Q. You're still doing it and you say it ended
 7 there. If one of my subordinates -- if I said no and
 8 one of my subordinates did it once, twice, three, four
 9 times, I wouldn't just leave it in the air. He didn't
 10 do anything? He just says I told you not to and forgot
 11 about it?
 12 A. Yes. Basically. I mean there were times
 13 when he would, you know, tell me that I was driving him
 14 crazy and that I would complain too much. But I mean
 15 yes, that's basically the situation is done, the
 16 patient got their anesthetic, the patient wakes up and
 17 yes, basically that's the end of it.
 18 THE FOREPERSON: Bianca.
 19 BY A JUROR:
 20 Q. Just a quick follow-up to that. We've
 21 heard previous testimony prior to yours a lot of people
 22 seem very -- or they stated that they were intimidated
 23 by Dr. Desai. And they were afraid and couldn't be
 24 themselves. So if it was dismissed as simply as how
 25 you're saying oh, well, that was the end of it, why

1 office manager I think followed you?
 2 A. Yes.
 3 Q. And she had mentioned we'll get the
 4 lawyers. What did you infer that to mean? What did
 5 that mean to you?
 6 A. I wasn't really sure. I thought that she
 7 meant that I was not cooperating or they were going to
 8 fire me.
 9 THE FOREPERSON: Bob.
 10 BY A JUROR:
 11 Q. It sounds like basically you were a very
 12 ethical person, but my question is why are they
 13 granting you immunity, for what cause?
 14 MR. STAUDAHER: I am not going to allow
 15 her to answer that question. Her reasons for wanting
 16 immunity are her own and that's not a proper question.
 17 THE FOREPERSON: Steve.
 18 BY A JUROR:
 19 Q. What was Dr. Desai's response when you
 20 said I want to give this patient more propofol and he
 21 said no, don't, and you did anyway? I mean, you're
 22 directly saying no to your boss and you said this
 23 happens quite often.
 24 A. Well, he would get angry.
 25 Q. Did he say you're going to do it or else?

1 wasn't everybody on the same page with that? You
 2 cannot speak for everybody, you can only speak for
 3 yourself, but there's a confusion there even among the
 4 Grand Jurors that he never -- it never came across from
 5 previous testimony that he was the type of individual
 6 that if you did not do what he said and you did it, by
 7 your own admission multiple times, that that was just
 8 the way he let it go, he never fired you or disciplined
 9 you or I'm just -- little clarity to that.
 10 A. I know that in a situation -- sometimes I
 11 would give the drug, sometimes I wouldn't and I'd wind
 12 up being the person not happy and mad. But if I did
 13 give it and I was going against his orders, I mean,
 14 there would be kind of nothing he could do at that
 15 point, the drug is already in. I mean, as far as, you
 16 know, I think that I was working there the longest and
 17 a lot of times he would --
 18 Q. So is it safe to say, Miss Lobiondo, that
 19 average you think there were more times that you
 20 complied with what he wanted as opposed to not
 21 complying?
 22 A. I'd say yes. I was very vociferous, I was
 23 loud, I complained probably more than anyone. He had
 24 told me that several times.
 25 Q. But overall you complied more than you

1 didn't on an average?

2 A. I tried to keep the peace with him. I
3 tried not to, you know, go against what he said. He
4 was very intimidating and he was brutal and he was just
5 a difficult person to work with. But you try to do
6 your best and take care of the patients first and I
7 would say that that's what I tried to do. And that's
8 why I always didn't enjoy working there.

9 THE FOREPERSON: Lisa.

10 BY A JUROR:

11 Q. Were you aware that CRNAs are required to
12 be supervised by a medical doctor that is on site and
13 available during procedures?

14 A. Well, I believe there's something called
15 captain of the ship doctrine where the doctor in the
16 facility is in charge, whether they were all MDs
17 performing the procedures, it's either an MD or a
18 surgeon and that I think satisfies that requirement.

19 Q. And at this facility that you worked at as
20 a CRNA was there an MD anesthesiologist on site
21 supervising the CRNAs?

22 A. No, not always. Actually I've worked in
23 other states and it's -- each state can have their own
24 rules regarding that and in California we could work
25 independently. Of course like I said there is an MD

1 performing the procedure in the room with you, but we
2 could work independently in California and in New York.
3 I don't know if the laws have changed since I've been
4 practicing there, but -- and also in Las Vegas.

5 Q. So Dr. Desai, other than the cost of the
6 propofol, he may have a good reason for not letting you
7 inject a patient with more propofol, correct? There
8 could be medical reasons that he said do not inject the
9 patient?

10 A. Well, I would never touch a patient, go
11 near a patient, put an IV in a patient without talking
12 to them, getting a history, finding out what
13 medications they're on, what underlying conditions that
14 they have, what diseases they have, how they've reacted
15 to anesthesia in the past. I take vital signs before
16 I'm monitoring them, during the procedure I at least
17 have oxygen tubing on them and I'm administering oxygen
18 and I wouldn't -- that's what I've spent all these
19 years learning and doing. So I wouldn't be there
20 unless I was taking all this into account before I
21 wanted to give a patient more medication. And if a
22 patient is moving and they're complaining and they're
23 starting to speak and complain that something hurts,
24 I'm there as the patient's advocate and I am taking
25 into account all these conditions. If their blood

1 pressure is dropping, then I can't give them more, even
2 if they are moving. Or if something -- if their vital
3 signs are changing, then I can't give them more, but in
4 those situations if I've made my assessment that's why
5 I wanted to give the patient more.

6 Q. You said then Dr. Desai, for example, is
7 the MD supervising you at this point, correct?

8 A. Right.

9 Q. And if the MD that's supervising you said
10 do not give a patient more propofol, then since he's
11 the doctor we should listen to the doctor or -- because
12 he may have a medical reason, correct, other than cost?

13 A. Again, if I'm the one that assessed the
14 patient and spent so much time with a preop interview
15 and if I'm the one watching the patient during the
16 procedure while he's watching the scope and the camera
17 and the video and looking at the patient's colon, then
18 I'm the one -- I'm there for the patient. I've made my
19 assessment. I'm in this position and I have this --

20 MR. STAUDAHER: Let me interrupt and ask
21 one additional follow-up and maybe it'll help with
22 that.

23 BY MR. STAUDAHER:

24 Q. If you follow the advice and give
25 additional anesthetic, at that point does that mean the

1 patient is going to be in the room longer?

2 A. Yeah, it would take longer.

3 Q. So the patient's going to at least be
4 anesthetized to some degree and it'll take longer for
5 them to recover and leave the room; is that correct?

6 A. Definitely. And I think that was why he
7 didn't want me to give more because it would take
8 longer and then time is money.

9 Q. Let's follow up with that. In the
10 instances when he said he didn't want you to give more,
11 did he ever voice a medical reason for not doing that?

12 A. No, because -- no. If there were medical
13 reasons I'd be aware of it too. If a patient is
14 debilitated or frail and, you know, it's clear you're
15 just going to give a little bit, but then I wouldn't be
16 wanting to give the patient more in that case. I mean
17 I'm talking about a healthy individual who is clearly
18 uncomfortable.

19 BY A JUROR:

20 Q. We can't read Dr. Desai's mind to know
21 whether or whether or not that was the case, correct?

22 A. Yeah, I can't argue with that statement.

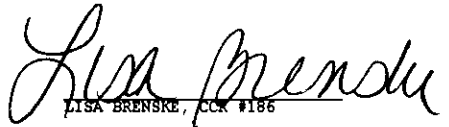
23 BY MR. STAUDAHER:

24 Q. Let me follow up one last thing on that.
25 Did you ever see Dr. Desai himself give propofol to a

1 patient? Did he go give anesthesia to the patients?
 2 A. I don't know. I would hope not. I don't
 3 know of any situations that he did that.
 4 Q. Do you ever remember walking by a room
 5 with another gastroenterologist during a procedure and
 6 seeing Dr. Desai sitting where you would normally sit
 7 giving anesthesia to a patient?
 8 A. I can't recall a situation like that.
 9 That would really shock me because it's kind of known
 10 that -- again, I've done anesthesia for many years in
 11 many facilities, many situations and I would have the
 12 most experienced surgeon there and if there were an
 13 airway problem or a problem with the patient, I would
 14 be the first one to try to -- I'm an airway expert, I'm
 15 an expert in anesthesia and it's how a patient reacts
 16 to it and I would be the person taking care of the
 17 patient. So I mean I would think that was extremely
 18 wrong and out of his realm. He's not trained in
 19 anesthesia and he is not doing it all the time. He may
 20 have trained during his residency, but he's not
 21 practicing anesthesia. So that would be that -- I'd be
 22 very unhappy with that situation.
 23 THE FOREPERSON: Anne.
 24 BY A JUROR:
 25 Q. When you would indicate that you wanted to

1 administer more anesthesia, what would be his reaction
 2 to that? Would he bother to look at the patient to
 3 confirm any of your concerns, would he slow the
 4 procedure down, speed it up, do anything? What would
 5 be his reaction?
 6 A. Sometimes he would slow down, sometimes he
 7 would stop the procedure if the patient was moving too
 8 much, sometimes he would just continue. I mean, it
 9 varied.
 10 THE FOREPERSON: Are there any further
 11 questions from the jury? There are none.
 12 By law these proceedings are secret and
 13 you are prohibited from disclosing to anyone anything
 14 that has transpired before us, including evidence and
 15 statements presented to the Grand Jury, any event
 16 occurring or statement made in the presence of the
 17 Grand Jury, and information obtained by the Grand Jury.
 18 Failure to comply with this admonition is
 19 a gross misdemeanor punishable by a year in the Clark
 20 County Detention Center and a \$2,000.00 fine. In
 21 addition, you may be held in contempt of court
 22 punishable by an additional \$500.00 fine and 25 days in
 23 the Clark County Detention Center.
 24 Do you understand this admonition?
 25 THE WITNESS: Yes.

1 THE FOREPERSON: Thank you. You may be
 2 excused.
 3 (Proceedings adjourned to reconvene.
 4 at a later undetermined time.)
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1 REPORTER'S CERTIFICATE
 2
 3 STATE OF NEVADA)
 4 COUNTY OF CLARK)
 5
 6 I, Lisa Brenske, CCR #186, do hereby
 7 certify that I took down in Shorthand (Stenotype) all
 8 of the proceedings had in the before-entitled matter at
 9 the time and place indicated and thereafter said
 10 shorthand notes were transcribed at and under my
 11 direction and supervision and that the foregoing
 12 transcript constitutes a full, true, and accurate
 13 record of the proceedings had.
 14 Dated at Las Vegas, Nevada, Tuesday,
 15 May 11, 2010.
 16
 17 
 18 LISA BRENSKE, CCR #186
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Commercial Laboratory				SNPHL				CDC											
Patient Name	DOB	Patient-P, Contact-C, Employee-E or Past Employee-PE	OOE MR#	Lab	Specimen Collection Date	Accession #	Specimen Collection Date	Accession #	CDC Study Code	Date specimen shipped to CDC	Chart Identifier	Results	Date results rec'd by SNPHL	Date results rec'd by OOE	Procedure Date 1	Procedure Date 2	CDC testing performed on sample collected by	additional sample for NSHL Hep B and HIV testing collected on/acn #	sample in SNPHL freezer?
Meema, Reddib	2/20/1935	P	30402	Quest	12/27/2007	49073635	12/27/2007	12128	NVC1	1/7/2008	37	Pos anti HCV Pos:HCV RNA	10/1/2008	12/17/2008	9/21/2007		Quest/SNPHL acn 12128 OOE/S. Johnson/ SNPHL acn 12203	3-22-08 acn12549 3-22-08 acn 12548	Yes
Grueskin, Carole	6/19/1939	P	30572			No sample	1/14/2008	12203	NVC29	1/5/2008	47	Pos anti HCV Pos:HCV RNA	10/1/2008	12/17/2008	9/21/2007				Yes
Washington, Michael	5/22/1940	P	30245		11/27/2007	No sample	1/14/2008	12206	NVC30	1/5/2008	1	Pos anti HCV Pos:HCV RNA	10/1/2008	12/17/2008	7/26/2007		OOE/S. Johnson	NSHL did not perform testing	Yes
Martin, Gwendolyn	7/2/1947	P	30131			No sample	1/14/2008	12207	NVC31	1/5/2008	43	Pos anti HCV Pos:HCV RNA	10/1/2008	12/17/2008	9/20/2007	9/21/2007	OOE/S. Johnson	NSHL did not perform testing	Yes
Hutchison, Stacy	2/12/1970	P	29947	Quest	10/31/2007	49106198	1/22/2008	12275	NVC41	2/4/2008	27	Pos anti HCV Pos:HCV RNA	10/1/2008	12/17/2008	9/21/2007	9/28/2007	Quest/SNPHL acn 12275	3-24-08 acn 12546	Yes
Asgharwall, Paily	6/1/1953	P	31166	LabCorp	2/7/2008	No sample	3/22/2008	12647	NVC42	3/26/2008	35	HCV genotype 1a	10/1/2008	12/17/2008	9/21/2007		OOE/K.O'Connor /SNPHL acn 12547	Labcorp sample not received at SNPHL because it had not been frozen. CDC requested redraw to ensure sample integrity for testing. CDC HCV and NSHL Hep B/HIV testing performed on acn 12547	No

				Commercial Laboratory				SNPHL				CDC						
Patient Name	DOB	Patient-P, Contact-C, Employee-E or Past Employee-PE	OOE MR#	Lab	Specimen Collection Date	Accession #	Specimen Collection Date	Accession #	CDC Study Code	Date specimen shipped to CDC	Chart Identifier	Results	Date results rec'd by SNPHL	Date results rec'd by OOE	Procedure Date 1	Procedure Date 2	CDC testing performed on sample collected by	sample in SNPHL freezer?
												C ab Pos/CDC HCV genotype ONS						
Orelana-Rivera, Sonia Elizabeth	7/3/1970	P					3/22/2008	12477	NVC44	3/31/2008	49	NSHL - Hep C ab Pos/CDC HCV genotype 1a	10/1/2008	12/17/2008	9/21/2007		OOE/E Smart	No
Rubino, Kenneth	11/2/1950	P					3/22/2008	12534	NVC45	3/31/2008	29	NSHL - HepC Ab Pos/ONS for CDC Hep C genotype NSHL - Hep C ab Pos/CDC HCV genotype 1a	10/1/2008	12/17/2008	9/21/2007		OOE/B Sapp	Yes
Zyad, Shariell	6/24/1951	P					5/14/2008	12839	NVC46	5/27/2008	2	NSHL - Hep C genotype 1a Pos/CDC HCV	10/1/2008	12/17/2008	7/25/2007		OOE/E Smart	Yes

1500

HEALTH INSURANCE CLAIM FORM

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE 08/05

PICA

PICA

SECURE HORIZONS
P5 HEALTH PLAN SOLUTIONS
PO BOX 95638
LAS VEGAS NV 89193-5638

1. MEDICARE <input type="checkbox"/> MEDICAID <input type="checkbox"/> TRICARE <input type="checkbox"/> CHAMPVA <input type="checkbox"/> GROUP HEALTH PLAN <input type="checkbox"/> FECA BLK LUNG <input type="checkbox"/> OTHER <input checked="" type="checkbox"/> (ID)				1a. INSURED'S I.D. NUMBER (For Program in Item 1) 769852301	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) MEANA RODOLFO T				4. INSURED'S NAME (Last Name, First Name, Middle Initial) MEANA RODOLFO T	
3. PATIENT'S BIRTH DATE 02/20/35				5. PATIENT'S ADDRESS (No., Street) 4155 W TWAIN AVE APT 111	
6. PATIENT RELATIONSHIP TO INSURED Self <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input type="checkbox"/>				7. INSURED'S ADDRESS (No., Street) 4155 W TWAIN AVE APT 111	
8. PATIENT STATUS Single <input type="checkbox"/> Married <input type="checkbox"/> Other <input type="checkbox"/>				CITY LAS VEGAS	
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)				CITY LAS VEGAS	
10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (Current or Previous) YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> b. AUTO ACCIDENT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> c. OTHER ACCIDENT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> 10d. RESERVED FOR LOCAL USE				11. INSURED'S POLICY GROUP OR FECA NUMBER 89103	
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below. Signature on File SIGNED _____ DATE 09/25/07				13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below. Signature on File SIGNED _____	
14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP) MM DD YY 09/21/07				15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS. GIVE FIRST DATE MM DD YY 17a. 10/30/03 17b. NPI	
16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY 09/21/07 TO 10/30/03				18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY 09/21/07 TO 10/30/03	
19. RESERVED FOR LOCAL USE				20. OUTSIDE LAB? \$ CHARGES YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> 100	
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY (Relate Items 1, 2, 3 or 4 to Item 24E by Line) 1. 78799 CHANGE IN BOWEL HA 2. 4019 HYPERTENSION				22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO. 23. PRIOR AUTHORIZATION NUMBER	
24. A. DATE(S) OF SERVICE From MM DD YY To MM DD YY 09/21/07 TO 10/30/03 B. PLACE OF SERVICE 24 C. EMG 24 D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER 00810 QZ QS P2 E. DIAGNOSIS POINTER 12				F. \$ CHARGES 560.00 G. DAYS OR UNITS 33 H. EPSC Family Plan I. ID QUAL NPI J. RENDERING PROVIDER ID. # 1235230152	
25. FEDERAL TAX I.D. NUMBER 880219049				26. PATIENT'S ACCOUNT NO. 33091-070901H0	
27. ACCEPT ASSIGNMENT? (If gov't claims, see back) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>				28. TOTAL CHARGE \$ 560.00	
29. AMOUNT PAID \$ 100				30. BALANCE DUE \$ 560.00	
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS I certify that the statements on the reverse of this bill are made a part thereof. FOR INSURANCE USE ONLY SIGNED _____ DATE 09/25/07				32. SERVICE FACILITY LOCATION INFORMATION ENDOSCOPY CTR OF S NV LLC 700 SHADOW LANE #165 LAS VEGAS NV 89106	
33. BILLING PROVIDER INFO & PH # (702) 2023431 KEITH MATHAHS CRNA 700 SHADOW LANE STE 165A LAS VEGAS NV 89106				a. 1235230152 ID 002402401	

NUCC Instruction Manual available at: www.nucc.org

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APPROVED OMB-0938-0999 FORM CMS-1500 (08-05)

RA000409

EXPLANATION OF BENEFITS

HEALTHCARE PARTNERS OF NEVADA

On Behalf of PacificCare of Nevada
P.O. Box 95638
LAS VEGAS, NV 89193-5638

Page 1 of 1
04/14/2010

GASTROENTEROLOGY CENTER OF NEVADA, INC.
700 SHADOW LANE
STE 165A
LAS VEGAS, NV 89106

VENDOR: 10086 GASTROENTEROLOGY CENTER OF NEVADA, INC.
CHECK # 15 - 763065 DATE PAID 10/19/2007

MEMBER NAME/ CLAIM NUMBER	MEMBER ID/ HP CODE/ FROM - TO	PROVIDER/ PROC CODE / REV CODE	AMOUNT QTY BILLED	CONTRACT AMOUNT	INTEREST ADJUST COPAY AMOUNT	ADJUST AMOUNT	NET PAYMENT
MEANA, RODOLFO T 2007101750600011-1	769852301 65PC 09/21/07 09/21/07	MATHAHS/03-01-08, PAT ID: 33091-070901HQ 00810 QZ	33 560.00	131.20	0.00	0.00	0.00 131.20
ADJ DESC: UDO PAID PER CONTRACT							
TOTAL FOR CHECK # 15 - 763065			560.00	131.20	0.00	0.00	0.00 131.20
TOTAL FOR VENDOR: GASTROENTEROLOGY CENTER OF NEVADA, INC.			560.00	131.20	0.00	0.00	0.00 131.20

IMPORTANT: DO NOT BALANCE BILL THE MEMBER

S:\Claims\Crystal\Provider EOB by claim number.rpt

LAST MODIFIED: 11/25/2002

RA000410

EXPLANATION OF BENEFITS
HEALTHCARE PARTNERS OF NEVADA

Page 1 of 1
04/14/2010



GRAND TOTAL

1

AMOUNT BILLED	CONTRACT AMOUNT	INTEREST COPAY	ADJUST AMOUNT	NET PAYMENT
560.00	131.20	0.00	0.00	131.20



IMPORTANT: DO NOT BALANCE BILL THE MEMBER
S:\Claims\Crystal\Provider EOB by claim number.rpt

LAST MODIFIED: 11/25/2002

RA000411

05/01/08

PATIENT FINANCIAL HISTORY BY DT SERVICE
GASTROENTEROLOGY CENTER OF NEVADA13
Accounts 33091 - 33091 All Dates

Page 1

Acct	Date	Dep #	Name	Dr#	Procedure	Ref Dt	Diag	Units	Amount
33091	MEANA, RODOLFO				Previous Balance :				0.00
09/21/07	0	MEANA, RODOLFO	3	00010	ANESTHESIA FOR COLON		787.99	3.00	560.00
11/05/07		Check Payment	763065		Ins #217	10/31/07			-131.20
11/05/07		Adjustment (23)	763065		PACIFICARE ADJUST	10/31/07			-420.00
<hr/>									
TOTALS FOR ACCOUNT 33091				PAYMENTS :	131.20	ADJUSTS :	420.00	CHARGES :	560.00
				REFUNDS:	0.00			3.00	0.00
<hr/>									
					131.20		420.00		560.00
									0.00

MEANAROD-ECSN-BILL-000010

RA000412

06/01/08

PATIENT PROCEDURE HISTORY BY DT SERVICE
GASTROENTEROLOGY CENTER OF NEVADA11
Accounts 33091 - 33091 All Dates
File : a:prohist.dat

Page 1

Acct	Date	Dep #	Name	Dr #	Procedure	Diag	Units	Charge
33091	09/21/07	0	MEANA, RODOLFO	3	00810	ANESTHESIA FOR COLON	787.99	3.00 560.00
TOTAL FOR ACCOUNT 33091							3.00	560.00

MEANAROD-ECSN-BILL-000011

RA000413

05/01/08

PATIENT PROCEDURE HISTORY BY DT SERVICE
GASTROENTEROLOGY CENTER OF NEVADA13
Accounts 33091 - 33091 All Dates
File : a:prohist.dat

Anes Page 1

Acct	Date	Dep	Name	Dr	Procedure	Diag	Units	Charge
33091	MEANA, RODOLFO							
	09/21/07	8	MEANA, RODOLFO	3	00810 ANESTHESIA FOR COLON	707.99	3.00	560.00
TOTAL FOR ACCOUNT 33091							3.00	560.00

MEANAROD-ECSN-BILL-000009

RA000414

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3
4 Electronically Filed
5 Jan 23 2012 04:04 p.m.
6 Tracie K. Lindeman
7 Clerk of Supreme Court

8 DIPAK KANTILAL DESAI

9 Petitioner,

10 vs

11 THE EIGHTH JUDICIAL DISTRICT
12 COURT OF THE STATE OF NEVADA,
13 COUNTY OF CLARK, THE
14 HONORABLE KATHLEEN
15 DELANEY, DISTRICT JUDGE,

16 Respondent,

17 and

18 THE STATE OF NEVADA,
19 Real Party in Interest.

Case No. 60038

District Court Case Number:

10C265107

20 **RESPONDENT'S APPENDIX**
21 **Volume II**

22 RICHARD A. WRIGHT, ESQ.
23 Wright Stanish & Winckler
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28 Counsel for Petitioner

Counsel for Respondent

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on January 23, 2012. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
Nevada Attorney General

RICHARD A. WRIGHT, ESQ.
Counsel for Appellant

MICHAEL V. STAUDAHER
Chief Deputy District Attorney

BY /s/ jennifer garcia
Employee, District Attorney's Office

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,
Plaintiff,

vs.

DIPAK KANTILAL DESAI,
RONALD ERNEST LAKEMAN,
KEITH H. MATHAHS,

Defendants.



COPY

CASE NO. 09BGJ049A-C

0265107

Taken at Las Vegas, Nevada

Thursday, April 22, 2010

11:32 A.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 4-A

Reported by: MARCIA LEONARD, OCR 204

GRAND JURORS PRESENT ON THURSDAY, APRIL 22, 2010:

SVEN BRADLEY

CONSTANCE CABILES (Not present in P.M.)

LISA CAMP (Not present in P.M.)

CHRISTINE LYONAIS

AGNES PARKER (Not present after 3:00 P.M.)

YOLANDA PARKER

BIANCA ROBERSON

ROBERT ROSE

SHELLY SALAMANPOULOS

STEVEN SHLUKER

ALICE SZURAN

MICHAEL THOMPSON

THOMAS UHRHAN

JOSEPH WILLOUGHBY

PAMELA YOUNG

ANNE ZARATE

LOUISE ZUNIGA

FILED

JUN 08 2010

John D. Blum
CLERK OF COURT

Also present at the request of the Grand Jury:

MICHAEL V. STAUDAHER
Deputy District Attorney

INDEX OF WITNESSES

	<u>Examined</u>
Yeremy Dueñas	6
Anne Yost	22
Vincent Sagendorf	56
Ryan Cerda	118
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<u>Grand Jury Exhibits</u>	<u>Identified</u>
30A Explanation of Benefits	12
30B Claim Form for Sonia Alfaro-Orellana	10

LAS VEGAS, NEVADA, THURSDAY, APRIL 22, 2010

* * * * *

MARCIA J. LEONARD,

having been first duly sworn to faithfully
and accurately transcribe the following
proceedings to the best of her ability.

THE FOREPERSON: Okay. Please raise your
right hand.

Do you solemnly swear that the testimony
you are about to give upon the investigation now
pending before this Grand Jury shall be the truth, the
whole truth, and nothing but the truth, so help you
God?

THE WITNESS: I do.

THE FOREPERSON: Thank you. You may be
seated.

You are advised that you are here today to
give testimony in the investigation pertaining to the
offenses of performance of act in reckless disregard of
persons or property, criminal neglect of patients,
insurance fraud, obtaining money under false pretenses,
and racketeering, involving Dipak Kantilal Desai,
Ronald Ernest Lakeman, and Keith H. Mathahs.

Do you understand this advisement?

THE WITNESS: Yes.

THE FOREPERSON: Could you please state
both your first and last names, spelling them for the
record.

THE WITNESS: My name is Yereny,
Y-E-R-E-N-Y, Dueñas, D-U-E-N tilde A-S.

A JUROR: I'm sorry. Can you just do the
last name again? Sorry.

THE WITNESS: That's okay. D-U-E-N, with
a tilde, A-S.

YERENY DUEÑAS,

having been first duly sworn by the Foreperson of the
Grand Jury to tell the truth, the whole truth, and
nothing but the truth, testified as follows:

EXAMINATION

BY MR. STAUDAHMER:

Q. And how do you pronounce your last name,
ma'am?

A. Dueñas.

Q. Dueñas.

Ms. Dueñas, what do you do for a living?

A. I am the claim team leader for ABPA, the

third-party administrator for the Culinary Health Fund.

Q. So the Culinary insurance, you do the
third-party administration work?

A. We process their claims, administer their
benefits, provide customer service, handle their
eligibility, yes.

Q. So, in other words, do you receive claims
from providers of care, health care?

A. Yes.

Q. And then make payments on those claims?

A. That is correct.

Q. Is that per the agreement that Culinary
has with whoever the -- either the provider and/or the
actual participant, plan member?

A. Correct.

Q. Okay. In your capacity as the claims --
claims leader I think --

A. Claims team leader.

Q. -- what kinds of things do you do in that
capacity?

A. We process claims. We receive them.
Either a hard copy, EDI. We send for information from
participants. Request additional information from
providers if we need them. We process hospital claims.

Q. When you said EDI, what do you mean by

that?

A. Claims are submitted electronically
through the system. We don't actually get a hard copy
dropped. It's actually done all through the system.
It's filed electronic.

Q. So when a provider sends in a claim form
for some sort of service that's been provided to a plan
member, is that a certain type of form?

A. Yes, it is a HICFA form.

Q. And does it have a particular number and
type associated with it?

A. Yes, a HICFA 1500.

Q. Is that pretty standard that most claims
come in under this HICFA 1500 designation?

A. Yes, for medical physicians. Hospitals
use UB, UBs.

Q. Okay. And the particular case that I'm
going to talk to you about today relates to a plan
member, a Culinary plan member by the name of Sonia
Alfaro-Orellana.

Are you familiar with the claim and the
payment for the claim made by the Endoscopy Center of
Southern Nevada related to that individual?

A. The anesthesia claim?

Q. Yes. Well, we'll get to that in a minute.

1 Some claims --

2 A. The claims submitted for her, yes.

3 Q. And I guess that was a poor question. I

4 assume she may have had some other things as well,

5 correct?

6 A. Yes, other claims.

7 Q. So let me define that a little more and

8 make it a little easier for you.

9 A. Okay.

10 Q. My questions are going to be confined to

11 procedures that were performed for colonoscopy and

12 anesthesia related to colonoscopies on that particular

13 plan member at the Gastroenterology Center of Southern

14 Nevada by Dipak Desai's organization. Are you with me?

15 A. Yes.

16 Q. Okay. Did you, as part of your normal

17 activities, do you have access to the records you've

18 described, such as claim forms or electronic submission

19 forms and payment information?

20 A. Yes, we do. Yes, I do.

21 Q. Did you look up or bring with you or

22 provide at some point that type of information to the

23 police and to this Grand Jury?

24 A. Yes, we did.

25 Q. Okay. I'm showing you what has been

1 marked as State's Exhibit 30B and ask you if you

2 recognize that item?

3 A. Yes, this is the EDI screen, which is in

4 our system claim fax, which mimics the hard copy of a

5 HICFA 1500 in our HF screen when a claim is submitted

6 electronically.

7 Q. Okay. I want you to thumb through all the

8 pages and make sure you're familiar with them.

9 A. Okay.

10 Q. And I believe there are four pages to this

11 particular exhibit document?

12 A. And a HICFA starts with Box 1, and Box 1

13 is there.

14 Q. On page 1 of that document, correct?

15 A. Yes. Page 1. Page 2.

16 Q. At this point, I just want you to flip

17 through and see if you are familiar with them. Then

18 we'll go through the documents.

19 A. Okay. Yes.

20 Q. Now, is this the claim actually that was

21 submitted that we're talking about for Ms. Orellana

22 regarding her -- the anesthesia portion of her

23 procedure?

24 A. Yes, it is based on page 3.

25 Q. Based on page 3.

1 Okay. Let's start off with page 1.

2 A. Okay.

3 Q. Tell us what we're looking at and how you

4 know that -- let's talk about the date, the type of

5 procedure, whatever it is?

6 A. Okay. Based on page 1, is the -- Box 1A

7 is the member's social security number.

8 Do I need to read anything out?

9 Q. No.

10 A. Okay.

11 Q. You don't have to read out the social

12 security numbers. I'm just trying to find out when it

13 happened, when the form was submitted --

14 A. Okay.

15 Q. -- and who it's related to.

16 A. Okay. The patient's name is Sonia

17 Orellana-Alfaro. The insured's name is Sonia as well.

18 Her address. Her date of birth.

19 Q. When was the claim submitted?

20 A. The claim is submitted -- let me see -- is

21 not on this. It is not on this form.

22 Q. Okay. The form, not on that particular

23 exhibit?

24 A. Yes.

25 Q. Do you have the information about when the

1 claim was submitted?

2 A. I would have to look and see what you've

3 provided.

4 Q. Okay. This is the -- you need to look at

5 Grand Jury Exhibit 30A to do so. You can do so at that

6 time.

7 A. It was received 9/25 of 2007.

8 Q. So that's when the claim was actually

9 submitted?

10 A. Correct.

11 Q. And you're looking at this time on the

12 third page of Exhibit 30B, correct?

13 A. Correct.

14 Q. Now, are those documents, and I assume you

15 looked through that one as well, is that something that

16 is part of the records of the Culinary Union or at

17 least the third party, your third party --

18 A. Yes.

19 Q. -- sort of entity?

20 A. Yes, sir.

21 Q. Now, let's talk about the procedure

22 itself. Was this for an anesthesia procedure for a

23 colonoscopy?

24 A. I would have to pull the other dates of

25 service, the other services provided for this date of

1 service.
 2 Q. But this is specifically for an anesthesia
 3 billing, correct?
 4 A. Yes, yes.
 5 Q. Now, on this particular -- do you have any
 6 of those documents with you if you need to look at
 7 them?
 8 A. I believe I do.
 9 Q. Okay. And I have got some as well. If
 10 you need to refer to any documents of your own that you
 11 brought with you at any time, just let us know you're
 12 doing so and tell us what you're looking at. Okay?
 13 A. Okay.
 14 Q. But those are not going to be admitted
 15 necessarily as exhibits.
 16 A. Okay.
 17 Q. If you need to refer to any document you
 18 have at this time, go ahead and do so just to refresh
 19 to make sure we're talking about the right document.
 20 Okay?
 21 A. Okay.
 22 Q. Now, what were you just looking at just
 23 for the record?
 24 A. I was looking at the copies that we had
 25 provided you and new printouts that I made this morning

1 of modifiers that are associated with the claim.
 2 Q. Okay. So you're interpreting things on
 3 the exhibit based on your review of records in your
 4 business?
 5 A. Yes.
 6 Q. Okay. Did that help refresh your
 7 memory --
 8 A. Yes.
 9 Q. -- as to what those items were?
 10 A. Yes, it did.
 11 Q. Okay. Put that aside, if you would, what
 12 you brought with you.
 13 And now if you could testify about what
 14 we're looking at here on Exhibit Number 30B?
 15 A. Okay.
 16 Q. And I think we're on the third page of the
 17 document.
 18 A. That is correct.
 19 Q. Okay.
 20 A. Okay. So this basically tells us that we
 21 received a claim for date of service 9/21 of 2007, for
 22 place of service 24, which is an outpatient, outpatient
 23 facility, AC facility. For ASA code, which is an
 24 anesthesia code of 00810. Billed with three different
 25 modifiers, QZ, QS and P2, in the amount of \$560 for 33

1 minutes.
 2 Q. So if I understand you correctly, the
 3 dollar amount of the claim was \$560; is that correct?
 4 A. That is correct.
 5 Q. So that's what they say, hey, look this is
 6 what it cost or what we're using as the cost for an
 7 anesthesia; is that correct?
 8 A. That is what they're using as the billed
 9 charges.
 10 Q. Billed charge? Okay. Sorry about that.
 11 A. Billed charges.
 12 Q. Now, you had mentioned that there was a
 13 time that was also submitted as well.
 14 A. Correct.
 15 Q. And you said --
 16 A. Thirty-three minutes.
 17 Q. -- 33. Is that -- now, that dollar amount
 18 and that minutes charge, that was actually submitted in
 19 the claim?
 20 A. Yes.
 21 Q. Go ahead.
 22 A. Okay. So that's basically what this
 23 screen is telling me, that that is the code, the billed
 24 charges and the minutes billed by the doctor.
 25 The doctor's name is on the second -- on

1 the last page, which is the fourth page, which is for
 2 Keith Mathahs.
 3 Q. What's the address and the business?
 4 A. The address is 700 Shadow Lane, 165A, Las
 5 Vegas, Nevada 89106. And the services were rendered at
 6 the Endoscopy Center of Southern Nevada, 700 Shadow
 7 Lane, 165, Las Vegas, Nevada 89106.
 8 Q. Okay. Now, that document there talks --
 9 is basically the information related to the claim
 10 itself being submitted by the Endoscopy Center,
 11 correct?
 12 A. This is the claim for the anesthesia.
 13 Q. The anesthesia portion of that procedure,
 14 correct?
 15 A. Correct.
 16 Q. Okay. Now, if you move on to the next
 17 document, which is 30A, can you tell us what this is?
 18 A. Okay.
 19 Q. And I think it's multi pages as well; is
 20 that correct?
 21 A. Yes, it is three pages.
 22 Q. Okay. Tell us what we're looking at on
 23 this particular document.
 24 A. Okay. This document is the member
 25 explanation of benefits that lets the member know how

1 we process the claim.
 2 Q. So in other words, is that called an EOB,
 3 then?
 4 A. Yes, an EOB, explanation of benefits. It
 5 is in Spanish. The second page is -- it looks like
 6 it's -- this might have been submitted by the doctor's
 7 office.
 8 Q. So the second page is not one of your
 9 documents itself?
 10 A. Huh-huh.
 11 Q. Okay. And then is it something you're
 12 familiar with or not?
 13 A. Huh-huh.
 14 Q. Okay. So just so we're clear, the second
 15 page of that particular exhibit is not something
 16 submitted or that you're testifying about today,
 17 correct?
 18 A. Correct.
 19 Q. Okay. And what is the last page?
 20 A. The last page is the screen printout, it
 21 looks like, from our customer service desktop when
 22 providers or participants call to check the status of
 23 their claim on the website.
 24 Q. Okay. Do any of those documents indicate
 25 how much money was actually paid on the claim

1 submitted?
 2 A. Yes, it does.
 3 Q. How much money was paid?
 4 A. We paid \$306.
 5 Q. Was that paid back to the Endoscopy Center
 6 of Southern Nevada where the claim came from?
 7 A. This claim was paid actually to
 8 Dr. Mathahs, the \$306.
 9 Q. At the location where he was working,
 10 correct?
 11 A. Correct.
 12 Q. Okay. And I just want to be clear. Even
 13 though you're the third-party administrator for
 14 Culinary, you're the ones that were responsible for
 15 receiving the claims and then paying the benefits on
 16 those claims for Culinary; is that correct?
 17 A. That is correct.
 18 And I just want to be clear that this
 19 claim is for Dr. Mathahs. The \$306 were Dr. Mathahs,
 20 the anesthesiologist, CRNA, where he rendered the
 21 services at the Endoscopy Center.
 22 Q. Got it.
 23 Now, beside just coming and testifying
 24 about the records, the claim, and the submission of
 25 everything or the payment of the money on the claim, is

1 there any other item there of importance to you
 2 regarding what was done or handled in this particular
 3 case by your organization?
 4 A. No.
 5 Q. I think you mentioned the minute charges
 6 of being submitted as 33 minutes, correct?
 7 A. That's correct.
 8 Q. Now, hypothetically, if the minute charges
 9 had come in less than that, would the claim necessarily
 10 have been paid for a lesser amount?
 11 A. Yes, it would have.
 12 Q. So the number of minutes was significant
 13 as far as the dollar amount paid on the claim?
 14 A. I'm sorry. Can you repeat the question?
 15 Q. So the number of minutes was -- correlates
 16 to how much money was actually going to be paid?
 17 A. Correct.
 18 Q. If, in fact, you had received a bill that
 19 was down in the seven-minute range, would the payment
 20 have been less?
 21 A. Yes, it would have.
 22 MR. STAUDAHER: I have nothing further for
 23 this witness, ladies and gentlemen.
 24 THE FOREPERSON: Are there any questions
 25 from the jury? There are none. Okay.

1 By law these proceedings are secret. And
 2 you are prohibited from disclosing to anyone anything
 3 that transpired before us, including evidence presented
 4 to the Grand Jury, any event occurring or a statement
 5 made in the presence of the Grand Jury, or information
 6 obtained by the Grand Jury.
 7 Failure to comply with this admonition is
 8 a gross misdemeanor punishable by a year in the Clark
 9 County Detention Center and a \$2,000 fine. In
 10 addition, you may be held in contempt of court
 11 punishable by an additional \$500 fine, and 25 days in
 12 the Clark County Detention Center.
 13 Do you understand this admonition?
 14 THE WITNESS: Yes, I do.
 15 THE FOREPERSON: Okay. Thank you. You
 16 can be excused.
 17 Please remain standing and raise your
 18 right hand.
 19 Do you solemnly swear that the testimony
 20 you are about to give upon the investigation now
 21 pending before this Grand Jury shall be the truth, the
 22 whole truth, and nothing but the truth, so help you
 23 God?
 24 THE WITNESS: I do.
 25 THE FOREPERSON: Thank you. You may be

1 seated.

2 You are advised that you are here today to

3 give testimony in the investigation pertaining to the

4 offenses of performance of act in reckless disregard of

5 persons or property, criminal neglect of patients,

6 insurance fraud, obtaining money under false pretenses,

7 and racketeering, involving Dipak Kantilal Desai,

8 Ronald Ernest Lakeman, and Keith H. Mathahs.

9 Do you understand this advisement?

10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: Could you please state

12 both your first and last names and spell them for the

13 record?

14 THE WITNESS: First name is Anne, A-N-N-E.

15 Last name is Yost, Y-O-S-T.

16 THE FOREPERSON: Thank you.

17

18 ANNE YOST,

19 having been first duly sworn by the Foreperson of the

20 Grand Jury to tell the truth, the whole truth, and

21 nothing but the truth, testified as follows:

22

23 / / /

24 / / /

25

1 EXAMINATION

2 BY MR. STAUDAHER:

3 Q. Ms. Yost, what do you do for a living?

4 A. I'm a registered nurse.

5 Q. How long have you been a nurse?

6 A. Two years.

7 Q. Where did you get your training and when

8 did you graduate?

9 A. I want to correct that. It's three years.

10 Three years.

11 I got my training at the Community College

12 of Southern Nevada.

13 Q. And when did you graduate?

14 A. I graduated in May of 2007.

15 Q. Okay. What type of a nurse are you?

16 A. Currently, I am a psychiatric nurse.

17 Q. Are you an LPN, RN?

18 A. RN.

19 Q. RN. Okay.

20 And you're working at a psychiatric unit

21 or building or facility?

22 A. City jail.

23 Q. City jail. Okay. I'm going to go back in

24 time a little bit.

25 After you graduated, where did you go to

1 work?

2 A. After I graduated, I started working at

3 the Endoscopy Center.

4 Q. Do you know when you started working at

5 the Endoscopy Center?

6 A. Yes, it was July of 2007.

7 Q. Do you know the specific date?

8 A. I would say second, third and fifth of

9 July.

10 Q. Okay. So over the Fourth of July period,

11 right in that range?

12 A. Right.

13 Q. You described a three-day period. Is that

14 all that you worked at that facility?

15 A. Right.

16 Q. Were you terminated from the facility?

17 A. No, I resigned my position.

18 Q. When you first went to work at the

19 facility, who did you meet with to hire you or deal

20 with?

21 A. Katie Maley was the director of nursing.

22 Q. So she was the one that interviewed you?

23 A. Yes.

24 Q. And just for the ease of the court

25 reporter, and I'll try to do this, sometimes I make the

1 mistake as well, I'm going to ask you to let me finish

2 my question, and then I'll try to let you finish your

3 answer. Okay?

4 A. Okay.

5 Q. Because it's hard, if we talk over each

6 other, for her to take down all the words.

7 A. Okay.

8 Q. Okay. So you're at -- so Katie Maley is

9 the one that interviews you. Does she hire you on the

10 spot, or do you come back a couple weeks later? How

11 did that go?

12 A. I believe it was a week later. Well, she

13 hired me on the spot. I started about a week later.

14 Q. So when you come into the facility, what

15 is the job that you're going to do?

16 A. I was in the procedure rooms where they

17 perform the endoscopies.

18 Q. And what was your role in the procedure

19 room?

20 A. Mainly charting and paperwork.

21 Q. So did you have hands-on patient activity

22 at that point?

23 A. No, mainly talking to the patient about

24 how they were feeling about the procedure and

25 documenting the condition that they were in.

1 Q. Okay. So pretty much just dealing with
2 the chart and just verbally with the patient?
3 A. Right.
4 Q. Now, when you started working there, did
5 they tell you that that was what you were going to be
6 doing primarily?
7 A. Yes, they did.
8 Q. When you came into the facility, that's
9 what you actually started doing then?
10 A. Right.
11 Q. Was there any kind of a training period
12 for you to be able to chart, or did you learn that when
13 you were in school?
14 A. The three days that I was there I learned
15 their specific way of charting.
16 Q. Okay. And we'll get to that in a minute.
17 But as far as your job, was this the first
18 job that you had after you graduated?
19 A. Yes, it was.
20 Q. After you left that facility, were you
21 able to find another job?
22 A. Yes.
23 Q. How long after that three-day period did
24 it take you to locate another position?
25 A. I started looking for a position right

1 away. I don't believe I was hired until a couple
2 months later.
3 Q. So you started looking -- I mean, how soon
4 after you actually start working did you start looking
5 for a new position?
6 A. As soon as I had resigned, I started
7 looking for another position.
8 Q. Okay. It didn't take you a long, long
9 time, though, to find one?
10 A. No.
11 Q. Now, I'm going to start asking you about
12 what you actually did and what the issues were, if any,
13 that relate to why you left the facility. Okay?
14 A. Okay.
15 Q. Were there personal or professional
16 reasons why you left the facility?
17 A. Yes, the professional reason was that they
18 were encouraging me to pre-chart, and pre-charting is
19 documenting on a patient before you've actually seen
20 them.
21 Q. Now, when you say they encouraged you, was
22 it one person, more than one person, how prevalent was
23 this practice?
24 A. I was trained by two nurses, and both of
25 them had encouraged the same thing.

1 Q. Okay. Did you see other persons do the
2 same thing there?
3 A. Just primarily the two that had trained
4 me, and then also in pre-op.
5 Q. Now, we're going to get into the specifics
6 about how things work in the facility, but when that
7 happened, when you had people come up to you and get
8 you to try and do this, did that surprise you?
9 A. Yes, it did.
10 Q. Did it affect you in any way?
11 A. Yes, I felt -- I was appalled by it.
12 Q. Did you express at the time that this was
13 something that you didn't agree with, you didn't want
14 to do?
15 A. Yes. I told the nurses that were training
16 me that I didn't want to document on a patient before I
17 had actually seen them.
18 Q. When you talk about documentation, what
19 kind of documentation are we talking about?
20 A. Basically, the condition of the patient,
21 anxiety, let's see, if the person has a strange color
22 to them, looks like they are having difficulty
23 breathing.
24 Q. Did you ever -- when you saw -- I assume
25 that you weren't the primary person dealing with the

1 person initially, correct?
2 A. Right.
3 Q. You're in the procedure room. Was there a
4 room or a place that the patients went before they got
5 to the procedure room?
6 A. Yes, pre-op.
7 Q. In the pre-op area, did you go out and do
8 any charting or any work out there?
9 A. No, I didn't.
10 Q. When the patients came from the pre-op
11 area to the procedure room, did they have paperwork
12 with them?
13 A. Yes, they did.
14 Q. When you saw the paperwork coming, did at
15 times you see anything unusual about that paperwork?
16 A. Sometimes the nurses from pre-op had
17 completed the charting that would have been done in the
18 procedure room. They would have started some of that
19 charting ahead of time.
20 Q. For you?
21 A. For the -- yes, the procedure room.
22 Q. What about you, as far as if something had
23 already been filled out for you, what did you do then?
24 A. I would ask why the paperwork was already
25 filled out, and then the nurse training me would say

1 that that was done so that the turning could be done
 2 quicker.
 3 Q. Okay. And, again, at this point, you said
 4 that this had a pretty significant affect on you; is
 5 that right?
 6 A. Right.
 7 MR. STAUDAHER: That last statement and
 8 any statements related to that one that she elicits are
 9 hearsay statements, ladies and gentlemen. They are
 10 being offered for the truth of the matter at this point
 11 under a hearsay exception, which is the effect on the
 12 listener, how these things that happened to her
 13 affected her and what she did as a result of them.
 14 So with that, I would like to continue on.
 15 BY MR. STAUDAHER:
 16 Q. So during your training, had that ever
 17 occurred to you before? Had anybody ever come up to
 18 you and given you something that was already filled out
 19 on the condition of the patient or what the patient was
 20 experiencing or not experiencing before you ever
 21 actually saw them?
 22 A. You mean prior to working?
 23 Q. At the Endoscopy Center?
 24 A. They had discussed it in nursing school
 25 that that was improper procedure.

1 done beforehand, or when the -- when some of the stuff
 2 came to you. I mean we're talking about filled out
 3 documents on patients that you have not seen yet?
 4 A. Right.
 5 Q. Now, that's different than them just
 6 handing you a blank document and saying, you know, go
 7 ahead and start filling out vital signs or whatever on
 8 this patient, even before he's wheeled in the door?
 9 A. Right.
 10 Q. Did both of those things happen, though?
 11 A. Yes, both happened.
 12 Q. What about the documentation after the
 13 patient leaves your sort of area and goes out into the
 14 post-care area?
 15 A. Again, in training, I was encouraged to
 16 start charting post-op information on a patient to save
 17 time.
 18 Q. Okay. And when you say training, you're
 19 talking about training at the Endoscopy Center?
 20 A. Yes.
 21 Q. Again, did that affect you in any way as
 22 far as being something that concerned you?
 23 A. It did because that's still pre-charting.
 24 Q. So you -- if I understand you correctly,
 25 you were encouraged to pre-chart for other persons down

1 Q. So you were actually taught that that was
 2 not proper?
 3 A. Yes.
 4 Q. So when you saw it on your first job on
 5 your first day, what was going through your mind?
 6 A. That I didn't want to work in a place like
 7 that because I don't want to risk my license doing the
 8 same thing.
 9 Q. Okay. Now, when you raised this to these
 10 nurses, I mean did you -- did anybody else work with
 11 you at the time that was new?
 12 A. No.
 13 Q. Did you, during the three days you were
 14 there, were there any other additional nurses or
 15 personnel that came on that were also in the same
 16 position as you were in?
 17 A. No.
 18 Q. Did you ever work with people who were
 19 already at the clinic who were in the same position
 20 that you were in?
 21 A. I'm not sure.
 22 Q. I mean as nurses, charting, things like
 23 that in procedure rooms?
 24 A. No.
 25 Q. Now, when you said that the charting was

1 the line as well?
 2 A. Right, right.
 3 Q. Now, as far as the types of things that
 4 were being pre-charted or that you were encouraged to
 5 pre-chart, did that include start times and stop times
 6 for procedures, and things like that?
 7 A. Yes, it did.
 8 Q. Did it include vital signs or, like you
 9 said, how the patient was doing, things like that?
 10 A. Not vital signs, but yes, how the patient
 11 was doing.
 12 Q. As far as the condition of the patient,
 13 had you had a chance, when asked to just go ahead and
 14 fill out stuff about the patients, to actually maybe
 15 step out and look at the patient in the post-op area
 16 just to confirm that that was the way they were?
 17 A. No.
 18 Q. What happened if you -- well, I guess let
 19 me step back.
 20 If you were encouraged to pre-chart the
 21 condition of the patient, was the condition supposed to
 22 be a certain way all the time?
 23 A. Generally, it was documented the same way
 24 every time.
 25 Q. And how was that documented?

1 A. That the patient was in good condition and
2 good health.
3 Q. What happened if you had a patient that
4 came in that was not in such good condition or good
5 health?
6 A. Every time it was documented exactly the
7 same way, that they were in good health.
8 Q. Were you ever asked, or did you ever
9 change the documentation if, in fact, you saw that
10 somebody was not doing well?
11 A. I did, yes.
12 Q. Okay. Was that something that you were
13 allowed or you were told to do or was it just something
14 you did?
15 A. Just something I did.
16 Q. Did you, in fact, comply with what they
17 were asking you to do in and pre-chart?
18 A. No, I didn't.
19 Q. Did that cause trouble for you?
20 A. Yes. The nurses were continually saying
21 "Hurry up, hurry up." And the doctors were like "Why
22 aren't we ready yet?" So there was a lot of pressure,
23 a lot of frustration in the procedure room because I
24 wouldn't pre-chart.
25 Q. And was this pervasive amongst the --

1 Q. You had said that people were described as
2 being happy or being healthy, everybody was supposed to
3 be in good condition, things like that, correct?
4 A. Correct.
5 Q. Do you recall having an interview with the
6 police?
7 A. Yes, I do.
8 Q. Was that interview taped?
9 A. Yes, it was.
10 Q. Was that interview provided to you in
11 advance of this testimony today so that you could
12 review it?
13 A. Yes, it was.
14 Q. I'm showing you what has been -- I think
15 the front page of it. It's not an exhibit. The front
16 page of it bears your name; is that correct?
17 A. Yes.
18 Q. And the date of the 29th of May of 2008?
19 A. Yes.
20 Q. Does that look like the transcription of
21 the -- not the testimony but the statement that you
22 gave to the police?
23 A. Yes, it does.
24 Q. I'm going to ask you to -- or ask you to
25 review page 8, the bottom of it. When you're done, let

1 during the time around the people that you were working
2 with --
3 A. Yes.
4 Q. -- that this was going on?
5 Did you ever get the impression that just
6 what was happening with you was an isolated thing, and
7 this was not happening elsewhere in the practice?
8 A. No, I felt it was general to the practice.
9 Q. Did you ever see Desai?
10 A. No, I didn't.
11 Q. So during the three days that you're
12 there, you didn't work with him as a doctor during any
13 of these procedures?
14 A. No, I never saw him.
15 Q. Never interviewed with him?
16 A. No.
17 Q. When you left, did you see him?
18 A. No.
19 Q. So this whole operation, the way you
20 described it, was able to run without him being
21 present?
22 A. Yes.
23 Q. Do you know if vital signs at any time
24 would be faked on charts?
25 A. No, I don't recall any of that.

1 me know. Just turn that over, give it back to me, and
2 then I'll ask you if that refreshes your memory as to
3 the issue regarding vital signs.
4 A. Okay.
5 Q. Okay. Does that refresh your memory?
6 A. Yes, it does.
7 Q. I'll ask you the question again. Were you
8 aware of or told to document fake vital signs on
9 patients?
10 A. No.
11 Q. Do you see what the words were there and
12 asked? Can you explain what you meant by that?
13 A. Sure. I was responding yes to the second
14 portion where he asked if the patient was bluish.
15 Q. Okay. What you're talking about is the
16 condition of the patient?
17 A. The condition of the patient.
18 Q. So not vital signs?
19 A. Right.
20 Q. So with regard to that, were you told --
21 what were you told to do as far as charting the patient
22 then in a situation like that where the patient came in
23 and they weren't happy, healthy, and doing well?
24 A. I'm not understanding.
25 Q. Well, if you had a patient come in, you

1 said that you would -- you would actually do your own
2 thing. You would re-chart or fix the chart so that it
3 would reflect that.

4 But were you ever instructed on what to do
5 in a situation like that?

6 A. No, I wasn't.

7 Q. So you just -- that everybody's supposed
8 to be in good shape?

9 A. Right.

10 Q. Now, as far as propofol, let me ask you
11 some questions about that. And, actually, let me go
12 back just a minute and ask you some things about some
13 safety issues.

14 Did you have, beside that whole
15 pre-charting thing, did you have any concerns about
16 safety issues within the practice, the things that you
17 saw in your limited three days you were there?

18 A. At the time, I didn't.

19 Q. Was there anything about the speed of the
20 procedures or the volume of procedures that were being
21 done?

22 A. Yes. I did have some concern about that.
23 People were going in pretty rapidly. It seemed like
24 sometimes seven minutes' time would pass and the
25 procedure would be over. I wouldn't be done charting,

1 and they would be moving another patient in the room.

2 Q. Now, the CRNA that was present, the person
3 giving the anesthesia, did you ever see that person get
4 up and walk out and administer to the patients out in
5 the recovery area?

6 A. I saw them leave the procedure room, yes.
7 I didn't have a view of the recovery area.

8 Q. Okay. Would they leave after every single
9 patient?

10 A. No.

11 Q. How often would they leave and why, if you
12 know?

13 A. I don't know how often they would leave or
14 why.

15 Q. Were they in the room more often than not?
16 I mean how was it going? Did they reside in the room
17 most of the time, or did they get up and leave after
18 every patient?

19 A. The majority of the time they would stay
20 in the room and would not leave. Occasionally, they
21 would leave for about 30 seconds at a time maybe.

22 Q. Was there ever an incident that you recall
23 regarding a scope, a special request for a scope?

24 A. Yes, there was a doctor who was requesting
25 a special type of scope. And from the room where the

1 scopes are being cleaned, somebody said that scope is
2 not ready.

3 Q. Okay.

4 A. And then all of a sudden that scope came
5 out, and it was handed to the doctor.

6 Q. Did that give you concern at the time?

7 A. It did because I wondered how it wasn't
8 ready and then all of a sudden it was ready.

9 Q. Did you know that there was a specific
10 amount of time that was needed to process the scopes
11 after they had been used?

12 A. I'm not aware of the length of time, no.

13 Q. But that there was some time?

14 A. There is some time.

15 Q. Now, let's move on to the issue of
16 propofol. You're familiar with that drug, I assume, or
17 at least it's used at that time in the facility?

18 A. Yes.

19 Q. Did you notice how propofol was used at
20 that facility when you were in the room?

21 A. I did. There were roughly two vials of it
22 at any given time. They were in a drawer. The doctor
23 would pull them out. I mean, sorry, not the doctor.
24 The CRNA would take them out and draw from the two
25 vials at any given time.

1 Q. Would that -- would there be a vial maybe
2 or two left on the table when a patient was moved out
3 of the room and a new patient was moved in?

4 A. Yeah, the same two vials.

5 Q. Okay. Would you see those subsequent
6 vials being used on another patient?

7 A. Yes.

8 Q. Not the subsequent vials, but the vials
9 that remained used on a subsequent patient?

10 A. Right.

11 Q. Did you see them being drawn up
12 individually out of different vials for the same
13 syringe, so to speak?

14 A. I didn't see the syringe actually taking
15 from the propofol, but I know that at any given time
16 there were only two vials that were being drawn from.

17 Q. Did you see the new ones being opened up
18 periodically or not?

19 A. No.

20 Q. Do you remember the sizes of the bottles
21 that were up there?

22 A. I could show with my hand I guess the
23 size. I'm not sure of the milligrams or anything.

24 Q. Okay. Just were they big bottles or small
25 bottles?

1 A. They were larger, yes.
 2 Q. Now, as far as the multiple patients,
 3 multiple use of propofol, you actually saw this, right?
 4 A. Yes.
 5 Q. What about syringe reuse, did you ever see
 6 syringes being used on more than one patient?
 7 A. No, I couldn't see the syringe use, how
 8 they CRNA was using the syringes.
 9 Q. Is that because of your positioning in the
 10 room?
 11 A. Yeah, because of my position.
 12 Q. So you're still in the room, you're doing
 13 your charting. Did you ever see the CRNAs move from
 14 room to room?
 15 A. At lunchtime they would switch from one
 16 room to another to fill in for each other.
 17 Q. Did you ever see the CRNAs leave the room
 18 when a patient was unconscious?
 19 A. I did.
 20 Q. Was the doctor still in the room at this
 21 point or was nobody in the room beside you?
 22 A. The doctor was there.
 23 Q. So the CRNA might leave the room. Was he
 24 gone for a very short time or for a longer time?
 25 A. About 30 seconds.

1 were training me to try to clean the rails on the beds
 2 to, you know, just for cleanliness.
 3 Q. Did you have a lot of spare time?
 4 A. No.
 5 Q. Now, after you left the facility, and did
 6 you leave the facility because of the things we've
 7 described?
 8 A. Yes, I did.
 9 Q. When you left the facility, did you tell
 10 anybody about this or try to?
 11 A. In my resignation letter, I specified why
 12 I was leaving.
 13 Q. So the resignation letter to the facility?
 14 A. Yes.
 15 Q. Who was that addressed to?
 16 A. Katie Maley.
 17 Q. You specifically mentioned this
 18 pre-charting stuff that was a concern?
 19 A. Yes, I did.
 20 Q. Ever get a response back from them?
 21 A. No.
 22 Q. Did anybody ever call you up to even talk
 23 to you about trying to come back or anything?
 24 A. No.
 25 Q. After you sent the -- or put that

1 Q. Then would come back?
 2 A. Yes.
 3 Q. Did you ever see when the CRNAs moved from
 4 room to room for lunch or whatever that they carried
 5 anything with them, syringes, propofol, anything like
 6 that?
 7 A. No, I didn't see that.
 8 Q. Okay. What was your concern -- what was
 9 your sort of observation about the cleanliness and
 10 sanitation of the rooms?
 11 A. There was no cleaning crew between the
 12 procedures. One person would -- one patient would come
 13 in, the procedure would be done, then the patient would
 14 be taken out and someone else would be brought in
 15 without the room being cleaned.
 16 Q. What about the table that the patient had
 17 been lying on having the procedure? Were they wiped
 18 down and cleaned?
 19 A. They had their own individual gurneys that
 20 we brought in, individual bed. They would already
 21 start on the bed and then that would be brought in.
 22 Then that would be wheeled out, so they would be on the
 23 same bed the whole time.
 24 Q. Okay.
 25 A. Now, when we had spare time, the nurses

1 information in the resignation letter, did you ever try
 2 and tell anybody else?
 3 A. Yes, I reported it to the State Board of
 4 Nursing.
 5 Q. And what happened with that?
 6 A. I was told that I had to specifically pick
 7 a certain nurse that was doing it.
 8 MR. STAUDAHER: And I'm going to caution
 9 the Grand Jury, that statement is not being offered for
 10 the truth of the matter, just for what happens next and
 11 why.
 12 BY MR. STAUDAHER:
 13 Q. Go ahead.
 14 A. And at the time, we only knew each other
 15 by first names, that's how we worked together. You
 16 know, it was Jane or Bob, so I didn't know the nurses'
 17 last names. There was no way to specifically pick a
 18 nurse to report to the State Board of Nursing.
 19 Q. So because you didn't have a name to
 20 report to them, is that why it didn't go any further
 21 than that?
 22 A. Right. They said they couldn't process it
 23 any further without somebody to point a finger at.
 24 Q. Okay. Did you ever follow-up after that
 25 or not?

1 A. I sent a couple emails saying that this
2 was a practice that was occurring there and hopefully
3 that someone would follow-up with it.
4 Q. And just so I'm clear, you're there
5 during, I think it was -- what was the date that -- you
6 said it was in January, or excuse me, July, right
7 around the Fourth of July?
8 A. Right.
9 Q. Of 2007?
10 A. Right.
11 Q. Okay. So on July 25th, you actually
12 weren't there, though?
13 A. Right.
14 Q. Now, as far as the postoperative area, did
15 you ever see doctors in there seeing the patients or
16 taking care of the patients out there?
17 A. I didn't see it, no.
18 Q. Did you ever see that there was any
19 changes in paperwork if a biopsy was done, for example?
20 A. During a procedure, a doctor would be
21 possibly looking at a biopsy, and then they might
22 discover something else going on with the patient, and
23 we would have to change some paperwork to update the
24 condition, say there was a mal polyp that they had
25 discovered, so then the paperwork would change to

1 document the polyp.
2 Q. So that's a time when it might change?
3 A. Yes.
4 Q. As far as the change, who would do that?
5 Would that be something you were supposed to do or
6 what?
7 A. Yes, the doctor would say, "Okay, now we
8 have a polyp," and then we would have to pull out
9 specific paperwork and start completing that.
10 Q. Now, walk me through, just if you would,
11 you're sitting in the room before the patient actually
12 rolls in. Let's say the patient you just have done a
13 procedure on has just left the room. CRNA still
14 present in the room, right? Is that correct?
15 A. Yes.
16 Q. Did the doctor walk out or would the
17 doctor have still been hanging around at that point?
18 A. The doctor is still there.
19 Q. Okay. And you're there?
20 A. Yes.
21 Q. Is there a tech there also? Somebody
22 helping the doctor with the scopes, or did they already
23 take the scope away?
24 A. I don't recall.
25 Q. Okay. So roughly the three of you are

1 still there?
2 A. Yes.
3 Q. What was the process at that point until
4 the next patient actually was wheeled out of the door?
5 Kind of walk us through it. What you would do? When
6 the patient would come in, what would happen? Just
7 kind of tell us what would happen.
8 A. The patient would come in, and we would
9 document their condition and find out who their family
10 physician was so we could send them the information on
11 their records.
12 Ask the patient their name, of course, how
13 they were feeling. If they're anxious. Set up --
14 start charting like the time that the patient had
15 entered the room.
16 Then, you know, the doctor would come in
17 and the anesthesiologist would be there, and he would
18 start to put the patient under, and then we would
19 document on how the patient was doing.
20 And then that was about it. And then when
21 the procedure was done, we would document the time that
22 it's over.
23 Q. Now, as far as the procedure itself,
24 procedure times and so forth like that, was there any
25 issue about being careful about over -- you know, the

1 times that you were documenting, not overlapping with
2 other patients?
3 A. Right. With the pre-charting issue, we
4 would have the situation where, let's say that it's
5 9:45. The procedure isn't supposed to start until
6 10:19 and you already have the chart. That -- it's
7 9:45 now, but make sure you write 10:00 so that you're
8 not documenting on what the previous nurse
9 MR. STAUDAHER: Now, again, I caution the
10 Grand Jury about that.
11 BY MR. STAUDAHER:
12 Q. Did this statement, the way that they were
13 describing this, and how to handle that, did that have
14 an affect on you as far as what you're doing and
15 whether that's proper or not?
16 A. Yes, it did.
17 Q. And, obviously, gave you concern, I
18 assume; is that correct?
19 A. Right.
20 Q. Okay.
21 MR. STAUDAHER: With that, ladies and
22 gentlemen, that statement is being offered for the
23 effect on this listener as to how she's supposed to do
24 her job and the issues that that may have caused with
25 her, you know, mentally and emotionally at the time.

1 BY MR. STAUDAHNER:
 2 Q. So if you're being told to do that, you're
 3 given specifics on how not to overlap patients
 4 essentially, correct?
 5 A. Yes.
 6 Q. Now if I understand you correctly, you
 7 have a -- and I just want to walk through this so I
 8 understand it. You have a patient that, let's say, the
 9 information you're getting from the pre-procedure room
 10 has a time on it of say 10:00 o'clock. And it
 11 currently in your room is 9:45.
 12 A. Yes.
 13 Q. In that situation, you're still writing
 14 something down on the chart, correct?
 15 A. Encouraged to, yes.
 16 Q. Okay. Encouraged to.
 17 What are you -- how are you supposed to
 18 handle that situation if the times on the chart at the
 19 point you get it says 10:00 o'clock and you know that
 20 it's not 10:00 o'clock yet, what do you do?
 21 A. I refused to write the incorrect time.
 22 Q. What were you supposed to do based on the
 23 policy or what was going on at the time?
 24 A. Based on what I was encouraged to do, I
 25 should have written 10:00 o'clock when it was 9:45 to

1 be able to start the chart earlier.
 2 Q. So you would match whatever the time was
 3 coming in or put it a little bit, few minutes ahead?
 4 A. Yeah, make sure that the times don't
 5 overlap. Excuse me. Like if it's 9:45 and that nurse
 6 previously is still working on the chart, make sure
 7 that you give enough leeway so that by the time the
 8 patient gets into your room you've documented the
 9 correct time.
 10 Q. Now, I want to be clear on this. Desai is
 11 not standing there during this process, correct?
 12 A. Right.
 13 Q. All of this is going on, all of these
 14 people are doing all of this stuff without him being
 15 present?
 16 A. Right.
 17 Q. Now, at the point that that level of
 18 deception is going on, I mean, are you telling people
 19 about this, saying "I'm not going to do this," or at
 20 least expressing some concern about that issue?
 21 A. I was a new nurse, and I was anxious. I
 22 wasn't sure of how procedures were done like that. I
 23 thought it was maybe just how this particular office
 24 did it, but I expressed that I wasn't going to do it
 25 improperly.

1 Q. You're there three days during July. Do
 2 you see that happen on all those days?
 3 A. Yes.
 4 Q. Do you see it happen more than once on all
 5 those days?
 6 A. Yes.
 7 Q. Did it appear to be a regular thing on
 8 each day you were there?
 9 A. Yes.
 10 Q. Was there ever any issue of the
 11 pre-charting thing and overlapping of times related to
 12 specific insurance companies, like Pacific Care, for
 13 example?
 14 A. No.
 15 Q. Just in general this is the way you did
 16 it?
 17 A. Right.
 18 Q. As far as the times that were in the room
 19 that you -- or times that you were supposed to
 20 document, what times in the record were you supposed to
 21 document?
 22 I mean, I assume there is a place in the
 23 chart or the record where a patient comes in and you're
 24 supposed to write down when the patient is in the room,
 25 when the patient is out of the room, various things

1 during the process?
 2 A. Uh-huh.
 3 Q. Are you the one responsible to put all
 4 that information in at the time?
 5 A. Yes, I am.
 6 Q. Now, beside you doing your work, does the
 7 doctor do things with his record as well?
 8 A. Yes.
 9 Q. Does the anesthesia or anesthesia person
 10 do things with their record?
 11 A. Yes.
 12 Q. Are there machine tapes and things that
 13 are handed to you that have times and things stamped on
 14 them?
 15 A. Yes.
 16 Q. Did you ever look at all those times?
 17 A. No.
 18 Q. So you don't know if they were all the
 19 same time or if they were all different?
 20 A. Right.
 21 Q. Would it surprise you to find out that
 22 they were all different times?
 23 A. It would not surprise me.
 24 Q. Did you ever have a situation occur where
 25 you saw patients waking up prematurely on the table?

1 A. Yes, I did.
 2 Q. Was that something that happened on
 3 infrequent or frequent basis?
 4 A. Infrequent.
 5 Q. Okay. How often did you see that while
 6 you were there?
 7 A. I would say twice.
 8 Q. And that's during three days?
 9 A. Yes.
 10 Q. And you had a regular shift?
 11 A. Yes.
 12 Q. And what was happening during those
 13 instances?
 14 A. The patient would have been administered
 15 the propofol. And the procedure would have almost
 16 started or started, and the patient would sit up during
 17 the procedure. And I would ask the nurse training me
 18 is that normal and she said yes, that happens,
 19 sometimes people will sit up during the procedure and
 20 not know it.
 21 Q. Okay. Did it kind of startle you when
 22 that happened?
 23 A. Yes, it did.
 24 MR. STAUDAHER: Again, that statement is
 25 offered for the effect on the listener at this time,

1 not offered for the truth of the matter.
 2 At this stage, I have nothing further for
 3 this witness.
 4 THE FOREPERSON: Are there any questions
 5 from the jury? None at this time?
 6 A JUROR: I have one.
 7 You talk about this 9:45, 10:00 o'clock.
 8 If the procedures stopped at 9:45, were you ever told
 9 to put down 10:00 o'clock?
 10 THE WITNESS: No.
 11 A JUROR: So you were never told to
 12 lengthen the procedure?
 13 THE WITNESS: No. Not ever to lengthen
 14 it.
 15 THE FOREPERSON: Any further questions?
 16 None.
 17 By law these proceedings are secret. You
 18 are prohibited from disclosing to anyone anything that
 19 transpired before us, including evidence presented to
 20 the Grand Jury, any event occurring or a statement made
 21 in the presence of the Grand Jury, or information
 22 obtained by the Grand Jury.
 23 Failure to comply with this admonition is
 24 a gross misdemeanor punishable by a year in the Clark
 25 County Detention Center and a \$2,000 fine. In

1 addition, you may be held in contempt of court
 2 punishable by an additional \$500 fine, and 25 days in
 3 the Clark County Detention Center.
 4 Do you understand this admonition?
 5 THE WITNESS: Yes, I do.
 6 THE FOREPERSON: Thank you. You can be
 7 excused.
 8 Okay. At this time, I would like to call
 9 for our lunch break, please, for an hour and a half.
 10 MR. STAUDAHER: I have three more
 11 witnesses here right now. We can just keep going if
 12 you would like.
 13 (A lunch recess was taken.)
 14 THE FOREPERSON: Sir, can you raise your
 15 right hand, please? Thank you.
 16 Do you solemnly swear the testimony you
 17 are about to give upon the investigation now pending
 18 before this Grand Jury shall be the truth, the whole
 19 truth, and nothing but the truth, so help you God?
 20 THE WITNESS: Yes.
 21 THE FOREPERSON: Thank you. You may be
 22 seated.
 23 You are advised that you are here today to
 24 give testimony in the investigation pertaining to the
 25 offenses of performance of act in reckless disregard of

1 persons or property, criminal neglect of patients,
 2 insurance fraud, obtaining money under false pretenses,
 3 and racketeering, involving Dipak Kantilal Desai,
 4 Ronald Ernest Lakenan, and Keith H. Mathahs.
 5 Do you understand this advisement?
 6 THE WITNESS: Yes.
 7 THE FOREPERSON: Could you please state
 8 both your first and last names and spell them for the
 9 record.
 10 THE WITNESS: My first name is Vincent,
 11 V-I-N-C-E-N-T. My last name is Sagendorf,
 12 S-A-G-E-N-D-O-R-F.
 13 THE FOREPERSON: Thank you.
 14
 15 VINCENT SAGENDORF,
 16 having been first duly sworn by the Foreperson of the
 17 Grand Jury to tell the truth, the whole truth, and
 18 nothing but the truth, testified as follows:
 19
 20 EXAMINATION
 21 BY MR. STAUDAHER:
 22 Q. Mr. Sagendorf, what do you do for a
 23 living?
 24 A. I'm a certified registered nurse
 25 anesthetist.

1 Q. And what do you do as a nurse anesthetist?

2 A. I administer anesthesia to patients who

3 are having surgery or procedures.

4 Q. Can you give us a brief synopsis of your

5 background and training?

6 A. I went to Middlesex County College in New

7 Jersey for my RN. I went to Jersey Shore Medical

8 Center Hospital in 1970 for my CRNA for my anesthesia

9 training. I graduated in 1972, took my boards and came

10 to California.

11 Q. Okay. And you eventually got to Las

12 Vegas?

13 A. Yes.

14 Q. And how was that? Not by car or boat or

15 whatever.

16 A. I had worked in San Luis Obispo for

17 approximately 36 years. My wife and I were looking for

18 a place to retire so we thought we would take a look at

19 Las Vegas, so I quit my job in California. I came out

20 here. I got an apartment, and I started working for

21 Gastroenterology of Nevada.

22 MR. STAUDAHNER: And can everybody hear

23 this witness?

24 THE FOREPERSON: Yes.

25

1 specifically on anesthesia?

2 A. Yes.

3 Q. Do you work in a hospital or some sort of

4 setting where you're giving anesthesia to patients

5 during that time?

6 A. Yes, hospital.

7 Q. Do you do any kind of apprentice program

8 afterward or are you able to just go to work?

9 A. No, you have to take boards. And if you

10 pass boards, you get to practice anesthesia.

11 Q. Now, when you go to facilities, and I

12 assume you can practice in hospitals and clinics and

13 things like that if you need to; is that correct?

14 A. Yes.

15 Q. Do you work with any other physicians when

16 you perform your services?

17 A. Not necessarily.

18 Q. So you can independently perform

19 anesthesia services?

20 A. Yes. As long as there is a physician or a

21 dentist there.

22 Q. Okay. And I guess that's what I meant,

23 not necessarily an anesthesia doctor --

24 A. Right.

25 Q. -- but an MD or something --

1 BY MR. STAUDAHNER:

2 Q. Sir, now you -- that was your first job

3 that you had when you came to Las Vegas then is the

4 Gastroenterology Center?

5 A. Yes.

6 Q. And who was the individual who was in

7 charge of that center at the time?

8 A. Desai.

9 Q. Is that Dipak Desai?

10 A. Dipak Desai. I'm sorry.

11 Q. And as far as your -- let's just touch on

12 your background just one minute for just a -- or just a

13 second.

14 A. Okay.

15 Q. You said that you're a nurse primarily by

16 training at one point, and then you went and later got

17 your anesthesia portion of that, or was it one program

18 altogether?

19 A. No, it was two programs, but I immediately

20 went from the nursing program to the anesthesia

21 program.

22 Q. The anesthesia program itself, how long is

23 that?

24 A. Two years.

25 Q. The program that you -- is it all focused

1 A. Right.

2 Q. -- or dentist, at least in the facility

3 doing the procedure with you?

4 A. Right.

5 Q. So if I understand you correctly, you

6 would not just be able to go set up shop on Las Vegas

7 Boulevard and give anesthesia to Michael Jackson or

8 anybody else that came by?

9 A. No. Good name, but no.

10 Q. Okay. As far as this particular case is

11 concerned, I know that you're familiar with the

12 circumstances surrounding the endoscopy matter; is that

13 correct?

14 A. Yes.

15 Q. With regard to your time with Dr. Desai

16 when you first came to work here, when was that again?

17 A. I started October 1, 2007.

18 Q. And how long did you work at that

19 facility?

20 A. The facility closed March 4 of 2008. I

21 was paid through April the 25th of 2008.

22 Q. So you -- did you stay in town or did you

23 leave at that point?

24 A. Well, I had a seven-month lease on the

25 apartment so I went back and forth to California.

1 Q. Okay. And is that where you currently
2 live is in California?
3 A. Yes.
4 Q. Are you performing anesthesia services in
5 California?
6 A. Yes.
7 Q. Where do you work currently?
8 A. I work at Pain Management Specialists in
9 San Luis Obispo and in Santa Maria, California.
10 Q. Do you work with physicians in that
11 location --
12 A. Yes.
13 Q. -- or those locations? I guess you said
14 two, correct?
15 A. Two.
16 Q. Now, as far as the time that you were with
17 Desai, that period --
18 A. Uh-huh.
19 Q. And when I say Desai, I'm talking about
20 the Endoscopy Center.
21 A. Right.
22 Q. He had a number of clinics in town, did he
23 not?
24 A. Yes.
25 Q. And did you work at all of them or just

1 one or two or ...
2 A. I was mainly at Shadow, but I did get to
3 Burnham, and then there was one over on Flamingo that
4 they opened just before we were closed up, and I don't
5 remember the name of it.
6 Q. Okay. But, primarily, you were working at
7 the Shadow Lane clinic?
8 A. Yes.
9 Q. Now, at the Shadow Lane clinic, what were
10 your job duties exactly?
11 A. Just to put the endoscopy patients to
12 sleep -- the colonoscopies and the endoscopies.
13 Q. Beside doing the anesthesia portion, did
14 you do any nursing functions as well?
15 A. No.
16 Q. Just anesthesia?
17 A. Just anesthesia.
18 Q. At any time after you came to the clinic,
19 did you work with an anesthesiologist, an MD
20 anesthesiologist at the time?
21 A. Never.
22 Q. Did you work with MD physicians that were
23 in the practice, the gastroenterologists?
24 A. Yes.
25 Q. Were they the only physicians that you

1 worked with in the practice?
2 A. Yes.
3 Q. Were there specific physicians that you
4 worked with more than others?
5 A. Yes.
6 Q. And who were they?
7 A. Dr. Carrol, Dr. Faris, and Dr. Carrera.
8 Q. Now, did you work with other physicians
9 within the practice beside those three?
10 A. Yes, Dr. McCurdy, Dr. Sharma and Dr. -- I
11 forget his name. It starts with a Y, so ...
12 Q. Y?
13 A. Yeah.
14 Q. Okay. Did you ever work with Dr. Desai?
15 A. I worked with Dr. Desai a few times, maybe
16 half a dozen to a dozen times.
17 Q. So, primarily, when you were at the
18 facility, he either was not there or there infrequently
19 or how -- or how did that work?
20 A. When I first got there, he was recovering
21 from what was supposed to be a stroke. And so we
22 didn't see him for the first two or two-and-a-half
23 months.
24 And then he came in, and he wanted to see
25 if he still had the hands to do the endoscopies so he

1 had Dr. Carrol come in the room with him. I happened
2 to be there and he did one colonoscopy.
3 Q. How did that go?
4 A. It went okay.
5 Q. So he seemed to be functional and able to
6 do that work?
7 A. Uh-huh.
8 Q. Any problems associated with the
9 procedure?
10 A. No.
11 Q. Now, as far as the procedures that
12 followed after that, was he then back at full strength
13 or was he doing work intermittently?
14 A. Intermittently.
15 Q. Now, prior to his return to the clinic,
16 had you noticed that there was any kind of a volume
17 decrease at the clinic?
18 A. No.
19 Q. So when you start, when you were working
20 with him, when did you start working in proximity to
21 when he had his stroke?
22 A. Well, I don't know exactly when he had his
23 stroke. He was out of the country, but he came back
24 like two-and-a-half months after I got there. We had
25 the same volume of patients from day one that I got

1 there.
 2 Q. After he comes back fully into the
 3 practice which happens at a later date; is that
 4 correct?
 5 A. Uh-huh.
 6 Q. Did you notice that the patient load
 7 increased?
 8 A. No.
 9 Q. So from your standpoint, it was always
 10 about the same?
 11 A. Yes.
 12 Q. Now, did you work full time at the Shadow
 13 Lane clinic primarily?
 14 A. Yes.
 15 Q. When you were working at the clinic, were
 16 there other certified nurse anesthetists that worked at
 17 the clinic as well?
 18 A. Yes.
 19 Q. Did you work with all of them or just a
 20 few?
 21 A. Eventually I worked with all of them, but
 22 mainly with Keith Mathahs and Linda Hubbard.
 23 Q. Was there a supervisor amongst the
 24 anesthesia individuals?
 25 A. When I first got there, it was Ron

1 Lakeman, but he left two weeks after I got there or
 2 approximately two weeks after I got there, and then it
 3 fell to Keith Mathahs.
 4 Q. And, again, I know you told me this
 5 already, but could you tell me once again the date that
 6 you actually arrived in October?
 7 A. October 1 of 2007.
 8 Q. Now, you're aware that as part of this
 9 case that there were two specific incident days on
 10 July 25th of 2007 and September 21st of 2007?
 11 A. I wasn't aware of the July one but now I
 12 am.
 13 Q. Well, if I represent that to you, at
 14 either of those two dates, I know that you didn't start
 15 work, but had you visited the clinic and done any locum
 16 tenens work or anything like that at that time?
 17 A. I visited the clinic to apply for the job,
 18 but I had never done any locum tenens or done any
 19 anesthesia until October 1 of 2007.
 20 Q. So, basically, the questions that I have
 21 will be from that short period from October through the
 22 time that you left the clinic the following year, mid
 23 year, so you're only working at the clinic for half a
 24 year roughly?
 25 A. Five months.

1 Q. Five months.
 2 A. Yeah.
 3 Q. Now, during the time you were with the
 4 clinic, did you -- when you came to work there, who did
 5 you interview with?
 6 A. Tonya Rushing.
 7 Q. Did you ever interview with Dr. Desai at
 8 any point?
 9 A. I did. After I interviewed with Tonya
 10 Rushing, she told me to go down and talk with Dr. Desai
 11 so Ron Lakeman took me down there.
 12 Dr. Desai asked me if, you know, I had
 13 used propofol before, and I told him I was working in a
 14 pain center where we did approximately five to 10,000
 15 cases since I was there for 10 years, 11 years. And he
 16 said the job is yours, and that was the end of the
 17 interview.
 18 Q. So when he found out that you used
 19 propofol, he hired you on the spot?
 20 A. Yeah.
 21 Q. Okay. As far as the use of propofol, I am
 22 assuming you're familiar with the drug; is that
 23 correct?
 24 A. Yes.
 25 Q. Had you used it many, many times in the

1 past over those years?
 2 A. Yeah. I work in a pain center again, and
 3 when I worked at Desai's, I did 3600 cases, which is in
 4 the report, and I have been doing 70 cases a week since
 5 I went back. So I'm constantly using propofol every
 6 day.
 7 Q. And I assume you're aware that the package
 8 insert on the medication has some wording as to whether
 9 it's single use or multi use; is that right?
 10 A. Yes.
 11 Q. And what is your understanding as to
 12 whether it's a single --
 13 A. It says single use.
 14 Q. And just for the -- I know that you're
 15 being -- trying to answer the questions, but for the
 16 court reporter, who is sitting here taking down all the
 17 words, if you'll let me finish my question before you
 18 answer --
 19 A. Okay.
 20 Q. -- I'll try to do the same thing for you.
 21 A. Okay. I'm sorry.
 22 Q. It just makes it harder for her to take
 23 down everything if we're talking over each other.
 24 A. I'm sorry.
 25 Q. Okay. Now, single use only, I think you

1 said, for that drug?

2 A. Yes.

3 Q. The label actually says that on the

4 package or on the bottles in which they're contained?

5 A. Yes.

6 Q. As far as that drug is concerned, was

7 there any other -- I mean, I know that that was the

8 primary drug that you used in the facility, and I'm

9 talking about the Shadow Lane clinic that you worked

10 primarily with; is that right?

11 A. Yes.

12 Q. Were there other drugs used for anesthesia

13 at that location?

14 A. For the rare patient who would be allergic

15 to eggs or lecithin or sulfa, not so much sulfa but the

16 eggs, if there was a patient who was highly allergic to

17 eggs, we would have to use something different besides

18 propofol, and so we had some Versed and Fentanyl there

19 that we would use in lieu of it.

20 Q. And you said that Keith Mathahs was kind

21 of in charge of the CRNAs at the time at least that you

22 were working there?

23 A. Yes.

24 Q. And that Mr. Lakeman, I think, had been

25 the one in charge prior to that time?

1 Q. Okay. Now, was this primarily every time

2 a patient left, or would this be periodically walking

3 out to try and check on some of the patients?

4 A. Just periodically walking out to check on

5 the patients.

6 Q. So is it fair to say that primarily your

7 time was spent in the room?

8 A. Yes.

9 Q. Now, as far as the procedure itself was

10 concerned, tell me how you did a procedure, I mean from

11 the anesthesia side.

12 You've got a patient that is about to,

13 let's say, either is the first patient of the day just

14 rolling into the room, or the last patient you have

15 just done has left the room and they are about to bring

16 that next patient in.

17 Tell me what happens from your side.

18 A. Okay. I would usually fill two syringes,

19 one with propofol and Xylocaine and one with just

20 propofol because propofol by itself is acidic, and it

21 hurts a lot when you inject it into a patient's vein,

22 so we would add the Xylocaine to cut down the amount of

23 pain.

24 If I had the time, I would go out and talk

25 to the patient and try and get a part of the history

1 A. Yes.

2 Q. Now, let me ask you a couple questions

3 about just the process by which the procedure got done

4 at the facility or was done.

5 Where typically would you stay in the

6 facility? Would you be in the room where the procedure

7 was done primarily, or would you circulate? How did

8 you interact at the facility?

9 A. I would circulate until the patient was

10 rolling into the room. Then I would be in the room.

11 Q. Okay. Now, in the -- during the day,

12 there were lots of patients that came through, were

13 there not?

14 A. Yes.

15 Q. Once the patient started rolling through,

16 did you primarily stay in the room and just administer

17 to the patients that came in and then after they left

18 the next patient that came in after that?

19 A. Yes.

20 Q. Did you ever go out to the recovery area

21 and follow patients out there and take care of them out

22 there?

23 A. Yes, I would try and see most of my

24 patients. At least I would walk by and look behind the

25 curtain and see, make sure they are doing okay.

1 and physical done in the PI or actually the bed's

2 across from the door.

3 Q. Okay. And a PI is what?

4 A. Preinduction room.

5 Q. Induction meaning anesthesia?

6 A. Yes.

7 Q. So the area where the patients are held

8 before they are brought to you?

9 A. It served both as preinduction and

10 recovery.

11 Q. Oh, same area?

12 A. Okay. Our door was here and eight feet

13 away were six beds.

14 Q. Okay. And here you, just for the record,

15 you kind of motioned in reference to closer to this

16 person, and then the area that you -- that the patients

17 were coming from and going to was a few feet away,

18 eight or so feet away?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. Now, the patients come into the room, into

23 the procedure room from that area?

24 A. Yes.

25 Q. Once the patient gets into the room, what

1 do you do, besides drawing up those two syringes?

2 A. We place the patient on the table, and the
3 physician necessary for the procedure, being an endo,
4 they would be sitting up. Or being a colonoscopy, they
5 would be lateral, on their side, usually on their right
6 side.

7 And I would put -- they would put the
8 blood pressure cup on, EKG leads, o2 sat monitor, and
9 then I would wait for the doctor to come in the room
10 and I would take and give the propofol.

11 Q. Would you ever go ahead and start the
12 propofol before the physician got into the room?

13 A. Not usually.

14 Q. Was there ever situations where you maybe
15 started anesthesia and the physician left the room for
16 some reason?

17 A. Yes. And as I told you, that's a little
18 different than what I had said in there.

19 Q. And, again, for the record, what are you
20 referring to, your statement to the police?

21 A. My statement to the police.

22 Q. Okay.

23 A. In reflection, there were a couple of
24 instances when Dr. Carrol would be in the room and I
25 would start the anesthetic. I would turn around and he

1 would be gone.

2 I would say, "Where is Dr. Carrol?" And
3 the nurses would usually say, "Well, he had a meeting
4 with Dr. Desai." And I'd say, "So when was somebody
5 going to tell me this?" And I would say, "Go get him.
6 I have a patient asleep on the table."

7 MR. STAUDAHNER: And, again, ladies and
8 gentlemen, none of that is offered for the truth of the
9 matter, just to answer the question about why he did
10 what he did at this point.

11 BY MR. STAUDAHNER:

12 Q. So that's a correction to the statement
13 that you made to the police?

14 A. Exactly.

15 Q. Any other issues regarding that particular
16 statement?

17 A. No.

18 Q. Okay. And you don't have in front of you
19 at the moment as you're testifying your statement
20 sitting in front of you referring to it?

21 A. No.

22 Q. If you need to look at that statement to
23 refresh your memory at any time during this proceeding,
24 just let me know and I can provide it to you. Okay?

25 A. Okay.

1 Q. Now, patient in the room, positioned,
2 you're ready to give anesthesia, waiting for the
3 doctor. Are you with me?

4 A. Right.

5 Q. What is the next thing that happens?
6 Doctor comes in the room, and then what goes on?

7 A. He usually types in a few things into the
8 computer, and then he goes ahead and starts the
9 procedure.

10 Q. What -- as far as the bottles of propofol
11 that you were using, do you remember the sizes that you
12 were using at that time?

13 A. It was either 20s or 50s. It depended on
14 the cost at the time.

15 Q. Did you use predominantly one versus the
16 other?

17 A. Predominantly 50s.

18 Q. So let's say you have a 50cc syringe --

19 A. They're not syringe, but a bottle of
20 propofol.

21 Q. Right.

22 Open that up, draw out your syringes.

23 A. Uh-huh.

24 Q. They're not drawn up, your syringes, both
25 of them; is that correct?

1 A. Uh-huh.

2 Q. Now, at any time, would you use, in doing
3 that, a syringe that you had used on a prior patient?

4 A. No.

5 Q. Would at times you use the same syringe on
6 the same patient?

7 A. No.

8 Q. So you always got rid of the syringes?

9 A. Yes.

10 Q. Was that a general practice or your
11 specific practice?

12 A. It's supposed to be general practice.

13 Q. Was it your specific practice?

14 A. It was my specific practice.

15 Q. Now, once the syringes are drawn up,
16 though, obviously if you're using a 50, I mean what
17 size syringes are these?

18 A. These are 10cc syringes.

19 Q. So there is approximately 30cc's left in
20 the bottle?

21 A. Yes.

22 Q. Now, at that point, it's clean?

23 A. It's still sterile.

24 Q. You could potentially use it on this
25 patient again?

1 A. Yes.
 2 Q. Could you use it on another patient?
 3 A. Yes.
 4 Q. Did you do that?
 5 A. Yes.
 6 Q. Now, before we get to that, let's stick
 7 with where we're at with the patient rolling in the
 8 room. You have two syringes drawn up. Doctor's ready
 9 to start the procedure. What do you do?
 10 A. I take -- pick up the syringe with the
 11 Xylocaine, I give that, usually the 10cc's, depending
 12 on the ability of the patient. Older patients receive
 13 less. Alcoholic patients receive more just depending
 14 on how their reaction was to the drug.
 15 And then I would take that syringe, put it
 16 in the sharps container, take the next syringe, uncap
 17 it, and put it into the line.
 18 Q. So when you say put it into the line, are
 19 we talking about like one of the heplocks that are --
 20 A. Yes.
 21 Q. -- at the IV access ports?
 22 A. Yes.
 23 Q. And, again, if you can wait until I'm
 24 done --
 25 A. I'm sorry.

1 needle and the syringe in the trash container.
 2 Q. Okay. Would you ever, after that had been
 3 connected up like that to the patient, take the syringe
 4 out with propofol in it or empty, remove the needle,
 5 put a new needle on it, and re-enter the propofol
 6 container?
 7 A. Never.
 8 Q. Why would you never do that?
 9 A. Because you don't know what's -- what's
 10 happening with that out of the -- that syringe out of
 11 the patient. You don't want to cross contaminate
 12 anything.
 13 And if you're going to use that method,
 14 blood is drawn up into the old -- to the syringe, so
 15 you could contaminate. If you have to go back and get
 16 more propofol, and you're not using the sterile
 17 syringe, which I always did, you would contaminate the
 18 propofol.
 19 Q. So you saw that there was at least a risk
 20 of that happening; is that correct?
 21 A. Yes.
 22 Q. Now, were you told by anyone to reuse
 23 syringes?
 24 A. Never.
 25 Q. And you did not do that as part of your

1 Q. -- just to make it a little easier.
 2 You say that you would hook it up to that
 3 port, or would it be, a needle be penetrating the
 4 actual port itself?
 5 A. Yes.
 6 Q. So if I understand you correctly, I have a
 7 picture in my mind of a patient with a heplock in a
 8 vein and the procedure beginning and you taking the
 9 second syringe with the needle on it and basically
 10 inserting it into the heplock; is that correct?
 11 A. Yes.
 12 Q. So now the syringe is connected to the
 13 patient?
 14 A. Yes.
 15 Q. Once that is done, I assume as the patient
 16 needs additional anesthesia would you give some?
 17 A. Yes.
 18 Q. So you monitor the patient for their needs
 19 and do that?
 20 A. Exactly.
 21 Q. At the end of the procedure, if you hadn't
 22 given all of the propofol in that particular syringe,
 23 what would you do with the syringe?
 24 A. I would take it out of the line, I would
 25 squirt the remainder into the garbage can and put the

1 practice I think you said?
 2 A. Right.
 3 Q. Now, you've left now, the patient is done.
 4 Let's say that you've either wasted the remainder of
 5 the propofol and the one syringe where you've used it,
 6 and those syringes are discarded?
 7 A. Uh-huh.
 8 Q. Patient leaves the room. And you have a
 9 bottle, a 50cc bottle that has roughly 30cc's
 10 remaining, correct?
 11 A. Yes.
 12 Q. New patient is rolled into the room. What
 13 do you do?
 14 A. I draw up two more syringes of propofol,
 15 one with Xylocaine, from that bottle because it's still
 16 sterile with two sterile syringes and needles and
 17 proceed.
 18 Q. Okay. Was that common practice to
 19 continue to use the propofol until it was gone on the
 20 next -- on subsequent patients?
 21 A. Every place I have been, yes.
 22 Q. Including this clinic?
 23 A. Yes.
 24 Q. Now, the practice that you described, the
 25 technique that you used, would that be termed a septic

1 technique?
 2 A. Yes.
 3 Q. No cross contamination possibility based
 4 on the way you did it I think?
 5 A. Right.
 6 Q. If somebody had done what I described
 7 earlier, hypothetically, removed a syringe and
 8 potentially -- and put that syringe with a new needle
 9 or not into the propofol bottle and drawn up a new
 10 syringe, would that, even for use on the same patient,
 11 could that bottle be contaminated?
 12 A. Yes.
 13 Q. Possibly contaminated?
 14 A. Yes.
 15 Q. If you had ever done something like that,
 16 would you have used that propofol on a subsequent
 17 patient?
 18 A. No.
 19 Q. Would that be the appropriate method of
 20 dealing with that situation?
 21 A. You should never try -- you never cross
 22 contaminate anybody.
 23 Q. Now, were you told to reuse propofol on
 24 subsequent patients?
 25 A. Yes.

1 Q. Do you know, in fact, if any of the clinic
 2 doctors treated those kinds of conditions on patients?
 3 A. I don't know.
 4 Q. So it's possible that they did that?
 5 A. Yes.
 6 Q. Now --
 7 A. Can I make a point?
 8 Q. Certainly.
 9 A. None of the other doctors cared whether
 10 you kept or threw away the propofol, only Dr. Desai.
 11 Q. How do you know that?
 12 A. Because they never said a word to me, and
 13 I would throw it away. So I just assumed that he
 14 was -- he was -- that was something that they weren't
 15 going to pay attention to.
 16 Q. So they never mentioned it to you, and
 17 they don't object when you throw it away?
 18 A. No.
 19 Q. Did you throw it away when he was around?
 20 A. When he would leave the room.
 21 Q. Okay. Did he ever talk to you about that
 22 or admonish you about throwing away propofol?
 23 A. No.
 24 Q. Did he even know that you were doing it?
 25 A. No.

1 Q. And who told you that?
 2 A. Mr. Mathahs.
 3 Q. Specifically?
 4 A. Well, he told me that that was Dr. Desai's
 5 order.
 6 Q. And did you try to carry out that order?
 7 A. Not always.
 8 Q. When would you not carry it out?
 9 A. Well, if I had a hepatitis patient or an
 10 HIV patient, I would throw everything away that I had.
 11 Q. So would there be times that you would
 12 actually know that you had a patient like that?
 13 A. Oh, yes. Because you knew the history and
 14 physical on them.
 15 Q. So they would tell you that they had those
 16 conditions?
 17 A. Yes.
 18 Q. Were there situations in which the clinic
 19 doctors were actually treating patients for conditions
 20 like Hepatitis C that came in for procedures?
 21 A. No.
 22 Q. That you were aware of anyway?
 23 A. Well, we just did them one time for a
 24 colonoscopy or upper endoscopy. The liver situation
 25 was treated by somebody else.

1 Q. Now, we talked already about the bottles
 2 being labeled as single use?
 3 A. Yes.
 4 Q. Do you know if you ever witnessed or were
 5 involved with propofol being moved from room to room at
 6 any time during the days?
 7 A. Usually at the end of the day, if one of
 8 the other practitioners would usually have bottles
 9 partially filled with propofol, and she would bring
 10 them over and lay them on my counter and say, you know,
 11 "If you have another patient, you can use these."
 12 And I would usually ask the nurse for
 13 another clean bottle of propofol, and I would throw all
 14 those away because I don't draw out from bottles that I
 15 didn't draw from in the first place, and I don't give
 16 anything I haven't drawn up personally.
 17 Q. Did you see that that happened on a few
 18 occasions at least?
 19 A. No.
 20 Q. As far as you just mentioned that
 21 sometimes they would bring those bottles --
 22 A. Oh, they would bring the bottles to me,
 23 but I never saw anybody use those bottles.
 24 Q. My point is, did you see the propofol from
 25 one room was at least brought to another room?

1 A. Yes.
 2 Q. Okay. Did that happen on more than one
 3 occasion?
 4 A. Yes.
 5 Q. And but you said you would never use that?
 6 A. No. If I don't draw it up, I don't give
 7 it.
 8 Q. As far as the lunch breaks and any other
 9 break that you might give to a fellow CRNA, go into
 10 their room, were there times when you did that that you
 11 walked into the room and saw propofol syringes drawn up
 12 or open bottles of propofol?
 13 A. Yes.
 14 Q. In situations like that, would you use
 15 those open bottles of propofol or syringes to
 16 administer anesthesia to a patient?
 17 A. No.
 18 Q. Did you always start fresh with your own
 19 stuff if you were there?
 20 A. Yes.
 21 Q. Did you have a discussion with Mr. Mathaahs
 22 about not throwing away propofol on more than one
 23 occasion?
 24 A. No.
 25 Q. So he told you that initially?

1 Q. Okay. We're talking about the --
 2 A. Single use bite blocks.
 3 Q. The things that you put around the scope,
 4 so that you don't bite the scope?
 5 A. Well, you put it in the mouth. It's got a
 6 hole in it. You put the scope in there so the patient
 7 can't bite down on the \$30,000 scope.
 8 Q. To try to protect the scope then?
 9 A. Yes, but also that protects the teeth,
 10 so ...
 11 Q. And then you saw those washed or whatever
 12 and processed in some way?
 13 A. They were processed in some way and
 14 brought back, yes.
 15 Q. Did you ever see any other items like
 16 airway tubes or anything like that reused or washed?
 17 A. Yes. Single use airways were washed and
 18 reused.
 19 Q. And what is an airway?
 20 A. Airway is a device that keeps the tongue
 21 from falling back and obstructing the trachea. So
 22 during a situation where the patient is not breathing
 23 on their own, or you have to bag them or whatever with
 24 the ambu bag, you put it in the mouth, it keeps the
 25 tongue away from the epiglottis, and it also gives you

1 A. Yes.
 2 Q. Did he indicate what would happen if you
 3 didn't try to use all the propofol?
 4 A. Well, his term was that Dr. Desai would
 5 have a hissy fit.
 6 Q. Did he tell you why or did you know?
 7 A. Money.
 8 Q. Now, we talked about the lunch issue. I'm
 9 going to ask you about some other issues regarding some
 10 other items besides propofol.
 11 A. Okay.
 12 Q. Did you ever witness the reuse of bite
 13 blocks? And you know what bite blocks are?
 14 A. Yes.
 15 Q. And so you know what they are?
 16 A. Yes.
 17 Q. And did you ever witness the use -- reuse
 18 of those items?
 19 A. Yes.
 20 Q. What would happen with those? How would
 21 they get reused?
 22 A. Well, they would take them and they would
 23 wash them, and I don't know, they may have sterilized
 24 them. I don't know that, but they would bring them
 25 back in and use them, yeah.

1 an airway.
 2 Q. So this is not a tube that goes into the
 3 trachea then?
 4 A. No.
 5 Q. This is just one of those little plastic
 6 things that keeps the tongue down essentially?
 7 A. Exactly.
 8 Q. Are those really expensive items?
 9 A. No. They are a nickel.
 10 Q. But you guys would rewash and reuse those?
 11 A. Yes.
 12 Q. Was there ever an issue or concern that
 13 you had regarding the handling of certain items in the
 14 endoscopy suites, such as forceps, anything like that?
 15 A. Yes. The techs tended to not pay
 16 attention to what those things were touching, and they
 17 may touch the floor, they may drag them across the
 18 patient or they may hit me in the head with them.
 19 It's a long, long cable with scissors-type
 20 handle, and it goes through the scope. And you can
 21 take bites of things and move things out of the way or
 22 whatever. And they just -- their sterility technique
 23 was questionable.
 24 Q. So you actually saw these things
 25 contacting the floor and the various things you talked

1 about and then being used on a patient?
 2 A. Yeah.
 3 Q. As far as the -- that situation, did you
 4 ever try and tell anybody about that or get anything
 5 done regarding that issue?
 6 A. I told Mr. Kruger, who was the head nurse.
 7 Q. Okay.
 8 A. And he said he would take care of it.
 9 Q. Well, I was going to say without getting
 10 into what he said.
 11 MR. STAUDAHNER: And I would ask the Grand
 12 Jury to disregard that statement.
 13 BY MR. STAUDAHNER:
 14 Q. You at least sought out somebody to take
 15 care of that?
 16 A. Yes.
 17 Q. To your knowledge, did the practice
 18 change?
 19 A. No.
 20 Q. Now, I'm going to ask you specifically
 21 about -- I know that you didn't work extensively with
 22 Dr. Desai, but specifically, I want to ask you about
 23 any issues you ever had with him with trying to start a
 24 procedure before anesthesia was actually on board on a
 25 patient?

1 A. I think two instances for upper
 2 endoscopies. I turned around to administer the
 3 propofol, and he was already inserting the endoscope
 4 into the esophagus.
 5 Q. Did you indicate to him that you hadn't
 6 given anesthesia yet?
 7 A. I said, "We're not ready." And he just
 8 kept on like I wasn't there so I gave the propofol as
 9 fast as I could.
 10 Q. In those instances when you yell out to
 11 him what you just said, did he tell you he was just
 12 going to go forward anyway I mean or just do it?
 13 A. No, he would just ignore me.
 14 Q. So what was -- how was the patient
 15 reacting during these times?
 16 A. The patient was gagging and bucking.
 17 Q. Was he, in those instances, those couple
 18 of instances, were they both upper endoscopies you
 19 said?
 20 A. Yes.
 21 Q. How long a procedure did that take to do
 22 those with the patient bucking and writhing like you
 23 said?
 24 A. Well, two or three minutes.
 25 Q. So those would be done within that time

1 period. Was the patient still writhing or had the
 2 anesthesia taken effect by that time?
 3 A. Well, by the last minute, it had worked.
 4 Q. Okay. Now, as far as upper endoscopies
 5 are concerned for most of the doctors in the group, I
 6 mean what were the average times for doing that? And
 7 I'm not talking about Desai or Carroll, who I believe
 8 also was pretty fast.
 9 A. Well, if you averaged it out, an endoscopy
 10 would be 15 minutes. A colonoscopy would be 20
 11 minutes, tops.
 12 Q. Okay.
 13 A. Except for the slower ones.
 14 Q. And when you say slower ones, are you
 15 talking about slower doctors?
 16 A. Slower doctors.
 17 Q. And who were the slower doctors?
 18 A. Dr. Manuel. He was a new physician out of
 19 school. He was quite cautious and quite slow.
 20 Dr. Faris was another one who was slow. Those are the
 21 two slowest.
 22 Q. How did Dr. Carrera fare in that group?
 23 A. He was in the middle.
 24 Q. And then on the faster end, who are we
 25 talking about?

1 A. Dr. Desai and Dr. Carroll.
 2 Q. Who was the fastest in the group?
 3 A. Dr. Desai.
 4 Q. Noticeably faster than the rest?
 5 A. Yes.
 6 Q. For him to do -- and how long did it take?
 7 You said the average colonoscopy was around 20 minutes
 8 or so?
 9 A. Yes.
 10 Q. How long did it take Dr. Desai to do an
 11 average colonoscopy?
 12 A. Six, seven minutes.
 13 Q. What about an upper endoscopy?
 14 A. Minute or two.
 15 Q. Now, did you ever have a situation happen
 16 where a patient woke up during the time that the
 17 procedure was going on and started having trouble while
 18 a procedure was actually happening?
 19 A. Yes.
 20 Q. What happened? What typically would
 21 happen?
 22 A. They would either have a spasm because
 23 they got light. It looked like the doctor might be
 24 finishing, so you would start cutting back on the
 25 titration, and they would spasm or just buck a little

1 bit or move around a little bit, and then we would just
2 give them more propofol.

3 Q. Now, did you ever have any issues with
4 regard to how patients were moved out of rooms to the
5 recovery area and the way they were positioned out
6 there?

7 A. I had big situation with that because the
8 protective equipment for the patient is on the far
9 wall. And that means that the oxygen was there, the
10 suction was there, the ambu bag was there.

11 Q. And what is an ambu bag?

12 A. Ambu bag is a bag that you see the rescue
13 squads use, you put a mask over it, and then they pump
14 on it --

15 Q. So it has a portion of the bag that you
16 can squeeze?

17 A. Right. And you're forcing air up to the
18 lungs.

19 All that equipment was on the far wall,
20 and they would push the patients in feet first. So the
21 equipment that was necessary to take care of them if
22 there was a problem was at the other end of the bed and
23 it wouldn't stretch.

24 So if you had a problem, you would have to
25 pull the patient out, turn the bed around, and shove

1 the patient back in.

2 Q. Why didn't they just bring the patients in
3 headfirst to begin with?

4 A. We're lazy.

5 Q. Was there -- was speed any portion of
6 that?

7 A. That was the whole thing.

8 Q. So was that the resuscitation kind of
9 equipment if there was a problem with the patient that
10 needed help?

11 A. Yes.

12 And I made mention of that, and they said
13 that's the way we've always done it.

14 Q. What about issues regarding suction tubing
15 on canisters and so forth?

16 A. When I first got there, there were no
17 canisters.

18 Q. And what are we talking about when we
19 say --

20 A. Canister is attached to a vacuum and fluid
21 are sucked up out of the patient's pharynx and it goes
22 to this canister, which collects it.

23 Q. Is that an important thing to have
24 available?

25 A. It is because it maintains the vacuum for

1 the suction.

2 Q. But why is the suction in itself even
3 important --

4 A. Because the patient may be having a
5 problem with saliva or Lauren's spasm or they are
6 bleeding or, you never know, they are vomiting, and you
7 want to get that out of the trachea or out of the
8 posterior pharynx so you need the suction. It's one of
9 the most important pieces of equipment.

10 Q. So posterior pharynx, just so we're clear,
11 is the back part of the throat; is that right? Is it
12 the back part of the throat?

13 A. Yes, yes, I'm sorry.

14 Q. So if fluids or things, whatever,
15 collected in that area, would the potential be to
16 breathe that into your lungs?

17 A. Yes.

18 Q. Is that why you would want to try and suck
19 it out?

20 A. Yes, or they would have a Lauren's spasm,
21 which means that the vocal cords clamp together, and
22 then you have to get the ambu bag to breathe for them.

23 Q. Now, as far as this suction tubing then,
24 you said the canisters didn't even exist when you first
25 got there?

1 A. They weren't on the wall.

2 Q. How was it that they later came to be on
3 the wall?

4 A. Because I insisted.

5 Q. Now, did they work in that current
6 condition with just being hooked up to the wall?

7 A. Yeah.

8 Q. Okay. Were they usable by you at that
9 point?

10 A. Yes.

11 Q. Did you require anything else like tubing
12 to utilize them?

13 A. Yes.

14 Q. Was there an issue regarding the tubing?

15 A. Not the tubing on those, but the tubing on
16 the ventilator. The tubing on the ventilator had dry
17 rotted from years of -- we didn't use a ventilator very
18 much, but the tubes were all dry rotted.

19 And I had noticed that one day and said,
20 "How are you going to use this piece of equipment?"
21 The head nurse said --

22 Q. And, again, I don't want to get into --

23 A. Okay.

24 Q. Who was the head nurse? Was this Mathahs?

25 A. No.

1 Q. Who was it?
 2 A. Kruger.
 3 Q. Kruger. Okay. I don't want to get into
 4 what he said.
 5 A. Okay.
 6 Q. You pointed it out?
 7 A. Yes.
 8 Q. Was that corrected at some point?
 9 A. Yes.
 10 Q. Okay. Now, after but beside that issue,
 11 any other concern you had with regard to how things
 12 were done, sterility, cleanliness, anything like that?
 13 A. Well, overall the facility itself was --
 14 sterility wasn't one of the main concerns.
 15 Q. And I guess sterility may not have been
 16 because this wasn't necessarily -- colonoscopies aren't
 17 a sterile procedure?
 18 A. They are not a sterile procedure, but you
 19 can make them clean.
 20 Q. And was the facility clean?
 21 A. Relatively, yes.
 22 Q. Were there any problems with that that you
 23 were concerned about?
 24 A. Not that I recollect.
 25 Q. Now, I want to move to another area

1 instances the patient, you didn't follow the patients
 2 out. They would leave the room. Would it be then when
 3 they left the room?
 4 A. Yes.
 5 Q. So start time beginning of anesthesia,
 6 stop time beginning patient leave the room?
 7 A. Yes.
 8 Q. Was there an issue with the stop times and
 9 the start times --
 10 A. Yes.
 11 Q. -- of anesthesia?
 12 And tell us about that.
 13 A. When I got there on the first day, I went
 14 downstairs and to get the lay of the land from
 15 Mr. Mathahs. And he told me that Dr. Desai insisted
 16 that the cases last at least 31 minutes. So we juggled
 17 the numbers usually to make sure that it always came up
 18 to 31 minutes or close to it.
 19 Q. Now, when he told you this, did it have
 20 some -- did it have an affect on you as far as what was
 21 going on?
 22 A. Yeah. I knew it was wrong, but I had quit
 23 my job in California. I had a wife, and I had house
 24 payments, and I needed that job.
 25 Q. Okay. So as far as the times that you

1 regarding anesthesia times and start times and stop
 2 times.
 3 You do this type of work, and you know, I
 4 assume, what anesthesia start times and stop times are
 5 supposed to be, correct?
 6 A. Yes.
 7 Q. When is anesthesia start times supposed to
 8 begin from your perspective?
 9 A. When you give the anesthetic.
 10 Q. So does it begin when you first make
 11 contact with the patient or when they enter your room
 12 or anything like that?
 13 A. No.
 14 Q. Okay. So at some point when you're ready
 15 to give anesthetic, that's when your anesthesia would
 16 start?
 17 A. Yes.
 18 Q. Is that what you would typically document
 19 on paperwork?
 20 A. Yes.
 21 Q. What about anesthesia stop time, when
 22 would that supposedly happen?
 23 A. That would be when you turn the patient
 24 over to the recovery room nurse.
 25 Q. So in this instance, you said most

1 actually witnessed from all of these doctors, the
 2 procedures, would you say they typically went 31
 3 minutes or more or less?
 4 A. Less.
 5 Q. Significantly less than that?
 6 A. Yes.
 7 Q. Did you see any that went above 30
 8 minutes?
 9 A. Yes.
 10 Q. Was that a rare event?
 11 A. Except for Dr. Manuel.
 12 Q. Excluding Dr. Manuel?
 13 A. Yes.
 14 Q. For most of the other doctors?
 15 A. Ask me the question again.
 16 Q. I said excluding Dr. Manuel, from most of
 17 the other doctors, was that a rare event?
 18 A. Yes.
 19 Q. Now, when you said you had to juggle the
 20 numbers, tell me how you guys would juggle the numbers.
 21 A. Well, we would -- you could start by when
 22 the patient -- when you went out and saw the patient
 23 for the history and physical.
 24 And then you could just add, at the end,
 25 you could add some, whatever you needed to make up for

1 the 31.
 2 Q. So was it pretty clear that you were
 3 having to do that on pretty much every single patient
 4 that came through?
 5 A. Yes.
 6 Q. The -- I assume -- well, again, I
 7 shouldn't assume.
 8 Did you know if you were the only one that
 9 was doing this in the practice?
 10 A. Everybody was doing it.
 11 Q. And was it pretty well a common occurrence
 12 then?
 13 A. Yes, and if I didn't put down the correct
 14 numbers, either the nurses would tell me that I hadn't,
 15 or a young lady from upstairs would come down and say
 16 you forgot to sign this and the times are wrong.
 17 Q. When that would happen, would that cause
 18 some affect on your person as well?
 19 A. I didn't feel good about it.
 20 Q. Now, did you then correct the sheets?
 21 A. I corrected them to the day. I left the
 22 31 minutes.
 23 Q. Was it always 31 or was it sometimes 32 or
 24 33?
 25 A. Sometimes 32, sometimes 33.

1 practice anesthesia by the bills, so I never -- I was
 2 always salaried, so there was no reason for me to find
 3 out. And to this day, I don't know what things cost.
 4 Q. As far as the anesthesia times and so
 5 forth are concerned, you are aware how anesthesia is
 6 typically billed, though, in increments and things like
 7 that?
 8 A. Yes.
 9 Q. So are you aware that there is, usually
 10 based on whatever the code is for the procedure, that
 11 there is a base number of units that's assigned to that
 12 procedure, and then your time is added on to that in
 13 increments?
 14 A. I know that.
 15 Q. Okay. And what are the typical increments
 16 that are time added on?
 17 A. That I don't know.
 18 Q. So it could be one minute, five minutes,
 19 ten minutes?
 20 A. Exactly.
 21 Q. If I represented to you that the increment
 22 typically is 15 minutes, would that surprise you?
 23 A. No.
 24 Q. So in a situation where a person was
 25 billing for 31, 32, 33 minutes, in that scenario,

1 Q. Would you have put your start time down at
 2 some point and then just calculate how many minutes it
 3 was beyond that to get your stop time?
 4 A. Yes.
 5 Q. Now, on the anesthesia records that you're
 6 keeping track of, there are also vital signs being
 7 tracked during that entire 31, 32, 33-minute period; is
 8 that correct?
 9 A. Yes.
 10 Q. And, obviously, the patient isn't even in
 11 your care during that whole time?
 12 A. Right.
 13 Q. So the documents that were being produced,
 14 did they contain accurate patient information?
 15 A. No.
 16 Q. Did you know what was happening with those
 17 anesthesia records?
 18 A. No.
 19 Q. Did you involve yourself at all in the
 20 billing?
 21 A. Never.
 22 Q. And why was that?
 23 A. I made a point when I started in
 24 anesthesia to never find out or know about what things
 25 cost or what the billing was all about. I don't

1 hypothetically, you could bill for three anesthesia
 2 units on top of the base, correct?
 3 A. Correct.
 4 Q. If you were using 15 minutes as the
 5 increment?
 6 A. Right.
 7 Q. Now, did you ever get the actual -- when
 8 the bills went in, I know you weren't involved with the
 9 actual mechanics or nuts and bolts of doing that, but
 10 when the anesthesia bills went in to get paid to
 11 whatever insurance company it was, did you ever get any
 12 of that money directly back to you?
 13 A. No.
 14 Q. Did you ever get bonuses or other
 15 remuneration based on the number of procedures you did
 16 or the amount of minutes that were billed to your
 17 knowledge?
 18 A. No.
 19 Q. What kind of bonuses, if any, did you
 20 receive?
 21 A. None.
 22 Q. The entire time you were there?
 23 A. Entire time I was there.
 24 Q. Now, when you first got there, were you
 25 under the impression that there would be some bonuses?

1 A. They said that they always gave out
2 quarterly bonuses.
3 Q. But you never got one?
4 A. No.
5 Q. As far as the anesthesia records, although
6 you weren't involved with the actual billing itself, I
7 assume you knew that they were used for billing
8 purposes?
9 A. Yes.
10 Q. That those would be submitted in some way
11 to an insurance company and they would make a
12 determination based on that to provide money back to
13 the practice?
14 A. Yes.
15 Q. Was it general knowledge that those --
16 well, I think you've already testified that it was
17 general knowledge that you guys were fudging the time,
18 so to speak; is that correct?
19 A. Yes.
20 Q. Did everybody realize that those bills
21 were going to insurance companies, generally?
22 A. I would think so.
23 Q. And you did, certainly?
24 A. Yeah.
25 Q. Now, as far as the times were concerned,

1 if you didn't know, I know you said you were going out
2 there and you're using -- adding on a few minutes.
3 Did you ever have to extrapolate times
4 like to get out to that 31, 32, 33 minutes?
5 A. Yeah.
6 Q. Okay. As far as the people that would
7 come down from billing or whoever they were, was Tonya
8 Rushing ever one of those persons that would come to
9 you with the records and say you need to fix this?
10 A. I know that young lady worked directly
11 with Tonya, but I don't know if Tonya sent her down.
12 Q. So she never came down and actually --
13 A. No.
14 Q. -- did that with you?
15 Okay. As far as the records themselves,
16 did -- were there times where somebody would change the
17 record for you?
18 A. On a couple instances, the nurses would
19 say, you didn't get this time right. Do you want me to
20 change it for you? And I would say yes.
21 Q. Was it a well-known fact that Desai wanted
22 at least 31 minutes put on those anesthesia records?
23 A. Yes.
24 Q. Did everyone work within the practice to
25 make that happen?

1 A. I think so.
2 Q. And I'm talking about the billers, the
3 nurses, supervisors, all that stuff?
4 A. I don't know.
5 Q. That you were aware of or that you saw
6 happen?
7 A. I just knew about the nurses. I don't
8 know about the supervisors.
9 Q. Okay. Why did you do that? I know you
10 said the things about your job and your family. Is
11 that the main reason why this was going on?
12 A. I needed that job. And like I had said to
13 you earlier I had to -- another job that I had applied
14 for, and I was about -- after three weeks there because
15 I wanted to leave.
16 Q. So you actually get into Desai's practice
17 and then you start applying for another position?
18 A. Exactly.
19 Q. Talk to me about that for a minute.
20 A. When I got there, there was a -- there was
21 some openings over at Southwest. So I went over there
22 and I talked to one of the CRNAs over there, and I
23 talked to their hiring people, and they had me take a
24 battery of tests on line for executive positions.
25 And I guess I passed all of those. And

1 then I had a round-table discussion and interviews, and
2 then I was offered the job and told what the salary
3 would be and what the benefits would be and that I was
4 first in line and that there were two jobs.
5 And so I assumed that I would be leaving
6 posthaste, but United came in and said they were buying
7 the business and that they suspended all contracts.
8 Nobody could sign a new contract.
9 And by the time January rolled around and
10 they still hadn't called me because they still had the
11 moratorium on the contracts, the CDC came and laid that
12 bomb on the group, and I wasn't hireable anywhere.
13 Q. So that's after, at least, the CDC comes
14 in to do the investigation, is that what you're talking
15 about?
16 A. And it gets reported in the papers and on
17 the news and so on. I couldn't get a job as a janitor.
18 Q. As far as the work that you were doing, so
19 initially you come in in October of the prior year,
20 '07. This practice is going on pretty regularly and
21 rampantly at that time?
22 A. Yes.
23 Q. Is that fair to say?
24 A. Yes.
25 Q. Am I clear that within three weeks of that

1 you were out looking for another job?

2 A. Yes.

3 Q. Was it because of that stuff that was

4 going on in the practice?

5 A. That was part of it. Plus when I came to

6 work there, I was told it was an eight-hour-a-day job,

7 five days a week. And I never got out of there with at

8 least 10, 11, 12, 13 hours, and I worked 56 hours in

9 the first week. Well, that's two more days over 40

10 hours.

11 So I was looking -- I was -- I'm not a

12 youngster anymore, and I needed to find something else

13 to do because I couldn't handle that kind of schedule.

14 Q. Just be careful of this microphone. I

15 think it's hurting some ears in the room.

16 A. I'm sorry.

17 Q. As far as the story, you said that once it

18 broke that that became an impossibility, correct?

19 A. Yes.

20 Q. As far as the story itself, when you have

21 that happen, when this starts coming out, are you guys

22 at some point talked to by the administrative

23 personnel?

24 A. We were talked to by Tonya Rushing.

25 Q. Okay. Now, was that at a meeting or was

1 that individually?

2 A. It was at a meeting.

3 Q. How many people were at the meeting?

4 A. I think four.

5 Q. Four people total?

6 A. Five with Tonya.

7 Q. And who were the people at the meeting

8 except Tonya?

9 A. I think it was myself and Keith and Vinnie

10 Mione, and Ralph.

11 Q. I believe it's M-I-O-N-E.

12 Now, before we get to the part about what

13 may or may not have been said at that meeting, at this

14 point, you know what's been going on in the practice

15 and what you've been doing?

16 A. Yes.

17 Q. The CDC has come?

18 A. Yes.

19 Q. They have left, and they have -- they have

20 given you kind of a report, correct?

21 A. Yes.

22 Q. This has been in the news?

23 A. Yes.

24 Q. Were you concerned at this point?

25 A. I was because all this was coming out.

1 Q. So when Tonya Rushing comes down to talk

2 to you, or gathers you together to talk to you, without

3 telling us what she said at this moment, when she said

4 those words, did that affect you in some way?

5 A. Yes, because I knew that this was -- that

6 this was all going to be coming out and we were in a

7 lot of trouble.

8 Q. So did you see the implications of what

9 was about to happen?

10 A. Yes, I did.

11 Q. Did you see the implications of what she

12 was about to say to you or what she said to you? What

13 it potentially meant?

14 A. Yes.

15 Q. What did she say to you?

16 MR. STAUDAHER: And, ladies and gentlemen,

17 at this time, this is going to be a hearsay statement,

18 but it's being offered for the affect on this listener,

19 how it affected him in relation to hearing the words

20 that were said, not necessarily for the truth of the

21 matter, although they are offered for that at this

22 point, but the affect on the listener.

23 BY MR. STAUDAHER:

24 Q. Go ahead and tell us what you were told by

25 her.

1 A. She said that no one is allowed to mention

2 Dr. Desai's 31-minute add on times.

3 Q. Was that pretty much it?

4 A. Yeah.

5 Q. So the whole meeting was about that

6 particular issue?

7 A. Exactly.

8 Q. So what did you do after you -- after that

9 was said to you? What was going through your mind?

10 A. Well, that we were, you know, they knew

11 about that, and we had been doing it, and we were in a

12 lot of trouble for it and life was not going to be the

13 same.

14 Q. So a significant affect on you, basically?

15 A. Oh, yes.

16 MR. STAUDAHER: I have nothing further for

17 this witness, ladies and gentlemen.

18 THE FOREPERSON: Are there any questions

19 from the jury?

20 Yes.

21 A JUROR: How many patients a day did you

22 work on approximately?

23 THE WITNESS: Sixty to 70.

24 A JUROR: Okay. Now, how did they justify

25 31 minutes a person? Let's just use your lower figure

1 60. That's 30 hours.
 2 THE WITNESS: Yes.
 3 A JUROR: Right? At 31 minutes a piece,
 4 that's 30 hours.
 5 MR. STAUDAHER: I'm going to interrupt for
 6 just a second.
 7 BY MR. STAUDAHER:
 8 Q. I think they did run two rooms; is that
 9 correct?
 10 A. We ran two rooms, yes.
 11 A JUROR: Okay. Well, still that's 15
 12 hours then, let's say cutting it in half. I don't know
 13 how they could justify the time or juggle your sheets
 14 to show 31 minutes on each sheet and have that many
 15 people in a day, in a 10-hour, 12-hour --
 16 THE WITNESS: I don't have an answer for
 17 that. I know that the numbers were juggled, and
 18 whatever they did upstairs in billing was totally out
 19 of my hands. So they may have hedged funds then --
 20 those just the same way.
 21 MR. STAUDAHER: And I would admonish the
 22 Grand Jury not to take that speculation at issue here
 23 or to consider it in your deliberations later on.
 24 THE FOREPERSON: Bianca?
 25 A JUROR: So, Mr. Sagendorf, all of the

1 other things that they asked you to do at the Endoscopy
 2 Center, you didn't do morally, reusing propofol and
 3 things like that.
 4 Just out of curiosity, you had a lot of
 5 concern for your job, your security. If you didn't do
 6 those items, why did you juggle the numbers?
 7 THE WITNESS: All I had was my job
 8 security. That's the only excuse I have for juggling
 9 the numbers. Why I didn't -- why I didn't do the
 10 propofol thing is --
 11 A JUROR: No, that's not what I'm asking.
 12 I'm sorry to cut you off, but what I'm asking you is
 13 all of the -- you didn't do those things because
 14 morally you knew that it wasn't the right thing to do.
 15 So in regards to that juggling the
 16 numbers, would you say it's fair to say it wasn't
 17 morally correct either?
 18 Were you not concerned about your job
 19 security when you refused to do those other things with
 20 propofol or reusing items or where you would throw
 21 things away behind Dr. Desai's back? I'm just trying
 22 to understand why the juggling of the numbers weighed
 23 differently?
 24 THE WITNESS: Well, it was morally wrong,
 25 yes. But the other things I couldn't do directly to a

1 patient because I had never done them. I had never
 2 done this either, but I don't have a real good answer
 3 for you. It was wrong. I was wrong. What I did was
 4 wrong.
 5 A JUROR: Did you ever at any time report
 6 or try to report that facility to a higher authority?
 7 THE WITNESS: No.
 8 THE FOREPERSON: Are there any further
 9 questions? There are none.
 10 MR. STAUDAHER: I have one related to that
 11 that I just want to clarify.
 12 BY MR. STAUDAHER:
 13 Q. The fudging of the numbers did not have a
 14 direct impact on patient care; is that correct?
 15 A. Right.
 16 Q. The reuse of a syringe or the reuse of
 17 propofol that might be contaminated would have a direct
 18 impact to a patient's potential health and outcome;
 19 correct?
 20 A. Most definitely.
 21 Q. Okay. Is that part of the reason why that
 22 is the line you would not cross?
 23 A. Right.
 24 MR. STAUDAHER: I have nothing further.
 25 THE FOREPERSON: Yes.

1 A JUROR: Did you ever discuss with the
 2 other nurse anesthesiologist about this timing problem?
 3 THE WITNESS: No. We were all doing it.
 4 A JUROR: You were all doing it. But how
 5 can you say that? You were in one room, they are in
 6 another room, how do you know they were doing it in the
 7 other room?
 8 THE WITNESS: I wouldn't know. I just
 9 know that they weren't getting hollered at so I assumed
 10 that they were doing it, too, because they were the
 11 ones that told me they -- you know, at least Keith was
 12 the one told me to do it.
 13 A JUROR: So you never discussed it over a
 14 cup of coffee or a drink or anything?
 15 THE WITNESS: No.
 16 THE FOREPERSON: Any further questions?
 17 There is none.
 18 By law these proceedings are secret. You
 19 are prohibited from disclosing to anyone anything that
 20 transpired before us, including evidence presented to
 21 the Grand Jury, any event occurring or a statement made
 22 in the presence of the Grand Jury, or information
 23 obtained by the Grand Jury.
 24 Failure to comply with this admonition is
 25 a gross misdemeanor punishable by a year in the Clark

1 County Detention Center and a \$2,000 fine. In
2 addition, you may be held in contempt of court
3 punishable by an additional \$500 fine, and 25 days in
4 the Clark County Detention Center.

5 Do you understand this admonition?

6 THE WITNESS: Yes.

7 THE FOREPERSON: Thank you. You may be
8 excused.

9 THE WITNESS: Thank you very much.

10 THE FOREPERSON: You're welcome.

11 Okay. We're going to call a ten-minute
12 break.

13 (A recess was taken.)

14 THE FOREPERSON: Please remain standing
15 and raise your right hand.

16 Do you solemnly swear that the testimony
17 you are about to give upon the investigation now
18 pending before this Grand Jury shall be the truth, the
19 whole truth, and nothing but the truth, so help you
20 God?

21 THE WITNESS: Yes.

22 THE FOREPERSON: Thank you. Please be
23 seated.

24 You are advised that you are here today to
25 give testimony in the investigation pertaining to the

1 offenses of performance of act in reckless disregard of
2 persons or property, criminal neglect of patients,
3 insurance fraud, obtaining money under false pretenses,
4 and racketeering, involving Dipak Kantilal Desai,
5 Ronald Ernest Lakeman, and Keith H. Mathahs.

6 Do you understand this advisement?

7 THE WITNESS: Yes.

8 THE FOREPERSON: Could you please state
9 both your first and last names and spell them for the
10 record.

11 THE WITNESS: Ryan Cerda. R-Y-A-N. Last
12 name C-E-R-D-A.

13 THE FOREPERSON: Thank you.

14 RYAN CERDA,
15 having been first duly sworn by the Foreperson of the
16 Grand Jury to tell the truth, the whole truth, and
17 nothing but the truth, testified as follows:
18

EXAMINATION

20 BY MR. STAUDAHNER:

21 Q. Mr. Cerda, what do you currently do for a
22 living?

23 A. Right now I work security.

24 Q. I want to take you back in time to around
25

1 July/August of 2007. After you -- I assume you shortly
2 before that graduated from high school; is that
3 correct?

4 A. Yeah.

5 Q. Did you get a job in a business that did
6 some medical billing around that time, July/August of
7 that year?

8 A. Yes, I did.

9 Q. And if you could, tell us what the name of
10 the -- excuse me. Excuse me. If you could, tell us
11 what the name of the business was, if you know?

12 A. Health Care Business Solutions.

13 Q. Who was the owner of that business?

14 A. Tonya Rushing.

15 Q. Where was the business located at?

16 A. Cheyenne and Tenaya.

17 Q. There was not -- or was it associated in
18 any way that you know of with the Endoscopy Clinics of
19 Southern Nevada, anything like that?

20 A. Yes.

21 Q. And how was it associated with them?

22 A. We did the billing for them.

23 Q. Okay. Physical location, though, was it
24 the same or different? Obviously, the Tenaya address
25 isn't on Shadow Lane.

1 A. Yeah, it was different.

2 Q. Okay. Who was the owner of the business
3 to your knowledge?

4 A. Which business?

5 Q. The one you worked at.

6 A. Tonya Rushing.

7 Q. How did you come to work in that facility?

8 A. I knew her son and I just graduated high
9 school so, you know, I needed a job. I didn't really
10 want to go to college. I was -- I could type fast so,
11 you know, he brought me to his mom, I spoke with her,
12 and she interviewed me and got me started.

13 Q. Now, once you go to the Tenaya facility,
14 you said Cheyenne and Tenaya, correct?

15 A. Yes.

16 Q. What kind of place was that? Was it an
17 office building? Home?

18 A. Yes, it was a little office building.

19 Q. How many people worked in the facility,
20 roughly, if you know?

21 A. Around six or seven.

22 Q. What was your job specifically?

23 A. Well, the medical billing. The data entry
24 and ICD 9 coding.

25 Q. What is ICD 9?

1 A. Basically, the coding of the diagnosis
2 that we got from the anesthesia records.
3 Q. So at this point, if I understand you
4 correctly, you get records from some source, and then
5 do some coding, and then take those records and bill
6 the insurance companies?
7 A. Yes.
8 Q. What kind of records did you bill from?
9 What kind of records did you get to bill with?
10 A. Like how, what do you mean?
11 Q. Well, you had mentioned anesthesia
12 records.
13 A. Yeah.
14 Q. Were there other types of records that you
15 billed beside anesthesia?
16 A. Well, it was just a packet of it, yeah,
17 and then the anesthesia records basically.
18 Q. Did you ever do colonoscopy billing or
19 endoscopy, upper endoscopy billings, EGDs?
20 A. Yes.
21 Q. So those as well as the anesthesia?
22 A. Yes.
23 Q. When you would get those, would they
24 come -- how would they arrive in your office?
25 A. They would be brought in by a courier, and

1 then be in like stacks and then they would be handed to
2 us.
3 Q. Was this every day that you would get
4 these?
5 A. Yes.
6 Q. And how many days a week did you work?
7 A. Monday through Friday.
8 Q. How many would you typically get from say
9 the Endoscopy Center of Southern Nevada on Shadow Lane,
10 that clinic?
11 A. A day?
12 Q. Yeah.
13 A. Probably roughly around maybe a hundred or
14 more, around a hundred.
15 Q. So you would get a lot of them?
16 A. Yeah.
17 Q. When you got those from that center, tell
18 me how -- I know you said that the courier brings them
19 over, they are in stacks. When they get to the
20 business, are you the one that actually takes them?
21 A. Well, they were brought to me, but yeah.
22 Q. So you actually get them at some point,
23 though?
24 A. Yes.
25 Q. What do you do with them when you get

1 them?
2 A. There is a sheet that we fill out, and
3 basically you would fill it out, patient's name, and
4 then you would enter their data entry, like their name,
5 address, and you would look at the anesthesia time, get
6 the time, the diagnosis, the ASA classification.
7 Q. What is ASA?
8 A. It's -- I really don't know. It's just
9 like a P1, P2, P3 or P4.
10 Q. So whatever it said, you just put down on
11 the records?
12 A. Yeah, exactly.
13 Q. So one of the items that you mentioned
14 that you specifically looked at and utilized was the
15 anesthesia billing time; is that correct?
16 A. Yes.
17 Q. What did you do with the -- was it in
18 minutes or what?
19 A. It was in minutes.
20 Q. What would you do with that?
21 A. Well, basically, depending on the minutes,
22 where it ranged, around 30, you know, 28 up through
23 about 34, was depending on how much the anesthesia
24 billing would be.
25 Q. Were they billed -- were the increments --

1 were the billing increments in 15-minute levels or
2 increments at that point?
3 A. When I had first started, no. But then
4 later on as I was working there, yeah, they had dropped
5 to about ten minutes, around that area.
6 Q. Okay. I'm not talking about what the
7 actual minutes that came in were. I'm saying the
8 amount that you would then bill to the insurance
9 company or code, was that based on a certain number
10 of -- like an increment, a 15-minute increment?
11 A. Yes.
12 Q. Okay. So for a 31-minute or 32-minute or
13 whatever it was, was that the typical number that you
14 were seeing?
15 A. Yeah.
16 Q. For ones that were in that range, how many
17 units were you talking about?
18 A. It would be like \$560.
19 Q. So would that relate to three separate
20 15-minute increments, though?
21 A. No, no, not that I know. I mean it would
22 just be from 31 and up would be 560.
23 Q. So you knew it by just looking at the
24 minutes, period?
25 A. Yeah, there is a paper that we had been

1 given with the times and what they would be money-wise,
 2 how much they would cost.
 3 Q. So when you saw 31 minutes or more, you
 4 would bill \$560?
 5 A. Yes.
 6 Q. Every single patient?
 7 A. Yes.
 8 Q. Now, if the minutes were less than 30 but
 9 more than 15, what would be the amount that you would
 10 bill?
 11 A. 490.
 12 Q. And if you know, below 15 minutes, what
 13 would you typically bill?
 14 A. Well, what I can remember was 150.
 15 Q. Okay. Is it possible that it's a little
 16 bit different than that but close to it?
 17 A. Yeah.
 18 Q. Okay. When you were working for -- and
 19 you worked there from this -- you said you thought it
 20 was around July/August or so of 2008 until when?
 21 A. Well, I worked --
 22 Q. I think I meant July/August of
 23 '07 until --
 24 A. Well, six months. Six months at least I
 25 know that.

1 A. Well, yeah, about 560 or 490.
 2 Q. Okay. So if it fell below that 30, was
 3 it --
 4 A. Thirty-one.
 5 Q. If it fell below, you would have to charge
 6 490?
 7 A. Yes, from what I remember. Yeah, I'm
 8 pretty sure.
 9 Q. Now, somewhere down the road, did you
 10 notice that the actual anesthesia records that were
 11 coming in had changed dramatically?
 12 A. Yeah, they had changed.
 13 Q. Do you remember roughly about when that
 14 was?
 15 A. No, I don't really remember around what
 16 time because I wasn't, you know, I was just --
 17 Q. Was it around the time that all of this
 18 endoscopy thing was hitting the news?
 19 A. Not that I remember. I mean, I wasn't,
 20 no, not that I know of.
 21 Q. Was it in 2008 that that happened?
 22 A. Yes.
 23 Q. Okay. So in 2008, and obviously you left
 24 in early 2008, so it had to have happened before you
 25 left?

1 Q. So that would have put it around January
 2 or so of the following year?
 3 A. Yeah, it might have been a little bit
 4 after that sometime.
 5 Q. Okay. At some point in early 2008, you
 6 stopped working there; is that right?
 7 A. Yeah.
 8 Q. Why did you stop working there?
 9 A. I just -- well, it wasn't for me really.
 10 I didn't enjoy sitting there doing that all day. It
 11 was kind of boring for me.
 12 Q. Now, during the time that you worked
 13 there, did the stacks of papers that came from the
 14 Endoscopy Center with the billing minute times on them,
 15 were they all about the same or did they vary?
 16 A. Yeah, they were all around 31 around,
 17 yeah.
 18 Q. If there had been some big differences in
 19 that, would that have been something that you would
 20 have noticed?
 21 A. Yes.
 22 Q. So if you're getting upwards of a hundred
 23 of these a day, you're coding them and writing those
 24 \$560 charges for all of these during that time, pretty
 25 much it's 560 for every one of them?

1 A. Yeah.
 2 Q. So at some point, you said that the times
 3 dramatically changed. What are we talking about as far
 4 as dramatically changed?
 5 A. Well, the anesthesia times were around
 6 like 10, 12 minutes. They were roughly around there
 7 like all of the stacks that we were getting.
 8 Q. So instead of 31 plus, they are now down
 9 to the 10, 12, even up to 15 possibly?
 10 A. Yeah, up to 15, yeah.
 11 Q. Okay. At that point of this, of all these
 12 stacks that were being billed, how much were you then
 13 billing out to the insurance companies to pay?
 14 A. From what I remember, 150.
 15 Q. So big difference between 150 and 560?
 16 A. Yeah.
 17 Q. Were there many that were -- I mean, of
 18 all, let's say, out of a hundred that you received on
 19 average that were down in that range, how many of those
 20 would be in this 12-to-15 range and how many of them
 21 would be higher than that?
 22 A. Well, I remember getting a few stacks of
 23 them. All of them were like that, so ...
 24 Q. So at this point, was it unusual to see
 25 one that was higher?

1 A. Yeah, it was.
 2 Q. When you saw that happen, did that kind of
 3 get your attention?
 4 A. Yeah. I had brought it to my supervisor's
 5 attention because, you know, the billing is different,
 6 you know, the times and it's not normal for me. I
 7 haven't seen that. You know, I don't know if I should
 8 send it to the insurance or not, you know.
 9 Q. And if I understand you correctly, your
 10 job is to take that, code it, and then actually send it
 11 off to the insurance with that dollar amount in it; is
 12 that correct?
 13 A. Yeah, on the computer, yeah.
 14 Q. Without getting into what people told you,
 15 after your conversations and raising this, did you ever
 16 go back to the 30-plus minute billing or did you stick
 17 with what was actually showing up on the forms?
 18 A. I stuck with what was on the form then and
 19 billed it out that way.
 20 Q. Did that stay like it was until you quit?
 21 A. I don't know. I don't remember.
 22 Q. Okay.
 23 MR. STAUDAHER: I have nothing further for
 24 this witness, ladies and gentlemen.
 25 THE FOREPERSON: Are there any questions

1 from the jury?
 2 Yes.
 3 A JUROR: To your knowledge, did Health
 4 Care Business Solutions have any other clients or do
 5 any other billing for anybody other than the endoscopy
 6 or gastroenterology?
 7 THE WITNESS: Well, from what I know is
 8 Desert Shadow and the Endoscopy Center.
 9 A JUROR: Okay.
 10 THE FOREPERSON: Any further questions?
 11 None.
 12 A JUROR: I have one.
 13 THE FOREPERSON: Yes. Go ahead.
 14 A JUROR: Did you ever think that the
 15 billing time was quite extensive based on how many
 16 claims you got each day?
 17 In other words, did you feel that the
 18 billing hours were more than what was actually -- had
 19 actually occurred based on the claim forms you got?
 20 THE WITNESS: No, not -- when they were
 21 normal or --
 22 A JUROR: No. When they were at the 31
 23 minutes, I'm talking about.
 24 THE WITNESS: On the 31 minutes, no, that
 25 was normal.

1 A JUROR: How many people would you say
 2 there were claims for at 31 minutes or thereabouts?
 3 How many a day on the average?
 4 THE WITNESS: About a hundred a day.
 5 MR. STAUDAHER: And I'm going to ask a
 6 follow-up to that.
 7 BY MR. STAUDAHER:
 8 Q. You worked in a -- did not work in the
 9 actual Endoscopy Center?
 10 A. No.
 11 Q. Did you know what was going on there as
 12 far as how many patients were seen, what was normal,
 13 not normal, anything like that?
 14 A. No.
 15 Q. So you are just taking in what's given
 16 you, coding it and sending it off to another entity for
 17 payment?
 18 A. Yeah.
 19 Q. Did you ever get the payment to you?
 20 A. No.
 21 Q. Ever get any deposits to your bank to keep
 22 doing it the way you were doing it?
 23 A. No.
 24 MR. STAUDAHER: Okay.
 25 THE FOREPERSON: Any further questions?

1 None.
 2 By law these proceedings are secret. You
 3 are prohibited from disclosing to anyone anything that
 4 transpired before us, including evidence presented to
 5 the Grand Jury, any event occurring or a statement made
 6 in the presence of the Grand Jury, or information
 7 obtained by the Grand Jury.
 8 Failure to comply with this admonition is
 9 a gross misdemeanor punishable by a year in the Clark
 10 County Detention Center and a \$2,000 fine. In
 11 addition, you may be held in contempt of court
 12 punishable by an additional \$500 fine, and 25 days in
 13 the Clark County Detention Center.
 14 Do you understand this admonition?
 15 THE WITNESS: Yes.
 16 THE FOREPERSON: Thank you. You may be
 17 excused.
 18 (A recess was taken.)
 19 THE FOREPERSON: Please remain standing
 20 and raise your right hand.
 21 Do you solemnly swear the testimony you
 22 are about to give upon the investigation now pending
 23 before this Grand Jury shall be the truth, the whole
 24 truth, and nothing but the truth, so help you God?
 25 THE WITNESS: Yes, I swear.

1 THE FOREPERSON: Thank you. You may be
 2 seated.
 3 You are advised that you are here today to
 4 give testimony in the investigation pertaining to the
 5 offenses of performance of act in reckless disregard of
 6 persons or property, criminal neglect of patients,
 7 insurance fraud, obtaining money under false pretenses,
 8 and racketeering, involving Dipak Kantilal Desai,
 9 Ronald Ernest Lakenan, and Keith H. Mathahs.
 10 Do you understand this advisement?
 11 THE WITNESS: Yes, I do.
 12 THE FOREPERSON: Could you please state
 13 both your first and last names and spell them for the
 14 record?
 15 THE WITNESS: It's Marion VanDruff.
 16 M-A-R-I-O-N. V-A-N, capital D-R-U-F, as in Frank, F,
 17 as in Frank.
 18 THE FOREPERSON: Thank you.
 19
 20 MARION VAN DRUFF,
 21 having been first duly sworn by the Foreperson of the
 22 Grand Jury to tell the truth, the whole truth, and
 23 nothing but the truth, testified as follows:
 24
 25

1 find work as a medical assistant, just because it was a
 2 little bit more difficult than I thought it was going
 3 to be, I worked at Glamour Shots, and then started
 4 looking for positions as a medical assistant.
 5 First place I worked was Medical Group at
 6 Sun City. After being let go from there, I just got
 7 out on foot looking for another job just because I
 8 found out my fiancée at the time was pregnant, so I
 9 needed to be able to support a child.
 10 Walked into the 700 Shadow Lane building
 11 and passed out my resumes, and Endoscopy Center called
 12 me back in the next day.
 13 Q. Okay. When you went back in the next day,
 14 are we talking about just shortly after your graduation
 15 or was it later on?
 16 A. This is about a year after I graduated.
 17 Q. Okay. When were you actually hired by the
 18 Endoscopy Center?
 19 A. It was May of '07.
 20 Q. And you worked with them until when?
 21 A. Up until — up until the center got closed
 22 down by the mayor.
 23 Q. So in '08; is that correct?
 24 A. Yeah. I think it was in May or something.
 25 Q. So you worked for them just about a year

1 EXAMINATION
 2 BY MR. STAUDAHER:
 3 Q. Mr. VanDruff, I'm going to go back and ask
 4 you a couple questions about your background.
 5 A. Okay.
 6 Q. What do you do for a living currently?
 7 A. Right now I'm a customer service
 8 specialist at Sitel.
 9 Q. I direct your attention back to February
 10 of '06. Did you graduate from the Nevada Career
 11 Institute?
 12 A. Yes, I did.
 13 Q. What did you graduate with?
 14 A. Just a diploma for medical assisting.
 15 Q. Okay. And after you had that, was it a
 16 certificate or degree or what was it?
 17 A. It was just a diploma. It was essentially
 18 the same as like a high school diploma, just like a
 19 halfway between high school and college.
 20 Q. Okay. So had you gone to college yet or
 21 was this just a step after high school?
 22 A. There was a step after high school.
 23 Q. What did you do after you got that
 24 diploma?
 25 A. I — first thing I did was while trying to

1 then?
 2 A. Yeah.
 3 Q. Now, as far as the things that you did for
 4 the center, were you assisting with patients?
 5 A. Well, yeah, I was assisting with patient
 6 care. When I first started out there, I was just
 7 bringing patients back, triaging them, getting them
 8 ready for the procedures, making sure that they had
 9 done all their prep and everything properly, making
 10 sure that they were ready and getting them into the
 11 examination rooms.
 12 After about a month or so, I actually
 13 started assisting with the doctors and cleaning the
 14 scopes during the procedures and after the procedures.
 15 Q. Okay. And at the time that you finally
 16 left the clinic, is that what you were primarily doing
 17 then is assisting with the doctors in the procedure
 18 rooms and doing the scope work?
 19 A. Well, we would alternate, so it was, you
 20 know, one day you would be out on the floor. The next
 21 day you would be in back. Or depending on the week,
 22 you would spend the first half of the day on the floor.
 23 The second half of the day you would be in the
 24 procedure rooms and the scope room.
 25 Q. Okay. Let's talk a little bit about the

1 procedure room when you were there?
 2 A. Okay.
 3 Q. We'll get to the scope room in a little
 4 bit.
 5 But when you were in the procedure room,
 6 what was your job? What did you do?
 7 A. Just assisting, giving the doctor whatever
 8 he needed for the procedure, whether it be getting
 9 forceps, giving swabs, just water flushes with the
 10 syringe.
 11 It was just, you know -- you watch a
 12 medical show and, you know, a doctor calls for a
 13 scalpel or something like that, that's essentially what
 14 I was doing.
 15 Q. Did you handle the scopes both before they
 16 were used and after they were done using them?
 17 A. Yes, I did.
 18 Q. And then what did you do with the scopes
 19 after they were done?
 20 A. We would take them into the scope room.
 21 Whoever the technician was in the scope room, would be
 22 the one responsible for cleaning it.
 23 Q. Now, during the procedure itself, are you
 24 helping the doctor then actually do the procedure?
 25 A. Doctor -- the doctor is doing the

1 procedure. The only thing I'm doing is, I'm
 2 essentially an extra arm.
 3 Like if he had to take a -- if one of the
 4 doctors had to take a biopsy of a polyp or cancerous
 5 part of the colon, I would hand them the forceps. He
 6 would squeeze it in.
 7 It was just like this long snake-like
 8 thing that had teeth at the end, and there is a little
 9 plunger, and my only job would be to open and close the
 10 forceps.
 11 The doctor would go ahead and pull the
 12 forceps to take the sample, and then I would put it in
 13 a specimen bottle.
 14 Q. When you were doing that particular type
 15 of work, I mean was there any single physician that you
 16 worked with, or did you work with all of them?
 17 A. When it came to the Shadow Lane office, I
 18 worked -- I worked with every one of the physicians.
 19 Q. Did you note a difference in, for example,
 20 the speed at which they operated, the different
 21 doctors?
 22 A. Some were slower, some were faster. There
 23 were certain doctors that just based on the caseload
 24 that we were hoping that we wouldn't be working with
 25 that day just because they had a reputation for being

1 slower.
 2 And, obviously, now after this all
 3 happened and doing my own research, just reading on
 4 line on like what the typical time should take, found
 5 out that the slower doctors --
 6 Q. I'm not going to ask you to bring -- I
 7 mean that was just public information you were just
 8 looking at then?
 9 A. Yeah.
 10 Q. Okay.
 11 A. Just like web MD and stuff like that.
 12 Q. Okay. And beside, you know, whatever your
 13 research may have been on the computer, and I don't
 14 really want to get into that at this point --
 15 A. Okay.
 16 Q. -- but your observation of what a normal
 17 procedure would take. I'm not talking about the faster
 18 doctors, I'm just saying on an average, how long would
 19 they take in a clinic to do? Colonoscopy? Upper
 20 endoscopy?
 21 A. Colonoscopy, you're saying pretty much
 22 like if I was to take one of the slower doctors versus
 23 one of the faster doctors, the average time between the
 24 two?
 25 Q. Yeah.

1 A. Average time between the two would
 2 probably be about eight, nine minutes for a
 3 colonoscopy. Five, six minutes for an upper endoscopy.
 4 Q. Okay. And was that -- what about the
 5 faster doctors, who were they?
 6 A. The faster doctors in the clinic were --
 7 well, the two fastest were Dr. Carroll and Dr. Desai.
 8 Q. Who was the fastest?
 9 A. Desai.
 10 Q. Noticeably faster?
 11 A. Yeah.
 12 Q. How long did it take him to do those two
 13 procedures on average?
 14 A. Usually, if I was in the procedure room
 15 with Dr. Desai and we were doing a colonoscopy, we
 16 would be done with the colonoscopy in five minutes,
 17 unless it was something that really caught his
 18 attention when it came to cancer and stuff like that.
 19 When it came to the upper endoscopies,
 20 those were usually done in about three minutes.
 21 Q. So three to five minutes is what we're
 22 talking about?
 23 A. Yeah.
 24 Q. For both types of procedures?
 25 A. Well, like I said, the colonoscopy would

1 be five minutes. Three minutes for the upper.
 2 Q. Fair enough.
 3 Now, related to Dr. Desai, when he was
 4 dealing with the scopes, if he's doing them that
 5 quickly, when it comes time to remove the scope, what
 6 was the procedure that you had to get involved yourself
 7 with as far as he was concerned?
 8 A. He would pull the scope out and hand it to
 9 us and take it back in. I mean unless there was --
 10 again, this was unless there was something that, you
 11 know, really caught his attention. Then he's like,
 12 Okay. We have to make sure that we get that on the way
 13 out. Then I would usually get it.
 14 But, typically, on a day-to-day basis, if
 15 I was working with Dr. Desai, scope came right out
 16 within under a minute and into my hands.
 17 Q. Okay. When he was actually physically
 18 taking the scope out, how fast would he typically do
 19 that? Would that be a slow process, rapid process,
 20 what was it?
 21 A. It was pretty quick. It was -- we joked
 22 on the floor that it was almost like he was cracking a
 23 whip when he would take the scope out.
 24 Q. Okay. When the scope came out, were you
 25 responsible to kind of catch the scope then?

1 Q. Now, as far as the procedure times and so
 2 forth, did you ever see Dr. -- or Dr. Desai start
 3 procedures before anesthesia was on, administered to
 4 the patient?
 5 A. I don't necessarily know if anesthesia was
 6 admitted. Sorry. I don't know if anesthesia was
 7 necessarily not administered to the patient yet. Some
 8 people just take longer to go under when it comes to
 9 anesthesia.
 10 He would start the procedure before they
 11 were completely sedated before, though. I had seen
 12 that before.
 13 Q. Okay. How often would that occur in your
 14 experience with him?
 15 A. In my experience with him, it was probably
 16 one in every 20 procedures.
 17 Q. Okay. And in situations like that, would
 18 there be any communication between the CRNA and
 19 Dr. Desai about that issue?
 20 A. There is -- there was communications. I
 21 do recall the CRNAs actually tell me, you know, can you
 22 hold on? The patient's not even completely asleep yet,
 23 so ...
 24 Q. Were they kind of emphatic about saying
 25 that, or was it just normal speech, you know, wait for

1 A. Yeah.
 2 Q. Is that a fair description?
 3 A. Yeah, it's pretty fair. I had to -- I had
 4 to change garb quite a bit just because we couldn't
 5 clean off residue and couldn't sterilize afterwards,
 6 so ...
 7 Q. What do you mean you had to change garb?
 8 A. Well, we had protective -- we had
 9 protective barriers we had to wear over our scrubs.
 10 Typically, in a day we'd change them maybe two or three
 11 times a day. Working with Dr. Desai, that number could
 12 have easily doubled.
 13 Q. Why was that?
 14 A. Because it just -- he swings out and you
 15 get fecal matter all over it, and then you don't really
 16 want to wear that into the next procedure.
 17 Q. Okay. So if I understand you correctly,
 18 were you getting this fecal matter on your person
 19 because of the speed that he was taking the scope out
 20 of the body?
 21 A. On occasion.
 22 Q. Okay. And was this a general sort of joke
 23 around the sort of center that he was pulling them out
 24 like cracking a whip?
 25 A. It was said a couple of times.

1 a little bit, or --
 2 A. It was -- to me it was real concern. It
 3 was, you know, pretty much they were looking at it in a
 4 situation of, you know, if that was them on the table,
 5 they would want to be completely asleep before the
 6 procedure was to start.
 7 Q. Okay. And so about one in every 20
 8 procedures you saw you thought?
 9 A. Yeah.
 10 Q. Did that happen with the other doctors in
 11 the group?
 12 A. Not as often. I mean it would happen just
 13 on occasion, just out of, I don't know if I ever should
 14 really say negligence, but it did. I would say it
 15 would happen just out of, you know, general negligence.
 16 It's you don't quite realize that the patient's not
 17 asleep yet.
 18 Usually other doctors, though, would
 19 actually look over the patient, since they are behind
 20 the patient, look over, make sure that they are asleep
 21 before actually inserting the scope.
 22 Q. Okay. On the instances when the scope was
 23 inserted and the CRNAs made some comment about this
 24 patient not being asleep yet, did Dr. Desai stop what
 25 he was doing?

1 A. No. I don't think he even heard the CRNA
 2 saying the patient wasn't even asleep yet.
 3 Q. You were there?
 4 A. Yeah.
 5 Q. You heard it?
 6 A. Uh-huh.
 7 Q. He was standing next to you?
 8 A. Uh-huh, but I just don't think he was
 9 paying attention.
 10 Q. Okay. What about reuse of various items
 11 in the -- sort of the procedure room? And I'm talking
 12 about, kind of go through them, bite blocks, did you
 13 ever see those reused on patients and washed off or
 14 whatever?
 15 A. Unless the patient had a sexually
 16 transmitted disease, we would go ahead and wash and
 17 sanitize them through our scope cleaning machine. And
 18 then go ahead and reuse them on the next patient.
 19 Q. So if I understand you correctly, the
 20 scopes that have been in somebody's bottom --
 21 A. Uh-huh.
 22 Q. -- so to speak, were put into a machine
 23 for cleaning?
 24 A. Well, it's -- we had a -- we had a process
 25 we had to go through. We had to first go ahead and

1 actually clean the outside by hand of the scopes, when
 2 it came to actually cleaning the scopes.
 3 It would go into a first -- it would first
 4 go into a tub with some machines connected to it that
 5 would actually go ahead and just flush the solution
 6 through it to make sure that it's completely flushed
 7 out and cleaned out.
 8 Go through another solution to rinse it,
 9 and then into the scope machine to actually go ahead
 10 and go through the sterilization process.
 11 Q. Okay. Did the bite blocks go through that
 12 same process then?
 13 A. Without flushing them, but we did wash
 14 them by hand, make sure they were rinsed, and then put
 15 them in the sterilization machine.
 16 Q. So once the scopes have gone through this
 17 flushing and whatever, they are put together with the
 18 bite blocks and processed; is that right?
 19 A. Yes.
 20 Q. Okay. So the same scopes that go in the
 21 bottom, the mouth things are in the same --
 22 A. Uh-huh.
 23 Q. -- together?
 24 A. Yes.
 25 Q. Now, as far as the other items that were

1 potentially reused, did you notice anything, any
 2 forceps or any snares or anything like that that were
 3 ever reused?
 4 A. Forceps and snares we did not reuse. We
 5 made sure that they went into biohazard sharps to be
 6 disposed of properly.
 7 The only thing that I could actually say
 8 that on a personal level that I did reuse because I was
 9 instructed to use were just syringes for the purposes
 10 of flushing water, cleaning out the actual -- the
 11 actual -- the actual beaker, container, whatever it was
 12 called, that we would actually use to go ahead and
 13 suction up the water with the syringe.
 14 And cleaning out another container, we had
 15 to go ahead and actually prewash, kind of prerinse the
 16 scope in the procedure room before we brought it into
 17 the scope room.
 18 Q. What about the solutions that were used to
 19 clean the scopes? Was there any issue with that?
 20 A. We -- pretty much we were told -- well, I
 21 was told by other techs, by other GI techs on the floor
 22 who were the ones that were assisting me and telling me
 23 how to do this, that we were supposed to do it by
 24 sight.
 25 MR. STAUDAHER: Okay. And I don't want to

1 necessarily -- that's -- I'm going to admonish the
 2 Grand Jury on that particular statement about it being
 3 a hearsay statement about something related to what he
 4 was supposed to do.
 5 BY MR. STAUDAHER:
 6 Q. That's not offered for the truth of the
 7 matter, just for what you did or did not do?
 8 A. Okay.
 9 Q. Based on whatever you were trained or
 10 told, how did you handle the solutions?
 11 A. Solutions, if they became -- the solutions
 12 were like a very bright blue whenever they were
 13 completely clean, fresh out of the bottle.
 14 I was told whenever they got murky to a
 15 point where you couldn't tell that they were blue, or
 16 where you could -- it was -- you were able to no longer
 17 tell that they were going to be blue for too much
 18 longer, then you go ahead and dump it and refill it.
 19 Q. How often would that be? How many scopes
 20 would you process through before that would occur?
 21 A. Depending on the procedure, depending on
 22 the cleanliness of the procedures, it would be --
 23 sorry -- anywhere from 10 to 20 scopes.
 24 Q. And when the CDC came in, you were there
 25 when that occurred, right?

1 A. Yes, I was.
 2 Q. Did that process change?
 3 A. When the CDC was in there, we were told to
 4 go ahead, and this is what I was doing is I was
 5 actually cleaning four scopes, and then dumping it.
 6 Found out from the CDC while they were
 7 there, though, that we were supposed to be dumping it
 8 after every two scopes.
 9 Q. Did that process then get initiated after
 10 that?
 11 A. Yes, it did.
 12 Q. Okay. As far as the bite blocks are
 13 concerned, just re-visit that for a second. How many
 14 of those would you typically open up in a day?
 15 A. Six.
 16 Q. And that was to service everybody for the
 17 whole day?
 18 A. Uh-huh. As I said, unless -- it was six
 19 at the beginning of the day, unless, as I said, they
 20 had, you know, a sexually transmitted disease or a
 21 communicable disease, then that bite block would be
 22 thrown away and a new one would be opened up for the
 23 rest of the day.
 24 Q. Now, when the state CDC were coming in to
 25 sort of look at what was going on in the clinic, was

1 there some discussion about that before they actually
 2 arrived?
 3 A. We were told that there were going to be
 4 visitors who were coming in, that we would have to
 5 change procedures a little bit, such as making sure
 6 that after every four scopes were cleaned, that we went
 7 ahead and dumped the cleaning solution and re-did it.
 8 We were told that we would be -- we would
 9 need to go ahead and change the aprons that we were
 10 using during procedures after every procedure and make
 11 sure that we were wearing a mask during the procedures.
 12 Q. Okay. Did you actually do those things?
 13 A. Yes, I did.
 14 Q. Now, prior to the state coming in, that, I
 15 assume, was not the practice, though?
 16 A. Like I said, it was -- usually you would
 17 go through like maybe three aprons in a day before the
 18 state had come in.
 19 And I would only ever wear a mask if I was
 20 feeling sick as a protective barrier, just to protect
 21 other patients from myself, just because I had never
 22 worked in the GI field before.
 23 I had never worked doing endoscopies or
 24 any other surgical procedures for that matter, so I
 25 didn't know that this was really something that I

1 should be wearing the face masks through every
 2 procedure until this happened.
 3 Q. Now, when you -- so I guess where I'm
 4 going with this is, when -- before the CDC and the
 5 state show up, is there some discussion about at least
 6 tightening up procedures?
 7 A. Yeah.
 8 Q. So when they show up, the CDC and the
 9 state, did they see the way things had been actually
 10 happening in the clinic prior to their arrival?
 11 A. No.
 12 Q. Okay. Had the sort of procedures improved
 13 by the time the state actually got there?
 14 A. When the state actually got there, even
 15 the doctors that would go, you know, a little bit
 16 quicker, would actually slow down and went at the rate
 17 of the doctors who were actually going slower, so ...
 18 Q. Was Desai working during any of that time?
 19 A. I don't remember if he was or wasn't
 20 actually.
 21 Q. Do you remember during any of the period,
 22 and they were there about a week or so; is that
 23 correct?
 24 A. Yes.
 25 Q. Do you recall ever seeing Desai work

1 during that whole time?
 2 A. I mean I hate to say just because it's
 3 something on a personal level, but it's my son was
 4 actually -- I was actually having my son be born around
 5 the same time. So it's most -- my attention was pulled
 6 away to that. I really don't remember if Dr. Desai was
 7 working during that week or not.
 8 Q. Fair enough. And that's fine. We'll move
 9 to another area.
 10 Once the state came and left, though, did
 11 the process or the procedures that had been recommended
 12 by them, did you guys institute those?
 13 A. We -- yeah, we instituted those. We were
 14 under the impression that it was going to be happening
 15 again, that they might be dropping by randomly. So we
 16 made sure that we continued to do exactly what we were
 17 doing prior to them coming in.
 18 We weren't even told why they were coming
 19 in. We were just told it was essentially just another
 20 inspection that any medical clinic would go through to
 21 make sure that they can keep their license to be open.
 22 Q. Okay. Now, I'm going to ask you a couple
 23 questions about propofol. You know what that is, do
 24 you not?
 25 A. Yes, I do.

1 Q. Did you ever see propofol being reused by
2 the CRNAs that worked at the facility when you were in
3 the procedure rooms?
4 A. I do know it was reused from patient to
5 patient.
6 Q. Okay. And is that because of your
7 personal observation?
8 A. Yeah.
9 Q. And was that a -- seemed to be a regular
10 thing or was that just an occasional thing that
11 occurred?
12 A. That was a regular thing.
13 Q. Was that one of the things that the CDC
14 had recommended not having occur at the facility?
15 A. Afterwards, yeah, it was. I found out
16 that it was actually recommended that it was supposed
17 to be one -- one patient per vial.
18 Q. Okay. Is that the practice that took
19 place after the CDC came, or did that change?
20 A. Yeah, it went to that practice afterwards.
21 Q. Okay. Now, did you ever see the same
22 syringe used during this procedure and then used on
23 another procedure?
24 A. My direction was mostly on the patient,
25 the monitor that showed us what was going on inside the

1 colon, and the doctor themselves, just so I could know
2 what's going on.
3 From my understanding -- well, I really
4 shouldn't give what my understanding of what's going on
5 because you said you wanted to know what I actually
6 saw. So I can't really tell you if the syringes were
7 used from one patient to another.
8 Q. Is that because of your positioning in the
9 room --
10 A. Yeah.
11 Q. -- and what you could see?
12 Okay. That's fine.
13 A. I was aware of the CRNA, but I wasn't
14 really paying attention to what the CRNA was doing.
15 Q. Did Dr. Desai ever talk about syringe use
16 or reuse or anything like that at any time, either
17 before or after the CDC came?
18 A. No, not that I know of.
19 Q. Did you ever hear him discuss any of this
20 stuff, about propofol use or anything like that?
21 A. Honestly, when it came to procedures and
22 policies of what was going to be going on inside the
23 clinic, I had no interaction with Dr. Desai.
24 It was -- it all came down the ladder of
25 okay, well, this is what we're doing. This is what

1 your job is, so this is the information that you get to
2 know is what's going on because it pertains to your
3 job.
4 So I never really heard anything of what
5 Dr. Desai was saying about reusing any of the
6 equipment.
7 Q. How many patients would you typically be
8 seeing in a day, dealing with?
9 A. If I remember correctly, a minimum of 60.
10 Q. Was it more than that at times?
11 A. Oh, yeah.
12 Q. You said, "Oh, yeah," were there a lot
13 more?
14 A. There was quite a few days that even with
15 patients canceling and patients being added on the day
16 of we would end up seeing 90 patients in the day.
17 Q. And that's procedures done on patients --
18 A. Yes.
19 Q. -- is that right?
20 Now, did you ever see CRNAs move from room
21 to room?
22 A. Yes.
23 Q. How would that happen? And was it during
24 breaks, was it the end of the day, beginning of the
25 day, what?

1 A. Typically, there was one doctor working.
2 Okay. Usually I would only see this in the morning or
3 if the CRNAs -- if we were breaking out for lunch
4 because we would only have two CRNAs there.
5 So for the first two hours of the day,
6 there would be one CRNA and one doctor. So since there
7 is one CRNA and one doctor and we are doing procedures,
8 the CRNA would follow the doctor back and forth to be
9 able to give the anesthesia for the procedure.
10 If a doctor was -- if we were during our
11 lunch -- if we were during the lunchtime, we would go
12 back to only having one doctor on the floor, and then
13 the CRNA would swap out, half hour for one CRNA, half
14 hour for the other, and then they would go back, but
15 usually it was just from one room to another after the
16 procedure.
17 Q. So you did see the CRNAs move at least
18 from room to room for various reasons during the day?
19 A. Yeah.
20 Q. During the time that you saw the CRNAs go
21 from room to room, did they carry anything with them?
22 Did they carry any syringes, drugs, toolboxes, anything
23 like that?
24 A. They had like a tackle box that had the
25 medicines that they would use for the day.

1 Q. And they would take that with them from
2 one room to the other?

3 A. Yes.

4 Q. Beside that -- was that a fairly regular
5 occurrence?

6 A. Yeah.

7 Q. Beside that, did you ever see a CRNA that
8 came from a different room come into a procedure room
9 that you were in and use propofol or set up or drugs or
10 anything that were in that room already?

11 A. Typically, what I saw -- okay. So you're
12 asking if a CRNA would come into a room and handle
13 supplies that they didn't set up?

14 Q. Yes.

15 A. I don't think I ever saw that happen.

16 Q. So they would bring their own stuff to the
17 room?

18 A. Yes.

19 Q. So did you ever see, when that occurred, a
20 bottle of propofol, for example, that had some propofol
21 in it just sitting on the -- on the table or wherever,
22 where the anesthesia person would be?

23 A. I would only see that happening if we were
24 just setting up the procedure and it was the CRNA
25 that's been in the room the whole time.

1 with the doctors. Did you ever deal with any of the
2 other parts of the clinic?

3 A. No, I didn't.

4 Q. Okay. When you were there, was there
5 anything there beside the things we talked about that
6 were -- that you saw that were concerning to you or
7 that gave you pause?

8 A. I just thought that we were doing too many
9 patients in a day honestly, and it was -- I'm an
10 adaptable person. I just shrugged it off and learned
11 how to cope with it.

12 But there wasn't a whole lot that I really
13 paid attention to during the day. I just kind of did
14 my job and was hoping that one day I would be able to
15 move on to another clinic because I didn't really like
16 the work.

17 Q. Did you feel pressure in any way to
18 maintain that schedule and that patient load?

19 A. Yeah.

20 Q. And I'm talking about even back in the
21 scope room when you were cleaning scopes, did you feel
22 like you were pushed to, you know, get them ready, keep
23 them available, that kind of thing?

24 A. Yeah. I mean there was a couple of times,
25 just because we had procedures going on that were just

1 Q. Okay. Who was in charge of the facility?

2 A. When I was hired in, Katie Maley was the
3 office manager. Shortly after, she was going on to
4 assist in opening up the other clinic that they were
5 opening in the Spanish Hills.

6 And then Jeff Kruger was the nurse in
7 charge of the facility, and he was the one that I would
8 be taking orders from pretty much.

9 Q. Okay. As far as procedural stuff that
10 went on in the clinic, who made the shots or who called
11 the shots, so to speak?

12 A. The doctors. I mean, it's -- I mean I
13 don't think I actually understand the question.

14 Q. Okay. Was somebody else able to make the
15 decisions as to what happened and how things occurred
16 and what to order and all that stuff in the office?

17 A. Well, the -- Jeff and then later Janine,
18 whenever she became head nurse, would actually do the
19 supply ordering.

20 But when it came to how to do the
21 procedures and everything, that was something that was
22 completely handled by the doctors.

23 Q. Okay. Did you ever deal with the
24 administration and how things, you know, beyond just
25 working in the scope room and the procedures dealing

1 going on really quick, that it's -- I can't -- I'm
2 processing the scopes for the full time that they are
3 supposed to be processed, but I have them piling up on
4 me, and we have no scopes left available.

5 So we're getting backed up because they
6 are waiting for me to get scopes finished and cleaned
7 and dried before they can hang up for the next
8 procedure.

9 Q. So did that sometimes sort of cause
10 trouble with the whole machine?

11 A. Yeah.

12 Q. When that happened what would occur?
13 Would somebody come back and talk to you about it, yell
14 at you, anything?

15 A. They just said, you know, you have to pick
16 up the pace and everything. And it's just, me being
17 just, you know, a typical worker that your boss comes
18 in and tells you that, hey, you need to pick up this
19 pace.

20 You're just kind of thinking to yourself,
21 hey, you should come back here and do this yourself if
22 you think I'm not doing it that well.

23 But, like I said, I -- when it comes to
24 medicine, the one thing that I was definitely taught
25 was that you don't do anything to compromise

1 cleanliness.

2 So I wasn't going to cut corners or

3 anything like that just to try to catch up, and I

4 wasn't told to, but it just kind of seemed like that's

5 what was expected to me. But just because of the way I

6 was taught that wasn't going to happen, so ...

7 Q. So you didn't engage in that, but you felt

8 pressure to do that. Is that what you're saying?

9 A. Yeah.

10 Q. And if I understand you correctly, the

11 actual things that you were doing back there had fixed

12 times associated with them. You couldn't process -- if

13 you put the machine -- what was the machine that you

14 put the scopes into called?

15 A. Oh, I don't even remember what that

16 machine was called. It was just a scope-processing

17 machine. I don't remember the actual name of what the

18 machine was called.

19 Q. Does mediator sound familiar to you?

20 A. Yeah.

21 Q. Okay. When the scopes went into that

22 machine, did they have to be in there for a fixed

23 period of time?

24 A. Yeah. There was just a button you pushed,

25 and it went ahead and did it. It went through the

1 get us the scopes, get us mouthpieces faster?

2 THE WITNESS: No. Like I said, it wasn't

3 exactly something that was actually said to me to, you

4 know, well, get this done, you know, get the machine

5 out quicker, you know, and everything like that.

6 It was just something that, as I said, in

7 any job, you have your boss hovering over you. You

8 would kind of feel pressured to get things done

9 quicker, but, as I said, when it comes to cleanliness,

10 I'm not going to sacrifice that at all.

11 THE FOREPERSON: Ann?

12 A JUROR: You said you felt pressure that

13 they told you you needed to pick up the pace.

14 Did they in any way instruct you on how

15 they felt you should do that?

16 THE WITNESS: No. So I just continued

17 doing what I was doing.

18 THE FOREPERSON: Okay.

19 Steve?

20 A JUROR: And back to the same question,

21 are you aware of any of your coworkers taking shortcuts

22 because of that pressure?

23 THE WITNESS: No.

24 THE FOREPERSON: I have a question.

25 On the bite blocks and scopes being

1 whole cycle for you.

2 I mean you could open the machine up, but

3 the machine could possibly fail if you opened the

4 machine up before it finished processing.

5 Q. But even though that's a fixed amount of

6 time, you're still getting pressure to get the scopes

7 out of the machine?

8 A. Yeah, but I was waiting until the time was

9 over.

10 Q. Okay. Anything else that concerned you

11 about anything that was going on with the clinic and

12 what Dr. Desai was doing?

13 A. Not really. If I had more experience as a

14 surgical tech or as a gastro tech, I probably would

15 have been a little more concerned. But like I said,

16 this was the first job I worked at as a GI technician,

17 so I wasn't really familiar with what should be going

18 on.

19 MR. STAUDAHER: I have nothing further.

20 THE FOREPERSON: Are there any questions

21 from the jury?

22 Yes.

23 A JUROR: At any time did they tell you,

24 they being one of the doctors or one of the

25 supervisors, tell you take shortcuts if you have to to

1 cleaned, were they being cleaned together in the same

2 solution at the same time?

3 THE WITNESS: Yes.

4 THE FOREPERSON: All right. Are there any

5 further questions? I do have one more.

6 When the scope was removed from the

7 patient by Dr. Desai, when you said he came out so fast

8 you got fecal matter on your garments --

9 THE WITNESS: Yes.

10 THE FOREPERSON: Did it sometimes go

11 beyond you and splatter around?

12 THE WITNESS: It would occasionally get on

13 like on the floor or the walls. And, you know, just

14 being the procedure room technician, after I got the

15 scope into the scope room, I would have to go ahead and

16 make sure that that was cleaned up and everything like

17 that.

18 Going through with actual hospital grade

19 disinfectants and hospital grade sanitizers to go ahead

20 and clean it up and make sure that there was no trace

21 of it before the next patient got in.

22 THE FOREPERSON: No visible trace?

23 THE WITNESS: No visible trace. And like

24 I said, it was actually -- we actually used hospital

25 grade disinfectants and cleaners, that if you went into

1 a hospital, you would see them all around to make sure
2 that it was cleaned up.

3 THE FOREPERSON: Thank you. Any other
4 questions? None.

5 By law these proceedings are secret. You
6 are prohibited from disclosing to anyone anything that
7 transpired before us, including evidence presented to
8 the Grand Jury, any event occurring or a statement made
9 in the presence of the Grand Jury, or information
10 obtained by the Grand Jury.

11 Failure to comply with this admonition is
12 a gross misdemeanor punishable by a year in the Clark
13 County Detention Center and a \$2,000 fine. In
14 addition, you may be held in contempt of court
15 punishable by an additional \$500 fine, and 25 days in
16 the Clark County Detention Center.

17 Do you understand this admonition?

18 THE WITNESS: Yes, I do.

19 THE FOREPERSON: Thank you. You may be
20 excused.

21 We are off the record now.

22 * * * * *

23 ATTEST: Full, true and accurate transcript.

24 _____
25 MARCIA LEONARD, CCR 204

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,
Plaintiff,
vs.

DIPAK KANTILAL DESAI, RONALD
ERNEST LAKEMAN, KEITH H. MATHAHS,
Defendants.

No. 09BGJ049ABC

COPY

0265107

Taken at Las Vegas, Nevada
Thursday, April 29, 2010
9:19 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 5

Reported by: Danette L. Antonacci, C.C.R. No. 222

GRAND JURORS PRESENT ON APRIL 29, 2010

PAM YOUNG, Foreperson
JOSEPH WILLOUGHBY, Deputy Foreperson
SHELLEY SALAMANOUPOULUS, Assistant Secretary
LISA CAMP
CHRISTINE LYONAIS
AGNES PARKER (Leaves at 3:35 p.m.)
YOLANDA PARKER (Arrives at 10:07 a.m.)
BLANCA ROBERSON
BOB ROSE
ALICE SZURAN
MICHAEL THOMPSON
TOM UHRMAN
ANNE ZARATE

FILED

JUN 08 2010

John L. Johnson
CLERK OF COURT

Also present at the request of the Grand Jury:
Michael Staudaher,
Deputy District Attorney

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CORRINE SPAETH	37
PATRICIA GONZALEZ	53
NANCY SAMPSON	81
JOANNE SAMS	155

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1 LAS VEGAS, NEVADA, APRIL 29, 2010

2 * * * * *

3 DANETTE L. ANTONACCI,

4 having been first duly sworn to faithfully
5 and accurately transcribe the following
6 proceedings to the best of her ability.

7
8
9 THE FOREPERSON: Let the record reflect
10 that I have canvassed the waiting area and no one has
11 appeared in response to Notice of Intent to Seek
12 Indictment.

13 MR. STAUDAHER: Ladies and gentlemen of the
14 Grand Jury, this is the continuation of Grand Jury case
15 number 09BGJ049A-C, State of Nevada versus Dipak
16 Kantilal Desai, Ronald Ernest Lakeran and Keith H.
17 Mathahs.

18 As I have said before in the previous
19 presentations to you I told you that I would address you
20 each and every time to make sure that there was, we
21 address the issue of potential bias. If after the
22 testimony that occurred last time and between now and
23 then you have developed any or harbor any new biases now
24 based on that testimony which would cloud your judgment
25 or your impartiality in rendering a decision when you're

1 asked to do so down the road as to whether or not the
2 State has met its burden in this case on the charges or
3 not, that's the issue that I have to address each time.
4 So with that being said, does any Grand Juror now
5 present, have they developed or has anything come into
6 their mind that would prevent them from being completely
7 unbiased and just listening to the facts and applying
8 them to the charges as presented?

9 A JUROR: No.

10 THE FOREPERSON: No.

11 MR. STAUDAHER: There is a general
12 consensus that there has been no change in that as there
13 has been in the previous presentations as well.

14 That being said, are there any questions
15 that the Grand Jury has at this time regarding the law
16 pertaining to any of the charges that have been
17 presented? And I will revisit the law at the very end
18 to make sure there is no question as to what law you are
19 to follow. You all have copies of the statutes and they
20 are an exhibit, I think Exhibit Number 2 in this
21 particular case. Any issues with any questions thus far
22 regarding the law?

23 THE FOREPERSON: No.

24 MR. STAUDAHER: Are there any questions
25 that the Grand Jury has at this time that they would

1 like answered if I can?

2 THE FOREPERSON: No.

3 MR. STAUDAHER: With that we'll go ahead
4 and continue the testimony.

5 THE FOREPERSON: Please raise your right
6 hand. Thank you.

7 You do solemnly swear the testimony you are
8 about to give upon the investigation now pending before
9 this Grand Jury shall be the truth, the whole truth, and
10 nothing but the truth, so help you God?

11 THE WITNESS: I do.

12 THE FOREPERSON: Thank you. You may be
13 seated.

14 You are advised that you are here today to
15 give testimony in the investigation pertaining to the
16 offenses of performance of act of reckless disregard of
17 persons or property, criminal neglect of patients,
18 insurance fraud, obtaining money under false pretenses,
19 and racketeering, involving Dipak Kantilal Desai, Ronald
20 Ernest Lakeran and Keith H. Mathahs.

21 Do you understand this advisement?

22 THE WITNESS: Yes, I do.

23 THE FOREPERSON: Thank you. Could you
24 please state both your first and last names and spell
25 them for the record.

1 THE WITNESS: Elaine Myers. E-L-A-I-N-E,
2 M-Y-E-R-S.

3 THE FOREPERSON: Thank you.

4 MR. STAUDAHER: And ladies and gentlemen of
5 the Grand Jury, before I get started with this witness I
6 do want to refer you to the criminal complaint, or
7 rather the Indictment I think is what we have up there
8 right now before you, the testimony of this particular
9 witness will pertain specifically to Counts, 14, 23, 44,
10 53, and 18, 27, 48 and 57. The two patients in question
11 will be Rudolfo Meana and Gwendolyn Martin. In addition
12 the racketeering counts will be referred to as well from
13 this testimony which are Counts 28 and 29 and Counts 58
14 and 59 and that's with the information or the Indictment
15 as it's currently constituted.

16 ELAINE MYERS,

17 having been first duly sworn by the Foreperson of the
18 Grand Jury to testify to the truth, the whole truth,
19 and nothing but the truth, testified as follows:

20 EXAMINATION

21 BY MR. STAUDAHER:

22
23 Q. Now, that being said, ma'am, what do you do
24 for a living?
25

1 A. I'm director of operations for Health Care
2 Partners. We are a third party administrator for
3 Pacific Care. We pay their claims.

4 Q. Now Pacific Care is what, an insurance
5 company?

6 A. Pacific Care is a HMO. We pay the HMO
7 claims. It's an insurance company for HMO products.
8 They have both a commercial and senior product.

9 Q. Can you tell us what the commercial product
10 is called?

11 A. It's Pacific Care Commercial.

12 Q. What is the senior called?

13 A. Secure Horizon.

14 Q. If we see something called Secure Horizon
15 that is in fact Pacific Care?

16 A. That is Pacific Care.

17 Q. Now directing your attention to -- well,
18 before I do that let me ask you just a couple more
19 predicate questions regarding what your company does.

20 You say you take in claims and so forth and
21 then pay those claims?

22 A. Yes, sir.

23 Q. How does that work? I mean you're sitting
24 in your office or your company is and how does a claim
25 come in, how does it get processed and then paid?

1 A. The provider submits the claim via mail, we
2 receive hard copy claims, and then we process those
3 claims, we take them in, date stamp them and then put
4 them through a computer adjudication system that pays
5 the claim.

6 Q. And when you pay the claim do you pay it
7 back to that provider that sent it to you originally?

8 A. That's correct.

9 Q. I'm going to direct your attention to
10 specific instances involving two patients. Let's start
11 off with one, I believe it's a Secure Horizon product,
12 it was an individual by the name of Rudolfo Meana.

13 A. Yes.

14 Q. Is that one of the individuals that your
15 company dealt with as far as dealing with the claim and
16 payment for a claim?

17 A. Yes.

18 Q. Specifically I'm going to direct you to a
19 time period of September 21st of 2007, a claim regarding
20 that day. Did you have a chance to review any
21 information in your company pertaining to that claim?

22 A. Yes, I have.

23 Q. Now I'm going to be showing you some
24 documents specifically related to that particular person
25 and that particular claim. They have been marked as

1 Grand Jury Exhibit Number 35. It's a six-page document.
2 So if you are referring to this document during your
3 testimony and you're referring to a specific page I ask
4 that you identify which page of the exhibit you're
5 referring to. Fair enough?

6 A. Yes.

7 Q. I'm going to hand that to you and ask you
8 to flip through it generally at this time and just tell
9 me if you recognize the document itself or series of
10 document I guess.

11 A. Yes, I do.

12 Q. Okay. What are those series of documents?
13 Let's start off with page 1, what is it?

14 A. That's a HCVA 1500, it's the name of the
15 claim form that providers submit claims for professional
16 services.

17 Q. Is that the claim that was submitted for
18 that patient for the date of the 21st of September of
19 2007?

20 A. Yes, it is.

21 Q. Company received that. Did your company
22 process that claim?

23 A. Yes, we did.

24 Q. After the claim was processed did you
25 actually make a payment on that claim as it was

1 submitted to you?

2 A. Yes, we did.

3 Q. And do you have other documents that show
4 what payment was made on that claim?

5 A. Yes.

6 Q. And you're referring now to another page of
7 the document?

8 A. To page 2 of the exhibit, explanation of
9 benefits.

10 Q. And how much money was paid on that
11 particular claim?

12 A. \$131.20.

13 Q. Now the amount that was actually submitted
14 as a bill was greater than that was it not?

15 A. Yes, it was.

16 Q. What was the amount submitted initially?

17 A. \$560.

18 Q. I'm going to take this claim form from you
19 for a moment and the associated document and I'm going
20 to display them for the Grand Jury and I'm going to ask
21 you some specifics about what we're looking at.

22 Now at the top of the form it says 1500
23 insurance claim form. Is this where you get your
24 designation of the HCVA 1500?

25 A. Yes, it is.

1 Q. Under number 2 on that form we have a name,
2 that's Rudolfo Meana, is that what designates this
3 patient as being on that claim form?

4 A. Yes, it is.

5 Q. I'm going to move down the claim form to
6 the section, I believe it is, it looks like it's section
7 24, do you see that here?

8 A. Yes.

9 Q. And then below that where it's talking
10 about date of service and so forth.

11 A. Yes.

12 Q. Date of service on that form?

13 A. 9/21/07.

14 Q. Now there is a designation for, I believe
15 it's under section D, procedure and services. Do you
16 see that?

17 A. Yes.

18 Q. It's got a number there 00810, what does
19 that designate?

20 A. That's an endoscopy procedure.

21 Q. So a specific type, upper, lower endoscopy?

22 A. Yes.

23 Q. If we move to the end of the claim I see
24 under charges, and I believe that's section F of that
25 portion, there is a dollar amount?

1 A. Yes.

2 Q. How much is that?

3 A. \$560, that is the billed amount.

4 Q. The amount that actually came from the
5 center?

6 A. Yes.

7 Q. To your office for a charge or as a charge
8 to be paid?

9 A. Yes.

10 Q. And then next to that, specifically I want
11 to ask you about section G across there where it says
12 days or units, that portion. You see that?

13 A. Yes.

14 Q. There is a designation of a number there.
15 What is that number?

16 A. It's blurry, I'm sorry, I can't --

17 Q. That's fine, I'll show you the document and
18 we'll put it back up. Handing you the direct document.

19 A. Thirty-three.

20 Q. Now I'll display that once again for the
21 Grand Jury. I know it's typed and a little difficult to
22 read, but 33, does that designate some sort of unit or
23 minute or something like that?

24 A. It signifies minutes.

25 Q. Let's talk about minutes for a minute. So

1 on that claim form for that patient it's 33 minutes; is
2 that right?

3 A. That's correct.

4 Q. Do you know how anesthesia is billed and
5 how it comes in and you pay on it?

6 A. Yes. Anesthesia is paid by units and the
7 one unit is equal to 15 minutes. There are base units,
8 every unique procedure code, the 00810 signifies a
9 procedure and there is a base unit assigned to that
10 procedure. That base unit is five, an increment of five
11 units. In addition to that there are the 33 minutes.
12 And for every 15 minutes that's one unit. So 15 minutes
13 is one unit, 30 minutes is two units, 45 minutes is
14 three units. It is always rounded up. So 33 minutes is
15 equal to three units. So that claim was paid based on
16 five base units which includes like set-up and the
17 preliminary plan that the anesthesiologist does and then
18 three base units for a total of eight units. That is
19 multiplied then times whatever the contracted rate per
20 unit is by whichever health insurance company.

21 Q. So let me understand this correctly. That
22 particular bill that we're looking at for Rudolfo Meana
23 which says 33 minutes of anesthesia time, they would
24 have five base units, plus for this particular one an
25 additional three units for a total of eight?

1 A. Yes, that's correct.

2 Q. Now if the submitted amount minutes on this
3 particular form had been let's say 29 minutes, how many
4 units would have been paid on by, or first of all how
5 many units would have been billed and how many would
6 have been paid on?

7 A. Twenty-nine minutes would have been billed
8 and two units would have been paid.

9 Q. So it would have been seven instead of
10 eight?

11 A. It would have been seven instead of eight.

12 Q. If it was 12 minutes how many units would
13 be paid?

14 A. A total of six because it would be five
15 base units and one --

16 Q. One unit for the time?

17 A. -- one time unit.

18 Q. Is it fair to say then if the submitted
19 claim form contained an increased or fraudulent number
20 of minutes, meaning more than what's used on the actual
21 patient, that your company would pay a claim, pay more
22 money than they should have?

23 A. Yes, that's correct.

24 Q. And conversely if you had received this
25 claim form and it had said 22 minutes would you have

1 paid a lesser amount of money than you did on this
 2 particular claim?
 3 A. Yes, we would have.
 4 Q. Do you pay your claims based on your belief
 5 that the information contained on the claims that are
 6 submitted to you is accurate?
 7 A. Yes, we do.
 8 Q. If you found that the information was
 9 inaccurate or fraudulently placed on those forms would
 10 your company pay the claim or do something about it?
 11 A. We would do something about it.
 12 Q. Now I will note on the very bottom of this
 13 form, and I think we're talking about boxes 32 and 33,
 14 do you see those?
 15 A. Yes.
 16 Q. In those boxes we have some designations
 17 of, it says service facility under 32, and what is that,
 18 service facility?
 19 A. That's where the service actually took
 20 place. It's the facility in which the service took
 21 place.
 22 Q. And it says Endoscopy Center of S. Nevada
 23 LLC?
 24 A. Yes.
 25 Q. 700 Shadow Lane?

1 Q. Does that payment pertain to the claim form
 2 that we had seen earlier?
 3 A. Yes, it does.
 4 Q. And you said that the actual paid amount
 5 for this claim was \$131.20, right?
 6 A. Yes, it was.
 7 Q. So that's money that actually left your
 8 company and went to the Endoscopy Center?
 9 A. That's correct.
 10 Q. The \$560 does that correlate with how much
 11 was actually billed?
 12 A. That's correct.
 13 Q. And what is the reason why there is a
 14 difference between those two numbers?
 15 A. Because our contracted rate, we have a, we
 16 had a contracted rate with Endoscopy Center that paid
 17 \$16.40 per unit per 15 minutes during that time period.
 18 Q. Okay. So it would have been an increase if
 19 there would have been more units and a decrease if there
 20 had been fewer?
 21 A. Correct.
 22 Q. Because you have a contracted rate it's
 23 less money than you actually have to pay than what they
 24 submit?
 25 A. Correct.

1 A. Yes.
 2 Q. In Las Vegas?
 3 A. Yes.
 4 Q. Is that where the bill came from?
 5 A. Yes.
 6 Q. Now under the next one where it says
 7 billing provider there is a name over there.
 8 A. Yes.
 9 Q. And it has a designation of CRNA. Do you
 10 see that?
 11 A. Yes.
 12 Q. What name is designated there?
 13 A. Mathahs.
 14 Q. First name?
 15 A. Keith.
 16 Q. So is that the provider on this form?
 17 A. That's the anesthesiologist that performed,
 18 that provided the service.
 19 Q. Now I want to flip to that explanation of
 20 benefits portion which I think you said was on page 2.
 21 A. Two.
 22 Q. Of Exhibit 35. And explain that for the
 23 Grand Jury. Again does that have Mr. Meana's name on
 24 it?
 25 A. Yes.

1 Q. Is the \$560, is that a three unit charge?
 2 Was that your experience that it was a three unit charge
 3 from, I mean time charge from the Endoscopy Center?
 4 A. Yes.
 5 Q. Did every claim that you had come in that
 6 was in the three unit charge range have a dollar figure
 7 of \$560?
 8 A. I'm not sure.
 9 Q. The ones that you have looked at.
 10 A. Yes, the ones I reviewed all had the \$560
 11 billed amount for three time units.
 12 Q. Fair enough. Now I know that we have gone
 13 through what we just did on this particular patient. I
 14 want to move to the next one which is Gwendolyn Martin I
 15 believe you said; is that correct?
 16 A. Yes.
 17 Q. I'm going to hand you what has been marked
 18 as Grand Jury Exhibit Number 34. Flip through that
 19 again and do the same thing, tell me if you recognize
 20 the forms that are there and what they are.
 21 A. Yes, I do.
 22 Q. What are they?
 23 A. Again it's the HCVA 1500 with billed
 24 charges for endoscopy services.
 25 Q. Okay. And are there two separate groups

1 being the HCVA 1500 form and then an explanation of
 2 benefits saying what you actually paid?
 3 A. Yes.
 4 Q. Are they all for the same patient Gwendolyn
 5 Martin?
 6 A. They're all for the same patient. There's
 7 two HCVA 1500s for two separate services on two separate
 8 dates of service.
 9 Q. Fair enough. Showing the first page of
 10 Grand Jury Exhibit Number 34, and I know we've gone
 11 through the exhibit, I'll go through it quickly. Does
 12 it show on the form the name of the patient?
 13 A. Yes.
 14 Q. We're looking at the 1500 HCVA form; is
 15 that correct?
 16 A. Yes, we are.
 17 Q. And then if we go down does it show the
 18 procedure date?
 19 A. Yes, 9/20/07.
 20 Q. So according to this form the procedure
 21 occurred on 9/20 of '07?
 22 A. Yes.
 23 Q. Still an endoscopy procedure?
 24 A. Yes.
 25 Q. The point I want to get to on this

1 particular form, the amount being charged is I think
 2 \$560 according to this?
 3 A. Yes.
 4 Q. And the number of minutes billed is 31
 5 minutes?
 6 A. Yes.
 7 Q. Endoscopy Center of Southern Nevada still?
 8 A. Yes.
 9 Q. And Mr. Lakeman being the anesthesia
 10 person?
 11 A. Yes.
 12 Q. Now on that particular form, going to page
 13 3 of the exhibit, does page 3 relate to the actual,
 14 what's called the explanation of benefits form showing
 15 the amount paid by your company for this claim?
 16 A. Yes, it does.
 17 Q. And how much was paid on that particular
 18 claim?
 19 A. \$304.
 20 Q. Even?
 21 A. Yes.
 22 Q. So \$304. And the charged amount was how
 23 much?
 24 A. Five hundred sixty.
 25 Q. Now I notice between the first product we

1 looked at on Miss, I think it was Miss Meana's form, or
 2 excuse me, Rudolfo Meana's form and this one that there
 3 are difference in what you paid based on the same billed
 4 charge.
 5 A. Correct.
 6 Q. Can you explain that?
 7 A. Mr. Meana's was, is a senior and his
 8 contracted rate was \$16.40. The commercial -- this
 9 member --
 10 Q. Per unit you mean?
 11 A. Per unit. This member is a commercial
 12 member so they're a working employed member with
 13 commercial insurance and that rate is \$38, was \$38 per
 14 unit at that time.
 15 Q. So it was much higher?
 16 A. It was much higher.
 17 Q. So is that why there is a difference
 18 between how much you have to pay?
 19 A. That's why there's a difference in payment.
 20 So the units are the same, eight units, but multiplied
 21 by a different contracted rate.
 22 Q. Fair enough. And if you could, if you
 23 could let me finish my question before --
 24 A. I'm sorry.
 25 Q. -- you answer that would help the court

1 reporter taking down what's being said.
 2 A. Certainly.
 3 Q. Now I want to move to page 4 of Exhibit 34
 4 which is the, I think another one of these HCVA claim
 5 forms; is that correct?
 6 A. Yes, it is.
 7 Q. It still has Miss Martin's name on it?
 8 A. Yes.
 9 Q. If we move down we see that it looks like
 10 this was a claim on the following day, the 21st of
 11 September of 2007; is that correct?
 12 A. Yes, it is.
 13 Q. Now I notice that the number here under
 14 section D on box, under the box, large box 24 --
 15 A. Yes.
 16 Q. -- has a different procedure type code. Is
 17 that still an endoscopy procedure?
 18 A. Yes, it is.
 19 Q. Is that an upper or lower or do you know?
 20 A. I'm not sure.
 21 Q. But clearly there were two different
 22 endoscopy type procedures?
 23 A. Yes.
 24 Q. If we move across we see the billed amount
 25 is still \$560?

1 A. Yes.
 2 Q. And the minutes that were submitted to your
 3 company on this particular claim were 32?
 4 A. Yes.
 5 Q. The CRNA at the bottom in box 33 is I
 6 believe Keith Mathahs; correct?
 7 A. Yes.
 8 Q. And then box 32, this was a claim that came
 9 from the Endoscopy Center?
 10 A. Yes.
 11 Q. Move to I believe it's page 6 of the
 12 exhibit which is titled explanation of benefits. Do you
 13 see that?
 14 A. Yes.
 15 Q. What is the date for this particular, the
 16 procedure related to this payment of claim?
 17 A. 9/21/07.
 18 Q. Does that refer to the HCVA form we just
 19 saw a moment again?
 20 A. Yes, it does.
 21 Q. Same patient's name?
 22 A. Yes.
 23 Q. Dollar amount that was billed?
 24 A. \$560.
 25 Q. The amount paid?

1 BY A JUROR:
 2 Q. Miss Myers, there is a commercial product
 3 and a senior product?
 4 A. Yes.
 5 Q. On the senior product is Medicare billed
 6 for a portion of that as well?
 7 A. No. What Secure Horizons Pacific Care
 8 senior product is a Medicare managed, Medicare advantage
 9 product. So Medicare subcontracts to other HMO
 10 insurance companies to provide health care to their
 11 members. So Medicare relinquishes their billing rights
 12 to the insurance company that they have contracted,
 13 subcontracted with.
 14 Q. Thank you.
 15 A. Does that --
 16 THE FOREPERSON: Any further questions?
 17 BY A JUROR:
 18 Q. If there was a patient without insurance of
 19 any sort would that patient pay the full \$560.
 20 A. Yes.
 21 Q. No discounts to the patient?
 22 A. Well, that actually is a provider question.
 23 I'm not, I'm only speaking as an insurance company.
 24 Q. But you have paid claims for the full
 25 amount?

1 A. \$304.
 2 Q. So if I understand you correctly this
 3 patient had procedures on the 20th and the 21st and that
 4 on those two days the amount of anesthesia billed was
 5 the same; correct?
 6 A. Yes.
 7 Q. The amount of payment for each procedure
 8 was the same?
 9 A. Yes.
 10 Q. If the person had had a, let's say just on
 11 the 21st for example had had both the upper and the
 12 lower endoscopy done at the same time, would there have
 13 been one anesthesia charge or two?
 14 A. One. One base unit charge.
 15 Q. But not two separate?
 16 A. Not two separate base units.
 17 Q. And then the time for doing both would have
 18 been certainly added together; correct?
 19 A. Correct.
 20 Q. Are those the only two patients that you
 21 reviewed in relation to this particular case?
 22 A. Yes.
 23 MR. STAUDAHER: I have nothing further for
 24 this witness.
 25 THE FOREPERSON: Are there any questions?

1 A. They have insurance, if I receive their
 2 claim they have insurance.
 3 Q. They have insurance. I see.
 4 A. And they are contracted with us.
 5 Q. I understand. Thank you.
 6 A. To provide that.
 7 BY A JUROR:
 8 Q. Does your billing company or your insurance
 9 company require anesthesia records or any other medical
 10 records be submitted with the HCVA or do you request
 11 those only on a case that you may need them?
 12 A. Only a case that they're required. One of
 13 the other items on the form is actually the time. Above
 14 the area there is a time.
 15 MR. STAUDAHER: And so that we're clear on
 16 this I'm going to hand her back both of the exhibits. I
 17 don't know if she needs to refer to both. But if you
 18 would tell us which one you're looking at.
 19 THE WITNESS: I'm looking at Rudolfo Meana.
 20 MR. STAUDAHER: So that for the record is
 21 Grand Jury Exhibit Number 35 and she's referring to the
 22 first page of the exhibit.
 23 THE WITNESS: And above the procedure code
 24 there actually is a time entered and this one is 10:30
 25 to 11:03.

1 MR. STAUDAHER: And I'll display that to
2 the Grand Jury so that we can make sure we see what
3 you're referring to. And I'll zoom in on it actually.

4 So can you say that once again now that
5 this is displayed for the Grand Jury.

6 THE WITNESS: Yes. So when we receive the
7 claim we see the 10:30 to 11:03 and that equates to the
8 33 minutes and as long as that is on the form and it's
9 our contracted provider and there is no reason to have
10 an indication that it's not accurate that is what is
11 paid on.

12 A JUROR: Thank you.

13 THE FOREPERSON: Any further questions?

14 MR. STAUDAHER: I now have a follow-up
15 question to that.

16 THE FOREPERSON: Okay.

17 BY MR. STAUDAHER:

18 Q. Related to that particular item that you
19 just designated, is that also present on Grand Jury
20 Exhibit Number 34?

21 A. Yes, it is.

22 Q. I'm going to place that up there so that
23 the Grand Jury can see that as well.

24 So there is a specific time frame listed;
25 is that correct?

1 A. That's correct. This procedure took place
2 between 12:20 and 12:51.

3 Q. And this is the procedure I believe on the
4 20th; correct?

5 A. Yes.

6 Q. And the other one which you mentioned was
7 10:30 to 11:03 was on the 21st?

8 A. Correct.

9 Q. And that was Grand Jury Exhibit Number 35;
10 correct?

11 THE FOREPERSON: Yes.

12 MR. STAUDAHER: One second, I'm not done.

13 Q. With relation to that, did your company
14 require that the actual minute time or the time
15 designated for the anesthesia be submitted along with
16 the bills?

17 A. Yes.

18 Q. That was something specific to Pacific
19 Care?

20 A. That was something specific to our
21 processing of the claim, yes.

22 Q. So if other insurance companies had that or
23 didn't have that you wouldn't really know?

24 A. I wouldn't know.

25 Q. It was just something that your company

1 required?

2 A. That's correct.

3 MR. STAUDAHER: Okay.

4 BY A JUROR:

5 Q. Did you have anyone audit those time
6 factors to see if there was any overlap?

7 A. No, we did not.

8 THE FOREPERSON: Any further questions?
9 None?

10 A JUROR: I have one.

11 THE FOREPERSON: Okay.

12 BY A JUROR:

13 Q. I kind of was confused on the contracted
14 rates that you had. When you said you had it with Dr.
15 Desai, so you guys agreed that this is the amount that
16 you're going to pay for this, that's what it meant?

17 A. Correct.

18 Q. Okay. So different people, different
19 insurers do different rates with different doctors?

20 A. Correct.

21 Q. That's what it meant?

22 A. Correct, different insurance companies have
23 different payment methodologies and contracts with
24 providers.

25 Q. Okay.

1 BY MR. STAUDAHER:

2 Q. I'm sorry, I have one additional follow-up.
3 I just want to be clear on this. I showed you, and I
4 just want to go, we're looking currently on the screen
5 at Exhibit 35, is that correct? And let me go to that
6 section. We're looking at box 24, section or column D.
7 Correct?

8 A. Yes.

9 Q. The number designations on that are 10.30
10 to 11.03?

11 A. Yes.

12 Q. And this is Rudolfo Meana; correct?

13 A. Yes.

14 Q. And the 21st --

15 A. Yes.

16 Q. -- of September of 2007?

17 A. Yes.

18 Q. Now on Gwendolyn Martin, I think I showed
19 you -- and this is Exhibit Number 34.

20 A. Yes.

21 Q. First page, Gwendolyn Martin, I'll zoom
22 back out so we can see where we're at here. 9/20 of 07?

23 A. Yes.

24 Q. And the time that you're talking about is
25 12:20 to 12:51?

1 A. Yes.

2 Q. Now page 4 of that exhibit, and I'll show
3 it to you here, it's still Gwendolyn Martin; correct?

4 A. Yes.

5 Q. And the date is 9/21 of '07?

6 A. Yes.

7 Q. And there are specific times listed there.
8 What are they?

9 A. This is 13:15 to 13:47, that is 1:15 to
10 1:47.

11 Q. Now one question. When you receive these
12 claims in --

13 A. Yes.

14 Q. -- if you received a series of claims, I
15 assume if you had a lot of Pacific Care patients or
16 Secure Horizon patients who came into a facility on a
17 day for a number of procedures, and since you're having
18 specific times placed on those forms as a requirement,
19 do you ever look at those to see if there is any problem
20 with them, if they overlap, anything like that?

21 A. Normally they're processed on an individual
22 basis.

23 Q. But if somebody had a couple of forms in
24 front of them --

25 A. Yes.

1 A. That's correct, unless a red flag had been
2 raised and we proceeded to investigate.

3 Q. Okay.

4 THE FOREPERSON: Any further questions?

5 None?

6 By law, these proceedings are secret and
7 you are prohibited from disclosing to anyone anything
8 that has transpired before us, including evidence and
9 statements presented to the Grand Jury, any event
10 occurring or statement made in the presence of the Grand
11 Jury, and information obtained by the Grand Jury.

12 Failure to comply with this admonition is a
13 gross misdemeanor punishable by a year in the Clark
14 County Detention Center and a \$2,000 fine. In addition,
15 you may be held in contempt of court punishable by an
16 additional \$500 fine and 25 days in the Clark County
17 Detention Center.

18 Do you understand this admonition?

19 THE WITNESS: I do.

20 THE FOREPERSON: Thank you. You can be
21 excused.

22 MR. STAUDAHER: And ladies and gentlemen, I
23 was a little remiss at the beginning. Before I bring in
24 the next witness I just want to reiterate the fact that
25 I know there are a couple of Grand Jurors missing this

1 Q. -- and they look at them and for example
2 we're looking at the time range of 1315 to 1347 --

3 A. Yes.

4 Q. -- if someone had a form the next form over
5 that says 1330 to 13 whatever, same claim, same company,
6 would that raise a red flag?

7 A. Yes, it would.

8 MR. STAUDAHER: I have nothing further?

9 THE FOREPERSON: Are there any further
10 questions?

11 BY A JUROR:

12 Q. Yeah, I do have one.

13 All right. Based on what Mike said here it
14 would raise a question, I understand. But you wouldn't
15 necessarily handle both claims though, would you? I
16 mean there might be another person sitting down the
17 aisle from you or something.

18 A. That's correct. I have, there are multiple
19 claims examiners so two claims for the same time period
20 could be processed by two individual people. We were a
21 manual claim shop meaning that we, a person data entered
22 the information from the HCVA into the computer system
23 and it could have been two different people.

24 Q. Yeah. So you wouldn't, based on that you
25 may never catch the overlap?

1 morning, we still have 12 to proceed on, but I want to
2 reiterate that before you deliberate, if you were absent
3 from any of these proceedings you must read the
4 transcripts of any portion or the entirety of any
5 presentation that you have not been present for. Do I
6 have general acknowledgment that you will do that in
7 this particular case?

8 THE FOREPERSON: Yes.

9 MR. STAUDAHER: I don't see anybody saying
10 otherwise on the record. Is that true, Madame Foreman?

11 THE FOREPERSON: Yes.

12 MR. STAUDAHER: With that I'll bring in the
13 next witness.

14 THE FOREPERSON: Please raise your right
15 hand.

16 You do solemnly swear the testimony you are
17 about to give upon the investigation now pending before
18 this Grand Jury shall be the truth, the whole truth, and
19 nothing but the truth, so help you God?

20 THE WITNESS: Yes.

21 THE FOREPERSON: Thank you. You may be
22 seated.

23 You are advised that you are here today to
24 give testimony in the investigation pertaining to the
25 offenses of performance of act in reckless disregard of

1 persons or property, criminal neglect of patients,
2 insurance fraud, obtaining money under false pretenses,
3 and racketeering, involving Dipak Kantilal Desai, Ronald
4 Ernest Lakeman and Keith H. Mathahs.

5 Do you understand this advisement?

6 THE WITNESS: Yes.

7 THE FOREPERSON: Please state both your
8 first and last names and spell them for the record.

9 THE WITNESS: Corrine Spaeth. First name
10 spelled C-O-R-R-I-N-E, last name Spaeth, S-P-A-E-T-H.

11 THE FOREPERSON: Thank you.

12 MR. STAUDAHER: And ladies and gentlemen of
13 the Grand Jury, the testimony of this witness will
14 pertain to the racketeering charges as I've said before,
15 28, 29, 58 and 59, but in addition to that specifically
16 they will relate to Counts 13, 22, 43 and 52, as well as
17 Counts 17, 26, 47 and 56.

18 CORRINE SPAETH,

19 having been first duly sworn by the Foreperson of the
20 Grand Jury to testify to the truth, the whole truth,
21 and nothing but the truth, testified as follows:

22 EXAMINATION

23 BY MR. STAUDAHER:

24 Q. Miss Spaeth, what do you do for a living?
25

1 A. I'm the director of the claims department
2 for Sierra Health Services.

3 Q. And Sierra Health Services, do they go by
4 other names as well?

5 A. Yes, they sell different products. Health
6 Plan of Nevada, Sierra Health and Life Insurance
7 Company, and we have, we're recently purchased by United
8 Health Care.

9 Q. So you're associated with them as well?

10 A. Yes.

11 Q. So if you have a claim coming in from one
12 of those different entities or to one of those entities
13 like HPN or Sierra Health it would still come to your
14 company?

15 A. Yes, it would.

16 Q. Can you explain to us what happens when a
17 claim comes in and -- is it a certain type of form for
18 example?

19 A. Differences between the two companies?

20 Q. No. I'm talking about in general when a
21 claim comes in does it come in on a certain type of
22 form?

23 A. Yes. In-patient claims come in UB forms
24 and physician forms come in on HCVA 1500 forms.

25 Q. I'm going to specifically be asking you

1 about some HCVA 1500 forms. But if I understand you
2 correctly that's where the claim comes from a provider
3 to your company and then you pay on those claims?

4 A. Yes, we do. And yes, it does.

5 Q. Now when you pay on the claims is that kind
6 of the revenue cycle from your organization, you're the
7 insurance company that insures, you get the claim, you
8 look at it, you decide what your contracted amount is or
9 whatever and you pay on it?

10 A. Yes, and the member benefits as well.

11 Q. Got it.

12 I'm going to direct your attention to two
13 specific patients, specifically Carole Gueskin and
14 Stacy Hutchison. Were they patients with HPN at the
15 time?

16 A. They were our members, yes.

17 Q. And did you receive claims from them on
18 the, both of them, on the 21st of September of 2007?

19 A. Dates of service were September 21, 2007.

20 Q. Is that what I said?

21 A. I thought you said received. I'm sorry.

22 Q. I'm sorry, dates of service. That's what I
23 meant.

24 I'm going to hand you a couple of packets
25 of information here. I'm going to start off with the

1 first one which has been marked as Grand Jury
2 Exhibit 37. It bears the name of Stacy Hutchison and
3 I'm going to ask you some questions about that if I
4 could.

5 Now if you would flip through that and tell
6 me if you recognize the documents and tell me generally
7 what they are.

8 A. Yes, I do recognize these documents. The
9 first two pages are claim forms for Stacy Hutchison, one
10 is for date of service 9/21 and one is for 9/28. They
11 are each from CRNA, who is a registered, certified nurse
12 anesthetist, and it is a charge for him performing
13 anesthesia for her services on these dates at the
14 Endoscopy Center.

15 Q. Okay. And the other pages, what are those?

16 A. Those are the EOB that we generate after we
17 make the payment that are mailed back to the patients.

18 Q. What is an EOB?

19 A. It's an explanation of benefits.

20 Q. Is that the actual explanation to the
21 patient of what you actually paid to the provider?

22 A. Yes, it is. And what they would owe if
23 they owe anything.

24 Q. I'm going to display this for the Grand
25 Jury. And they have been through these forms, ma'am,

1 and I know you're familiar with them too so I'm just
 2 going to kind of run through the form.
 3 Is this in fact, this is the first page of
 4 Grand Jury Exhibit Number 37, is this what you just
 5 designated as the 1500 claim form?
 6 A. Yes, it is.
 7 Q. Whose name is on the form?
 8 A. Stacy Hutchison.
 9 Q. I'm going to move down the form to I
 10 believe it's box 24, that column or that row going
 11 across, do you see that?
 12 A. Yes, I do.
 13 Q. Date of service is?
 14 A. 9/21/2007.
 15 Q. I'm looking at box D. Does that have a
 16 procedure code in it?
 17 A. Yes.
 18 Q. What kind of code is that?
 19 A. It's an anesthesia procedure code.
 20 Q. For a?
 21 A. For a colonoscopy.
 22 Q. If we move across to the charge for that,
 23 how much was billed to your company for that service?
 24 A. \$560.
 25 Q. And what was the number of minutes or

1 whatever that are were listed there?
 2 A. The number of minutes for this procedure
 3 that he billed us for were 31 minutes.
 4 Q. Does that, do those numbers vary, I mean
 5 charges and minutes and so forth vary on typical charges
 6 that come in for procedures?
 7 A. Yes, they can vary.
 8 Q. Moving to the bottom, box 30, what is the
 9 entity that submitted this claim form to you?
 10 A. Endoscopy -- well, Ron Lakeman is the
 11 entity that submitted it. And he performed it at the
 12 Endoscopy Center of Southern Nevada.
 13 Q. Is that located at a particular address
 14 indicated on that form?
 15 A. Yes.
 16 Q. What is it?
 17 A. 700 Shadow Lane.
 18 Q. Here in Las Vegas?
 19 A. Yes, here in Las Vegas.
 20 Q. So if I understand you correctly that's the
 21 form that you get?
 22 A. Yes, it is.
 23 Q. Okay. Now on page 2 of this document still
 24 says, it's still another one of these HCVA 1500 forms?
 25 A. Yes, it is.

1 Q. For Stacy Hutchison?
 2 A. Yes.
 3 Q. We go down to that same line in box 24, it
 4 says date of service on this particular one was 9/28 of
 5 '07; is that right?
 6 A. Yes, it is.
 7 Q. Same type of procedure, an endoscopy type
 8 procedure?
 9 A. It's an endoscopy type procedure, yes.
 10 Q. Under the billed amount the charge that was
 11 submitted to you?
 12 A. \$560.
 13 Q. Now here I note that instead of 31 minutes
 14 it appears to be 32 minutes; is that correct?
 15 A. Yes, it is.
 16 Q. Is that what you refer to as sometimes
 17 variation in the amount of time that is submitted to
 18 you?
 19 A. Yes.
 20 Q. If somebody submitted a lower bill to you,
 21 for example like two minutes, would typically the amount
 22 billed under section F be charged at a lower amount?
 23 Would that typically show up as a billed amount which
 24 would be lower?
 25 A. It should be because if it's a ten minute

1 or two minute procedure then yes the dollar should be
 2 lower.
 3 Q. Okay. Now on the bottom, and I know that
 4 the CRNA here is Linda Hubbard I think you designated
 5 box 33; correct?
 6 A. Yes.
 7 Q. Does it still come from the Endoscopy
 8 Center of Southern Nevada?
 9 A. Yes, it does.
 10 Q. Now moving to what you described as the
 11 explanation of benefits form for the procedure for Stacy
 12 Hutchison on I think it's the 21st. And I'll zoom in on
 13 that a little bit because I know it's hard to read.
 14 Is that the procedure -- based on the
 15 explanation of benefits the payment for that procedure
 16 on the 21st?
 17 A. Yes. No, that's the bill charge
 18 highlighted there, \$560. And if you go over --
 19 Q. Under the column indicating, and it's hard
 20 to read but it says description, what is described
 21 there?
 22 A. Anesthesia intestinal endoscopy.
 23 Q. Now I'm going to take you down to the lower
 24 right hand corner of the section where the billing
 25 occurs. Do you see a dollar amount there?

1 A. Yes.
 2 Q. What is that dollar amount?
 3 A. Are you speaking of the very last column?
 4 Q. Yes.
 5 A. That is the allowed amount, the amount we
 6 paid on this particular claim which is \$90.
 7 Q. I want to talk about that for just a
 8 minute. Now \$90 as you say the amount you actually
 9 paid; correct?
 10 A. Yes.
 11 Q. Now before we go any further with that I
 12 want to go to the next page which is another BOB form I
 13 think; correct?
 14 A. Yes, it is.
 15 Q. And the date on this one is the 28th of
 16 2007?
 17 A. Yes.
 18 Q. Description?
 19 A. Anesthesia upper gastrointestinal.
 20 Q. Same dollar amount billed?
 21 A. Same dollar amount billed.
 22 Q. But you pay the same amount; is that
 23 correct?
 24 A. Yes, we did.
 25 Q. Still \$90?

1 Q. But is it important to get accurate
 2 information?
 3 A. Absolutely.
 4 Q. In some respects does, at the end of a -- I
 5 assume that you, you said the contracted amount or
 6 something along those lines; is that right?
 7 A. Yes, it's a contracted amount.
 8 Q. I know you're probably not involved in the
 9 actual contract negotiations; is that right?
 10 A. No, I'm not.
 11 Q. But is it your understanding or do you have
 12 knowledge of the fact that what a provider basically
 13 eventually says is what work they had to put in over a
 14 period of years or over a period of a year for certain
 15 services, that that might factor into what they contract
 16 out later on for how much you pay them?
 17 A. Absolutely, the history of claims is looked
 18 at to renegotiate contracts.
 19 Q. So when you say history of claims, is that
 20 stuff that is, or information that is contained on the
 21 1500 claim form itself?
 22 A. Yes, it is.
 23 Q. So if somebody was doing a procedure for
 24 example that was only taking two minutes but they kept
 25 submitting bills for 30 or 31 or 32 minutes or something

1 A. Yes.
 2 Q. In the payment, I know that the amount that
 3 was submitted to you was for either 32 or I think it
 4 was --
 5 A. Thirty-one.
 6 Q. Thirty-one minutes, 31 or 32 minutes, and
 7 the billed amount was 560 on both of those, but you paid
 8 the same amount on both; is that correct?
 9 A. Yes, it is.
 10 Q. If they had billed, or if they had billed
 11 out, I don't know, \$120 for ten minutes of anesthesia
 12 time, how much would you have paid?
 13 A. We would have still paid \$90.
 14 Q. So are you telling us that you paid a flat
 15 amount of \$90 regardless of what was billed to you?
 16 A. Yes, we did.
 17 Q. So did it matter how many minutes were
 18 placed in the boxes?
 19 A. It still matters but it wouldn't have in
 20 regard to the payment out the door it would not have
 21 changed it.
 22 Q. So the dollar amount coming back to the
 23 Endoscopy Center would not have changed regardless of
 24 what they put in?
 25 A. Correct.

1 along those lines, when it came to negotiate would that
 2 go into, be a factor, at least considered in whether or
 3 not to raise the reimbursement or lower the
 4 reimbursement?
 5 A. Yes, it would.
 6 Q. Okay. Now beside those two, or that
 7 patient, was there another one that you dealt with
 8 beside Miss or Mr. Hutchison?
 9 A. Yes, there is a third.
 10 Q. And who was that?
 11 A. It's -- I need to pull this name out. It's
 12 Carole Gueskin.
 13 Q. I'm showing you is what is marked as Grand
 14 Jury Exhibit 36. Just flip through both pages of it and
 15 tell me if you recognize what's there.
 16 A. Yes, I do.
 17 Q. What is that document?
 18 A. It is the claim form again on a HCVA 1500,
 19 it is the explanation of benefits that we generate at
 20 the time of making the payment.
 21 Q. Okay.
 22 A. And this one looks a little bit different
 23 because this is one of our Senior Dimension members, the
 24 explanation of benefits.
 25 Q. Got it. And I'll ask you about that in

1 just a second.

2 So I'm going to display this for the Grand

3 Jury. This is the first page of Grand Jury Exhibit

4 Number 36. Again you said it was a HCVA 1500 form?

5 A. Yes, it is.

6 Q. It mentions Carole Grueskin as being the

7 patient?

8 A. Yes.

9 Q. Slide down again to box 24, the first line

10 across, do you see that?

11 A. Yes, I do.

12 Q. Date?

13 A. 9/21/2007.

14 Q. Under the type of procedure?

15 A. It's the anesthesia procedure code 00810,

16 colonoscopy.

17 Q. And then if we move across, the dollar

18 amount charged in the minutes, can you tell us what

19 those are?

20 A. The charges are \$560 once again and 31

21 minutes in time that he's stating that he provided for

22 the procedure.

23 Q. And then on the bottom?

24 A. Again the claim is from Ron Lakenan, CRNA,

25 and he performed it at the Endoscopy Center of Southern

1 Q. So the amount that would have been paid on

2 this claim would have been \$90?

3 A. Had the member had no responsibility, yes,

4 but the member has a \$20 responsibility.

5 Q. So the date on this is still the 21st?

6 A. Yes, it is.

7 Q. Of September of 2007?

8 A. Yes, it is.

9 Q. The amount billed?

10 A. Is 560.

11 Q. But the amount paid is only?

12 A. \$70.

13 MR. STAUDAHER: I have nothing further of

14 this witness.

15 THE FOREPERSON: Are there any questions

16 from the jury? None?

17 By law, these proceedings are secret and

18 you are prohibited from disclosing to anyone anything

19 that has transpired before us, including evidence and

20 statements presented to the Grand Jury, any event

21 occurring or statement made in the presence of the Grand

22 Jury, and information obtained by the Grand Jury.

23 Failure to comply with this admonition is a

24 gross misdemeanor punishable by a year in the Clark

25 County Detention Center and a \$2,000 fine. In addition,

1 Nevada.

2 Q. 700 Shadow Lane, Las Vegas?

3 A. Yes.

4 Q. Moving to page 2, this is the one you said

5 had a little bit different look to it as far as the

6 explanation of benefits.

7 A. It does, yes. It's a CMS requirement that

8 the font sizes be larger, et cetera, so we have to

9 revise the EOB somewhat for this membership.

10 Q. What is CMS?

11 A. Centers for Medicare and Medicaid Services.

12 Q. And do you know why they want the font size

13 bigger on those forms?

14 A. I believe just so the, it's just easier for

15 the members to read.

16 Q. And is this group typically an elderly type

17 person?

18 A. Yes, it is.

19 Q. As far as the payment, I notice there's a

20 difference in the amount. You told us earlier that it

21 was \$90 that you paid on these flat fee kind of

22 services.

23 A. Yes. And this is still \$90 in allowable

24 but the member had a cost sharing of \$20 or a \$20 co-

25 payment.

1 you may be held in contempt of court punishable by an

2 additional \$500 fine and 25 days in the Clark County

3 Detention Center.

4 Do you understand this admonition?

5 THE WITNESS: I do.

6 THE FOREPERSON: Thank you. You can be

7 excused now.

8 Ten minute break. We'd like to call a ten

9 minute break.

10 MR. STAUDAHER: We could. If it would be

11 possible if I could just put on the next witness who

12 will be a relatively short witness and then take a ten

13 minute break. If that would be okay.

14 THE FOREPERSON: Okay.

15 (At this time, Juror Yolanda Parker enters

16 the proceedings.)

17 THE FOREPERSON: Please raise your right

18 hand.

19 You do solemnly swear the testimony you are

20 about to give upon the investigation now pending before

21 this Grand Jury shall be the truth, the whole truth, and

22 nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE FOREPERSON: Thank you. You may be

25 seated. Over by the microphone.

1 You are advised that you are here today to
2 give testimony in the investigation pertaining to the
3 offenses of performance of act in reckless disregard of
4 persons or property, criminal neglect of patients,
5 insurance fraud, obtaining money under false pretenses,
6 and racketeering, involving Dipak Kantilal Desai, Ronald
7 Ernest Lakeman and Keith H. Mathahs.

8 Do you understand this advisement?

9 THE WITNESS: Yes.

10 THE FOREPERSON: Okay. Please state your
11 first and last names spelling both for the record.

12 THE WITNESS: Patricia Gonzalez.

13 P-A-T-R-I-C-I-A, Gonzalez, G-O-N-Z-A-L-E-Z.

14 THE FOREPERSON: Thank you.

15 **PATRICIA GONZALEZ,**

16 having been first duly sworn by the Foreperson of the
17 Grand Jury to testify to the truth, the whole truth,
18 and nothing but the truth, testified as follows:

20 **EXAMINATION**

22 BY MR. STAUDAHNER:

23 Q. Miss Gonzalez, what do you do for a living?

24 A. I do contracting for Blue Cross Blue
25 Shield. I'm the director of network management.

1 Q. In your job at Blue Cross Blue Shield do
2 you deal or have access to claim forms, payment, EOB
3 forms and things like that?

4 A. Yes.

5 Q. And just as we go forward on this if you
6 can let me finish my question before you answer that
7 will help the court reporter because she's taking down
8 the words and it's difficult for her to take it down if
9 we're talking over each other.

10 A. I understand.

11 Q. In that process of doing that work I assume
12 you see that kind of form, you look at the claims,
13 things like that; is that right?

14 A. Correct.

15 Q. I'm going to direct your attention to three
16 specific patients and ask if they are associated in any
17 way with your insurance company Blue Cross Blue Shield
18 as far as members? The first one being Patty Aspinwall.

19 A. Yes.

20 Q. The second being Kenneth Rubino.

21 A. Yes.

22 Q. And the third being Sharrieff Ziyad.

23 A. Yes.

24 Q. I'm going to start off with Sharrieff Ziyad
25 and ask you some questions about him and some claims

1 that pertain to him. Is that okay?

2 A. Yes.

3 Q. Showing you what has been previously marked
4 as Grand Jury Exhibit Number 31. It's a three page
5 document. Just flip through that if you would and tell
6 me if you recognize the forms that are contained in that
7 exhibit.

8 A. Yes.

9 Q. Now I will display those momentarily here
10 but before we do that I wanted to ask you a couple of
11 things. The first page of that exhibit is a certain
12 type of form. What do you call that form?

13 A. HCVA 1500.

14 Q. Is that typically the type of information
15 that, or claim type information that is submitted to
16 your company for payment for services rendered to a
17 member?

18 A. Yes.

19 Q. And you said Mr. Ziyad was a member of Blue
20 Cross Blue Shield; is that right?

21 A. Yes.

22 Q. This first page of the exhibit that's being
23 displayed before the Grand Jury right now, is that the
24 form that was submitted for Sharrieff Ziyad on the date
25 in question?

1 A. Yes.

2 Q. And if we go down a little bit we can see
3 the date I believe on box 24, line 1, do you see that?

4 A. Yes.

5 Q. What is the date that the service was
6 rendered on this particular procedure?

7 A. 7/25 of '07.

8 Q. Okay. And if we go across to column D
9 there is a procedure code listed there. Do you know
10 what that's for?

11 A. Yes.

12 Q. And what is that?

13 A. Colonoscopy.

14 Q. The anesthesia for it a I assume?

15 A. Yes, the anesthesia for a colonoscopy.

16 Q. If we move across to column F there is a
17 dollar amount listed. What is that dollar amount?

18 A. \$560.

19 Q. And as far as the dollar amount is
20 concerned, what is that? Is that how much is actually
21 submitted by the entity to your insurance company for
22 billing purposes?

23 A. That is correct.

24 Q. The charge so to speak?

25 A. Yes, the billed charges.

1 Q. I note that on the next column there is a
2 number 8; is that correct?
3 A. Correct.
4 Q. Typically on procedures that are done, the
5 anesthesia portion of procedures, do they get billed out
6 in minutes or in units?
7 A. In minutes.
8 Q. And do you know what the difference is
9 between minutes and units?
10 A. Yes.
11 Q. Go ahead.
12 A. Every 15 minutes equals one unit.
13 Q. As far as a base number of units do you
14 start off with, for an endoscopy type procedure is there
15 a base that you start with?
16 A. Yes.
17 Q. What is the base?
18 A. Five.
19 Q. The base of five and then additional time
20 would then be added to that base of five in the term of
21 increments of 15 minutes; is that correct?
22 A. That is correct.
23 Q. So if there was eight units billed would
24 that be three units on top of the base?
25 A. Yes.

1 and then we'll come back to the other one because I
2 think it's a little bit easier to read. This is really
3 small. I'll try to zoom in a little bit.
4 First of all what are we looking at? What
5 form is this?
6 A. This is the explanation of payment.
7 Q. And I'm going to, I just zoomed into the
8 portion of the line which is entitled anesthesia which
9 is the top line of the two, the next line down is
10 totals. Do you see what it said we paid at the top of
11 that column?
12 A. Yes.
13 Q. Is that what you actually paid on this
14 particular claim?
15 A. Yes.
16 Q. What is the dollar amount that you paid?
17 A. \$206.82.
18 Q. And that's on a charge of \$560 for what
19 appears to be eight units; is that correct?
20 A. Correct.
21 Q. Now I'm going to flip back to the preceding
22 page, a little bit easier to read. Does it have the
23 same information on it?
24 A. Yes.
25 Q. On the left hand side of the column it says

1 Q. For a total of eight?
2 A. Correct.
3 Q. We see the number 8 in that designation.
4 Do you know if that was submitted as eight units or
5 minutes? I'm not asking how you interpret it at this
6 point but how you believe it was submitted based on the
7 dollar amount you see billed for it.
8 A. Right, eight units.
9 Q. Looking at the bottom of the screen, I
10 think we're on boxes, both in box 32 and 33, there are
11 providers and locations of service; is that correct?
12 A. That is correct.
13 Q. And who are, who is designated as the
14 provider who performed the service?
15 A. On box 33 Ron Lickman (sic).
16 Q. Lakeman?
17 A. Yes.
18 Q. And the location where the service took
19 place?
20 A. The Endoscopy Center of Southern Nevada.
21 Q. Is that on 700 Shadow Lane in Las Vegas?
22 A. Yes, that is correct.
23 Q. And I'm going to turn to the next page.
24 Actually the next two pages have I think similar
25 information on them. I'll turn to the last page 3 first

1 anesthesia under description?
2 A. Correct.
3 Q. Billed charge is 560?
4 A. Yes.
5 Q. And it says service paid is \$206.82?
6 A. Correct.
7 Q. Is that what you actually paid for the
8 anesthesia billed to you at 560 on this particular
9 patient?
10 A. Yes.
11 Q. I'm going to show you some others in just a
12 moment but one of the things I wanted to ask you is
13 this. If you received a payment, your company, if you
14 received a billed amount minute wise for services, for
15 anesthesia that were let's say the 31 minutes, you said
16 already that that would be considered eight units; is
17 that correct?
18 A. Yes, that is correct.
19 Q. If you had a claim come in that say was 22
20 minutes, how many units would that be?
21 A. Seven.
22 Q. Would you pay a lesser amount on that claim
23 than you would on a 31 minute submitted bill?
24 A. Yes.
25 Q. Would that relate to the fact that you're

1 paying on seven units versus eight units?
 2 A. Correct.
 3 Q. If a charge came in that was at 12 minutes
 4 how many units would you pay on in that instance?
 5 A. Six.
 6 Q. Would that charge, the amount paid be less
 7 than it would for either the 22 minute or the 31 minute
 8 charge?
 9 A. Correct.
 10 Q. So if in fact information is put on one of
 11 these forms which indicates a higher number of minutes
 12 than was actually done in the procedure would that
 13 translate into a larger charge if it went into the next
 14 unit area?
 15 A. Yes.
 16 Q. Would that be something that your company
 17 would just go ahead and pay anyway and not care about?
 18 A. We would pay the amount that's on the
 19 claim. If a member came in and said they weren't, you
 20 know, there that long, at that time we would ask for
 21 medical records to validate the time.
 22 Q. Okay. So you would do something if it was
 23 called to your attention that there was a problem?
 24 A. Yes.
 25 Q. If you learned that a claim came in that

1 was say at 31 minutes and it was in fact only 12 minutes
 2 but they were billing at that higher amount, would
 3 somebody investigate that?
 4 A. Yes.
 5 Q. I assume you don't want to pay more money
 6 than you have to for procedures; correct?
 7 A. Correct.
 8 Q. I'm going to show you -- and is it the same
 9 for all claims?
 10 A. Yes.
 11 Q. I'm going to show you the next exhibit
 12 which is marked as Grand Jury Exhibit Number 32 and have
 13 you -- this is for I believe Kenneth Rubino. Would you
 14 flip through that set of documents and just tell me if
 15 you recognize them.
 16 A. Yes.
 17 Q. I'm going to display these for the Grand
 18 Jury.
 19 This is the first page of this eight page
 20 exhibit. And is this that 1500 HCVA form that you
 21 mentioned earlier?
 22 A. That is correct.
 23 Q. Under box 2 does it have a designation for
 24 the patient?
 25 A. Yes.

1 Q. And that patient is who?
 2 A. Kevin (sic) Rubino.
 3 Q. And moving down to box 24, that line, do
 4 you see it?
 5 A. Yes.
 6 Q. First line. What is the date of the
 7 service?
 8 A. 9/21/07.
 9 Q. Is this has a procedure code of 00810 under
 10 column D?
 11 A. Yes.
 12 Q. Is that -- what is that?
 13 A. The anesthesia for colonoscopy.
 14 Q. Is there a difference between the codes for
 15 colonoscopies versus upper endoscopies?
 16 A. The code itself is different, the base is
 17 the same.
 18 Q. Okay. So it's still five unit base for
 19 each procedure?
 20 A. Yes.
 21 Q. In this particular instance I see, if we
 22 move over to column F, that the charge is the same,
 23 \$560. Do you see that?
 24 A. Yes.
 25 Q. But in this case it looks like there is a

1 three instead of the eight. Do you think that is
 2 designating minutes instead of units?
 3 A. Yes.
 4 Q. If we move to the bottom of this page,
 5 boxes 32 and 33, who is the provider and where was the
 6 service provided?
 7 A. Provider on box 33 is Kenneth, or Keith
 8 Mathias, or I'm sorry, Mathans, M-A-T-H-A-N-S, and
 9 Endoscopy Center of Southern Nevada is where the
 10 procedure was provided.
 11 Q. 700 Shadow Lane?
 12 A. Yes.
 13 Q. And I think you said M-A-T-H-A-N-S. Is it
 14 M-A-T-H-A-H-S? And I'll show you the actual exhibit.
 15 A. Yes, it is.
 16 Q. I just wanted to make sure we had that
 17 accurate.
 18 I'm going to move to the very last page
 19 which I believe would be page 8 of the exhibit and I'll
 20 display that to the Grand Jury.
 21 I'm zoom back out a little bit so we can
 22 see what we're looking at.
 23 Can you tell us what this is?
 24 A. Our explanation of payment.
 25 Q. Okay. I will zoom in on -- well, can you

1 tell us how much the charge was again? If this is the
 2 explanation of payment for the previous HCVA form that
 3 we saw.
 4 A. Yes.
 5 Q. Same date, same procedure code, same dollar
 6 amount charged, that kind of thing?
 7 A. That is correct.
 8 Q. Does it show how much you actually paid on
 9 the claim?
 10 A. Yes.
 11 Q. How much did you pay on the claim?
 12 A. \$245.12.
 13 Q. Is that the portion at the very end of
 14 this?
 15 A. Yes.
 16 Q. So the 245.12 is for, is it based on a
 17 charge of 560?
 18 A. It's based on 32 minutes.
 19 Q. But again the billed amount of 560; is that
 20 right?
 21 A. Yes.
 22 Q. So that was the actual amount paid back to
 23 the Endoscopy Center?
 24 A. Yes.
 25 Q. Again if the billed amount, billed minute

1 A. Yes.
 2 Q. What are these documents?
 3 A. It's the HCVA 1500. We were a secondary
 4 payer so it's the primary explanation of payment and our
 5 explanation of payment.
 6 Q. Okay. Now when you say you're the
 7 secondary payer, can you explain that to us?
 8 A. The member has two insurance companies and
 9 based on the insurance company they decide who is
 10 primary and who is secondary. The primary would pay
 11 first. As the secondary payer we pay the member's
 12 responsibility.
 13 Q. Do you get some form from the primary
 14 insurer saying what they paid on this claim so you know
 15 what to pay yourself?
 16 A. The provider submits that information with
 17 the claim.
 18 Q. So let's go through this briefly here.
 19 Moving to, looking at the first page of Exhibit
 20 Number 33, is this, again is this that HCVA 1500 claim
 21 form?
 22 A. That is correct.
 23 Q. Under box 2 the patient's name?
 24 A. Patty Aspinwall.
 25 Q. Aspinwall?

1 amount would have been less would there have been less
 2 money paid to the company?
 3 A. Yes.
 4 Q. Now I noticed when I'm looking between the
 5 two of these that between, for example Kenneth Rubino's
 6 which is Exhibit Number 32, and Ziyad Sharrieff's which
 7 is Exhibit 31, that although the charge was the same for
 8 the same type of procedure the dollar amount paid was
 9 different. Do you know why?
 10 A. Yes. Because the eight was interpreted as
 11 minutes and it would have been paid as six units, not
 12 eight.
 13 Q. So even though the charge is the same you
 14 actually paid out less on that particular claim; is that
 15 right?
 16 A. Correct.
 17 Q. As far as the, so there is no difference in
 18 their actual coverage, just in how it was interpreted in
 19 your company at the time?
 20 A. Correct.
 21 Q. Now let's look to the last one which is
 22 Patty Aspinwall. I think you haven't looked at this one
 23 yet. This is Grand Jury Exhibit Number 33. Just look
 24 through that and tell me if that is recognizable to you
 25 and what those documents are.

1 A. Aspinwall.
 2 Q. And then moving down to box 24, line 1, do
 3 you see that?
 4 A. Yes.
 5 Q. In that particular instance do you see the
 6 date on that?
 7 A. Yes, 9/21/07.
 8 Q. Procedure date?
 9 A. Yes.
 10 Q. And if we move over we see that there is a
 11 procedure charge or procedure code; is that right?
 12 A. Correct.
 13 Q. Now above that I actually see that there's
 14 some, of that procedure code do you see that there's a
 15 time listed here?
 16 A. Correct.
 17 Q. Is that the time that relates to what is
 18 designated over on box I believe it's G which designates
 19 the number of minutes?
 20 A. Yes, correct.
 21 Q. So they actually put in when the procedure
 22 started and stopped?
 23 A. Correct.
 24 Q. As far as the charges, the charged amount
 25 is how much?

1 A. \$560.
 2 Q. And the minutes here in this case are?
 3 A. Thirty-one.
 4 Q. Who is the provider?
 5 A. Ron Lakeman.
 6 Q. And the procedure was done at?
 7 A. Endoscopy Center of Southern Nevada at 700
 8 Shadow Lane.
 9 Q. In Las Vegas?
 10 A. In Las Vegas.
 11 Q. Now the next page I'm going to skip by for
 12 just a moment. We'll come back to that. It's a small
 13 one and I think it just shows what some of the other
 14 information later on in the exhibit. Is that correct?
 15 A. Correct.
 16 Q. I'm going to go to page 3 though which is,
 17 it appears to be some sort of explanation of benefits
 18 from another company; is that correct?
 19 A. That is correct.
 20 Q. Up at the upper right hand corner of that
 21 page and even at the top left hand corner it mentioned a
 22 different type of insurance company. What is that
 23 insurance company?
 24 A. That would be the primary, United Health
 25 Care.

1 A. No, that's what United Health Care paid.
 2 Q. So the primary paid that amount on the
 3 claim?
 4 A. Correct.
 5 Q. Now the portion over here that says patient
 6 responsibility \$62.48, is that what you would pay, the
 7 whole amount?
 8 A. Yes.
 9 Q. You would pay on that whole amount rather?
 10 A. Yes.
 11 Q. Did you pay a full amount of \$62 on that
 12 claim?
 13 A. No.
 14 Q. Okay. So let's go to the very last page
 15 which I believe is page 8 of the exhibit and I'm going
 16 to zoom out so you can see what form we're talking about
 17 here. Are you familiar with that form?
 18 A. Yes.
 19 Q. What is that?
 20 A. That is the explanation of payment from
 21 Anthem Blue Cross Blue Shield.
 22 Q. Okay. Now patient's name same, date of
 23 service same, that kind of stuff?
 24 A. Correct.
 25 Q. Do you see where it says total billed under

1 Q. And the primary, are they the ones -- did
 2 you get this form as part of the claim that came to you?
 3 A. Yes.
 4 Q. Is that so that you knew exactly what they
 5 had paid so you could know what you were going to have
 6 to pay?
 7 A. Yes.
 8 Q. So in this particular instance, I'm going
 9 to zoom down here to under where it says service detail,
 10 do you see that?
 11 A. Yes.
 12 Q. Patient's name listed; correct?
 13 A. Correct.
 14 Q. And I assume this form goes with that HCVA
 15 form we saw earlier?
 16 A. Correct.
 17 Q. Date of procedure?
 18 A. 9/21/07.
 19 Q. Amount charged, billed?
 20 A. \$560.
 21 Q. Moving across. Now it says paid to
 22 provider. Do you see that column?
 23 A. Yes.
 24 Q. It looks like there is an amount of
 25 \$249.92. Is that what you paid?

1 the patient's name?
 2 A. Yes.
 3 Q. Is that amount -- what is that amount?
 4 A. \$560.
 5 Q. Now I'm going to go to the line, the first
 6 line that, or row that goes across. Do you see that?
 7 A. Yes.
 8 Q. Under type of service here, do you see
 9 that?
 10 A. Yes.
 11 Q. What is it?
 12 A. Anesthesia.
 13 Q. Total billed?
 14 A. Five hundred and sixty.
 15 Q. Now if we move over to the one that says
 16 other amount, is that that \$249.92 amount, is that what
 17 the primary paid?
 18 A. That is correct.
 19 Q. If we move to the last column which says
 20 payment amount, what dollar amount is listed there?
 21 A. Payment amount is 56.48.
 22 Q. Is that what your company actually paid on
 23 this claim?
 24 A. Yes.
 25 Q. So United Health Care pays theirs, you pay

1 yours for a total combined?
 2 A. Correct.
 3 Q. And is the patient responsible for any
 4 remaining balance?
 5 A. No.
 6 Q. So that's just what was paid on the claim
 7 at that point?
 8 A. Yes.
 9 Q. Again if this had come in and the amount
 10 had been, the billing amount had been less minutes or
 11 whatever, would you have paid less on the claim?
 12 A. Yes.
 13 Q. As evidenced by that first one we saw where
 14 there was actually, you paid it out of eight minutes
 15 because it said eight, even though you think that's
 16 units; is that correct?
 17 A. Correct.
 18 Q. As far as this particular one, the amount
 19 that was paid out for the claim is different obviously
 20 than the previous two that you've looked at. Is that
 21 because there was a primary insurer involved as well?
 22 A. That is correct.
 23 Q. So if the primary insurer had not been
 24 involved and it would have been your company would you
 25 have paid a higher amount on that claim?

1 Q. I guess you're losing me here somewhere.
 2 BY MR. STAUDAHER:
 3 Q. Let me ask a couple of clarifying
 4 questions.
 5 When we looked at the forms, the charges
 6 were the same for all of them.
 7 A. Yes.
 8 Q. Every claim that came through, \$560.
 9 A. Correct.
 10 Q. With the exception of one claim that had an
 11 eight on it.
 12 A. Yes.
 13 Q. All the charges were above 30 minutes;
 14 correct?
 15 A. Yes.
 16 Q. On the one claim that had an eight
 17 designated the charge was still \$560?
 18 A. Yes.
 19 Q. Which was the same as the previous ones
 20 that had been submitted at 31 plus minutes?
 21 A. Yes.
 22 Q. If the provider makes a mistake and puts
 23 down the number of units which 31, 32, 33 minutes would
 24 be; correct?
 25 A. Yes.

1 A. Yes.
 2 Q. Do you know how much you would have paid
 3 out on the base claim if the primary insurer would not
 4 have been there?
 5 A. Yes.
 6 Q. What would you have paid out? If you know.
 7 A. We would have paid 245.12.
 8 MR. STAUDAHER: I have nothing further of
 9 this witness.
 10 THE FOREPERSON: Are there any questions?
 11 Yes.
 12 BY A JUROR:
 13 Q. Who determines on a claim form whether it's
 14 minutes or units, who determines that?
 15 A. The providers for anesthesia are told on
 16 our provider manual to bill it as minutes.
 17 Q. Okay. Did I see two different, one up
 18 there for minutes and one for units, right?
 19 A. Yes.
 20 Q. For the same procedure or different
 21 procedure?
 22 A. Same procedure. Two different claims.
 23 Q. Understand. But not to your company
 24 though, right?
 25 A. Yes.

1 Q. If they put down eight units instead,
 2 because you have an agreement with them to put down
 3 minutes you'll pay them a lower amount based on the
 4 minutes there?
 5 A. Correct.
 6 Q. So they make a mistake, you're not going to
 7 pay them more because you say look, we told you minutes,
 8 you put down eight, I don't care if it's units or not,
 9 that's what we're billing you at is eight minutes; is
 10 that correct?
 11 A. Correct.
 12 MR. STAUDAHER: Does that help?
 13 BY A JUROR:
 14 Q. Did someone then make a mistake in putting
 15 down units versus minutes?
 16 MR. STAUDAHER: I'm going to ask her not --
 17 that would be speculation at this point. We don't know
 18 what the billing person who submitted the form actually
 19 did and I think that goes beyond the scope of what her
 20 testimony could be.
 21 BY THE FOREPERSON:
 22 Q. I have a question.
 23 A. Uh-huh.
 24 Q. Was Ron Lakeman the CRNA for Rubino and
 25 Ziyad?

1 A. You mentioned for Rubino?
 2 Q. Uh-huh.
 3 A. For Rubino it was Keith Mathahs.
 4 Q. And for the other gentleman or woman Ziyad.
 5 I might be saying the name wrong.
 6 A. Ron Lakeman.
 7 THE FOREPERSON: Thank you.
 8 Are there any further questions? None?
 9 Yes.
 10 BY A JUROR:
 11 Q. Yes. Can we look at that form again and
 12 see the box that says units minutes. Is it described in
 13 the block, is it units or units/minutes or -- just for
 14 clarification.
 15 MR. STAUDAHER: Based on the Grand Juror's
 16 question I'm going to display Exhibit Number 31, the
 17 first page of that exhibit which is the HCVA form. I
 18 will zoom in on it so we can see what's being talked
 19 about here.
 20 A JUROR: Days or units.
 21 A JUROR: Okay. So it's listed as days or
 22 units.
 23 MR. STAUDAHER: That's correct. But I'll
 24 ask a follow-up question.
 25 Q. But it was your agreement with the

1 Jury, and information obtained by the Grand Jury.
 2 Failure to comply with this admonition is a
 3 gross misdemeanor punishable by a year in the Clark
 4 County Detention Center and a \$2,000 fine. In addition,
 5 you may be held in contempt of court punishable by an
 6 additional \$500 fine and 25 days in the Clark County
 7 Detention Center.
 8 Do you understand this admonition?
 9 THE WITNESS: Yes.
 10 THE FOREPERSON: Thank you. You may be
 11 excused.
 12 THE WITNESS: Thank you.
 13 THE FOREPERSON: You're welcome.
 14 MR. STAUDAHER: And we can go off the
 15 record so you can take your break.
 16 THE FOREPERSON: Okay. Fifteen minutes.
 17 (Recess.)
 18 MR. STAUDAHER: Ladies and gentlemen of the
 19 Grand Jury, we're back from your break. I want to put
 20 on the record that prior to the last witness, or from
 21 the witness testifying about I think it was Gwendolyn,
 22 Carole Grueskin rather, we had one of the Grand Jurors
 23 return to the Grand Jury proceeding. I just need to, as
 24 I've told the Grand Jurors in the past, to make sure
 25 that although you were not present for the first portion

1 providers that they would put in that box not just the
 2 units but the minutes?
 3 A. Correct.
 4 Q. And that's what you would bill at?
 5 A. Correct.
 6 Q. Every bill that you saw come through that
 7 you have reviewed which was written in minutes being
 8 greater than 30, meaning 31, 32, 33 minutes for all the
 9 claims, whether they are these claims or others
 10 pertaining to the Endoscopy Center, were they all billed
 11 out at a \$560 charge?
 12 A. Correct.
 13 Q. Would that \$560 charge translate into eight
 14 units of anesthesia, five for the base and three for the
 15 time period?
 16 A. Yes.
 17 MR. STAUDAHER: Okay. Does that help?
 18 A JUROR: Yes, sir. Thank you.
 19 THE FOREPERSON: Are there any further
 20 questions? None?
 21 By law, these proceedings are secret and
 22 you are prohibited from disclosing to anyone anything
 23 that has transpired before us, including evidence and
 24 statements presented to the Grand Jury, any event
 25 occurring or statement made in the presence of the Grand

1 of the presentation today that you acknowledge at least
 2 that you will review the transcripts of that portion
 3 that you missed before deliberating in this case.
 4 A JUROR: Yes.
 5 MR. STAUDAHER: Okay. And also I asked the
 6 other Grand Jurors at the beginning of this proceeding
 7 but I did not ask you if in the interim between the last
 8 presentation and this presentation if there's been
 9 anything that's happened, any testimony that you've
 10 heard in this particular case that has caused you to no
 11 longer be able to be unbiased. Is there a problem with
 12 that at this time?
 13 A JUROR: No.
 14 MR. STAUDAHER: So you can listen to the
 15 evidence presented, render a verdict, not a verdict, but
 16 deliberate in this particular case based on just that
 17 evidence and applying it to the law given to you?
 18 A JUROR: Yes.
 19 MR. STAUDAHER: Thank you.
 20 With that we'll continue.
 21 THE FOREPERSON: Please raise your right
 22 hand.
 23 You do solemnly swear the testimony you are
 24 about to give upon the investigation now pending before
 25 this Grand Jury shall be the truth, the whole truth, and

1 nothing but the truth, so help you God?
 2 THE WITNESS: I do.
 3 THE FOREPERSON: Please be seated.
 4 THE WITNESS: Thank you.
 5 THE FOREPERSON: You are advised that you
 6 are here today to give testimony in the investigation
 7 pertaining to the offenses of performance of act in
 8 reckless disregard of persons or property, criminal
 9 neglect of patients, insurance fraud, obtaining money
 10 under false pretenses, and racketeering, involving Dipak
 11 Kantilal Desai, Ronald Ernest Lakeman and Keith H.
 12 Mathahs.

13 Do you understand this advisement?

14 THE WITNESS: Yes.

15 THE FOREPERSON: Can you please state your
 16 first and last names and spell them for the record.

17 THE WITNESS: My first name is Nancy,
 18 N-A-N-C-Y, my last name is Sampson, S-A-M-P-S-O-N.

19 THE FOREPERSON: Thank you.

20
 21 **NANCY SAMPSON,**

22 having been first duly sworn by the Foreperson of the
 23 Grand Jury to testify to the truth, the whole truth,
 24 and nothing but the truth, testified as follows:
 25

1 **EXAMINATION**

2
 3 BY MR. STAUDAHER:

4 Q. Miss Sampson, I'm going to take you back in
 5 time a little bit to an investigation regarding the
 6 Endoscopy Center of Southern Nevada. Were you involved
 7 in that in some way?

8 A. Yes, I was.

9 Q. What time frame were you working in that
 10 capacity as an investigator on this particular case?

11 A. I was working at Las Vegas Metropolitan
 12 Police Department, this case happened in the beginning
 13 of 2008, so when it was made public and I got involved
 14 with it shortly after it was made public.

15 Q. How long did you continue on with the case?

16 A. Until we submitted it to the District
 17 Attorney's Office in November of last year.

18 Q. Now you are no longer working for Metro; is
 19 that correct?

20 A. That's correct.

21 Q. And the reason -- did you retire, quit,
 22 what happened?

23 A. I retired in January.

24 Q. Prior to that time though you were actively
 25 involved in the investigation and analysis done in the

1 this case; is that correct?

2 A. That's correct.

3 Q. Now I know that since you're no longer
 4 working at Metro you don't have a job at Metro so I'm
 5 going to ask you during the time that you were
 6 investigating what was your position?

7 A. I was an analyst and my focus was as a
 8 financial analyst.

9 Q. And when you say financial analyst I assume
 10 you look at bank records, things like that?

11 A. Yes.

12 Q. Do you look at other things too as part of
 13 the analysis you do in typical cases?

14 A. I generally look at all the documents, all
 15 the evidence, I go through the interviews the detectives
 16 do, I prepare association charts, I will schedule out
 17 bank records and track money.

18 Q. Are you present for things like search
 19 warrants and things like that as well?

20 A. Yes, I've been on a number of search
 21 warrants and I was on this search warrant.

22 Q. So there was a search warrant done in this
 23 case?

24 A. Yes, that's correct.

25 Q. Before we get to that let's do a little bit

1 more background.

2 So you do that kind of work. What kind of
 3 training or background do you have in that?

4 A. I was a, I have a Bachelor of Science
 5 Degree in Criminal Justice from Arizona State
 6 University. I worked as a commissioned peace officer
 7 for the Arizona State Attorney General's Office. I was
 8 in that position for nine years when I got the position
 9 at Metro. The position I had at Metro, it started as a
 10 financial investigator which is a civilian position and
 11 after awhile it was reclassified to analyst which was an
 12 appointed position with Metro and I was in that position
 13 until I retired in January.

14 Q. Okay. So I assume you've been involved in
 15 other cases beside just this one then over your time?

16 A. Oh yes.

17 Q. Now let's get into this particular case.
 18 How was it that you became involved with it in the first
 19 place?

20 A. I was assigned to the public integrity unit
 21 in the criminal intelligence section at Metro. Brian
 22 Labus and the health district did a briefing to law
 23 enforcement, I was not at that briefing, it was on my
 24 day off, and when I came back to work on Tuesday we were
 25 preparing to do a search warrant and the case was

1 assigned to the public integrity section.

2 Q. So really it sounds like the case started

3 after it was initially brought to Metro with a search

4 warrant then?

5 A. Yes.

6 Q. So let's go to the search warrant

7 situation. Do you know where it took place?

8 A. We had several locations. I was at two of

9 the locations. I was at the search warrant on Shadow

10 Lane, 700 Shadow Lane, and also at the location on

11 Tenaya.

12 Q. So were there others as well?

13 A. Yes.

14 Q. Where were all the search warrants served?

15 A. There was, I think there was six. So there

16 was the Shadow Lane, the one on Burnham, one on Lake

17 Mead, one on Tenaya and one on Rainbow. That's five.

18 Q. Now you mentioned the two. Let's talk

19 about the Shadow Lane one. You said you were present

20 for that one; correct?

21 A. Yes, I was at Shadow Lane.

22 Q. Tell us about that. What did you do as

23 part of the search warrant execution?

24 A. Once they had secured, the officers had

25 secured the location, the business had been shutdown so

1 there was no one there, we had to get into the office

2 and once they secured it then I was assigned by the lead

3 detective Robert Whiteley to inventory the documents

4 that were taken and put an inventory in all of the

5 packaging. So I did that. I also went up to the fourth

6 floor to those offices up there and looked at some

7 records that they had found up there and then I was in

8 the clinic side of the location also.

9 Q. Okay. Before we get too far into what all

10 you found or did at the search warrant locations I'm

11 going to show you what has been previously marked as

12 Grand Jury Exhibit Number 38. It looks like a series of

13 diagrams and so forth. Can you tell us what those are?

14 A. These are diagrams that are made at the

15 time of the search warrant to identify the locations

16 that we were at. So the cover sheet, the first sheet is

17 700 Shadow Lane which is the map of the clinic.

18 Q. And the next page?

19 A. Next one is 700 Shadow Lane, Suite 470,

20 which are their business offices which were upstairs.

21 Q. And you went to those offices you said?

22 A. I did.

23 Q. And then the next page?

24 A. 3150 North Tenaya Way.

25 Q. And I assume -- have you seen all of these

1 documents before?

2 A. Yes.

3 Q. And the next page?

4 A. 4275 Burnham Avenue.

5 Q. Next page?

6 A. 4275 Burnham Avenue.

7 Q. Next page?

8 A. 2610 West Horizon Ridge Parkway.

9 Q. Next page?

10 A. 1815 East Lake Mead.

11 Q. And last page? Actually the second to the

12 last. I'm sorry.

13 A. 5915 South Rainbow.

14 Q. And last page?

15 A. Last one is 700 Shadow Lane and this is the

16 doctors' offices location.

17 Q. So if I understand you correctly the first

18 two pages and the very last page pertain to 700 Shadow

19 Lane?

20 A. Yes.

21 Q. You didn't draw any of these maps; is that

22 correct?

23 A. No.

24 Q. When I say maps they're really diagrams.

25 A. That's correct.

1 Q. The diagrams that are here though to the

2 best of your knowledge, you've been at these facilities;

3 correct?

4 A. I've been at two of them, yes.

5 Q. Which ones again?

6 A. I was at Shadow Lane and the Tenaya.

7 Q. But you've seen these at least submitted as

8 part of the diagrams for the other facilities as well?

9 A. Yes.

10 Q. I'm not going to ask you questions about

11 the other facilities right now. I'm primarily focused

12 with you on the 700 Shadow Lane.

13 A. Okay.

14 Q. And the three maps pertaining to that. You

15 were in those locations?

16 A. That is correct.

17 Q. Do they fairly and accurately, when I say

18 accurately, they're not to scale I assume; is that

19 correct?

20 A. That's correct.

21 Q. They show the location of the rooms and how

22 they're laid out in comparison to each other?

23 A. Yes.

24 Q. I'm going to show you the first page here.

25 And this is the first page of Grand Jury Exhibit

1 Number 38. I want to get the whole thing on and then we
2 can zoom in on it a little bit later.

3 What are we looking at here?

4 A. This is the clinic where the procedures
5 were performed.

6 Q. I'm going to stand over here as we go
7 through it.

8 I note here that on the top portion of this
9 that there's an area where there's a waiting room. Do
10 you know where the front entrance was to the building
11 based on this?

12 A. The front entrance to this location was a
13 hallway that was just on the other side of that first
14 row of offices. So the front door was into the waiting
15 room.

16 Q. So this area right here at the top right
17 hand portion of the screen?

18 A. Yes.

19 Q. So this is not from the outside of the
20 building in, it's from a hallway on the inside of the
21 building?

22 A. Yes.

23 Q. So you enter the suite area or this area,
24 the patient area so to speak from the waiting room and
25 then come into the rest of the facility based on that?

1 A. Yes.

2 Q. As far as your involvement here, I notice
3 that there is a procedure room 1 and a procedure room 2
4 listed; is that correct?

5 A. That's correct.

6 Q. And also a patient area and a pre-op room;
7 is that correct?

8 A. Yes.

9 Q. All those rooms exist, they look like they
10 kind of match the map in the area you were at when you
11 examined them?

12 A. Yes. Some of the -- I didn't go into the
13 pre-op room or the restroom at this end. I was mainly
14 working with the records that were being taken and the
15 other evidence in the other areas.

16 Q. Okay. As far as the patient procedure
17 rooms do those later factor into some of the analysis
18 that you did?

19 A. Yes.

20 Q. And what I mean by that is that there were
21 in fact two procedure rooms and how they were oriented,
22 things like that.

23 A. That's correct.

24 Q. Beside that particular diagram you
25 mentioned that there was another one. I think that was

1 the second page of this exhibit which again is Exhibit
2 38, nine page exhibit. What are we looking at here?

3 A. These are the business offices that were on
4 the fourth floor.

5 Q. So you went up to the fourth floor. Did
6 you gain records or do things up there as well?

7 A. I was asked to look at some records up
8 there. Detectives were searching those offices and
9 securing the evidence. I didn't get into all of the
10 offices. I couldn't even tell you which offices I got
11 into.

12 Q. Where were these records that they asked
13 you to look at?

14 A. They were either in office 5 or office 6.

15 Q. So down here in the lower right, or left
16 hand corner rather of this screen?

17 A. Yes. And I believe I was in office either
18 7 or 8.

19 Q. As well?

20 A. Yes.

21 Q. What were you asked to do? What kind of
22 records did they want you to come up and take a look at?

23 A. They were, I believe they were contracts,
24 they were some business records. I looked at them
25 quickly. I knew we were taking them so I didn't really

1 study anything.

2 Q. Were there any patient files up there?

3 A. There might have been, I didn't see any.

4 Q. You said there was another location you
5 went to as well; is that correct?

6 A. Yes.

7 Q. I think that was on the last page of
8 Exhibit 38. I'm turning to that now.

9 I'll zoom back out a bit.

10 And what are we looking at here?

11 A. This is the doctors' offices at 700 Shadow
12 Lane. This is where the doctors had their offices, the
13 patients were seen, and then there was a connection
14 between the waiting room here and the waiting room on
15 the clinic side, you could walk back and forth.

16 Q. So this is located on the same floor --

17 A. Yes.

18 Q. -- as the very first picture that we saw?

19 A. That's correct.

20 Q. But a separate complete area?

21 A. Yes.

22 Q. Now I see that on this particular diagram
23 that there are exam rooms listed, as well as restrooms,
24 lots of exam rooms; is that correct?

25 A. Yes.

1 Q. And check-out areas. Was this the medical
2 side of things?

3 A. This was the medical side where they had
4 the patient files, the doctors all had offices and they
5 did, and they had the exam rooms, yes.

6 Q. And I notice in the lower right hand corner
7 of that screen there is a room designated as Dipak
8 Desai's office.

9 A. Yes, that's correct.

10 Q. And on the opposite side, the left corner,
11 left lower corner of that diagram is Clifford Carrol's
12 office.

13 A. Yes.

14 Q. And then there is one in between them.

15 A. Yes.

16 Q. Up at the very top of the screen, not the
17 waiting room, there's a large two room with a connector
18 between the two called records room I think; is that
19 correct?

20 A. Yes, that's correct.

21 Q. I'm going to talk about this area for a
22 minute. Did you do anything, find anything in this
23 area, look at any records?

24 A. All of these exam rooms and the doctors'
25 offices were searched. There were patient records found

1 in all of those. So I was in exam room 10. Next to
2 that is a storage room that was full of boxed records
3 that were older, we took all of those. I don't believe
4 there were any records in exam rooms 5, 6, 7, 8 and 9 on
5 the side. We took records from Clifford Carrol's
6 office, from office 3, from Dipak Desai's office, Dr.
7 Carrera's office. There were some patient files around
8 the nurses stations and then the main patient file area
9 was where the records room is and the check-out area.

10 Q. At any time in any of these locations did
11 you come across patient files that were of interest to
12 you?

13 A. In the clinic side they had boxes of -- let
14 me explain how the patient files were set up.

15 Q. Okay.

16 A. In this room they had patient files.

17 Q. In which room? There is a whole bunch of
18 them.

19 A. In this particular area where the doctors'
20 offices were.

21 Q. So the medical side, we're talking about
22 the last page of Exhibit 38.

23 A. Right. Mainly the check-out area and the
24 records room, they had patient files that were on
25 shelves, they were alphabetical for the most part and

1 they were in manila colored file folders and we call
2 those the patient files.

3 Q. Right.

4 A. Okay. Then there were files everywhere.
5 There were files in the doctors' offices, there were
6 files in the nurses station, there were files in the
7 check-out area, there were patient files everywhere in
8 this area.

9 Then on the clinic side they had --

10 Q. When you say clinic you're referring to
11 where the endoscopy procedures are done?

12 A. Yes, where the procedures were done.

13 Q. Okay.

14 A. They had more patient files that were in
15 green manila, green file folders, and we called those
16 the procedure files in order to differentiate when we
17 talked about these, where the files were located, and
18 they contained different information.

19 Q. So there was a difference between the
20 procedure file and the patient file?

21 A. That's correct.

22 Q. Now the patient file contained what, what
23 kind of stuff was in there?

24 A. The patient file had information the
25 patients would give when they signed in, their insurance

1 information, their addresses, their contact information,
2 it would have copies of reports from the procedure
3 files, it would have the doctor's notes. What I would
4 consider a typical patient file.

5 Q. And then the procedure file itself, what
6 was in there?

7 A. The procedure files had the reports from
8 the procedures, they had the anesthesia records, they
9 had the information when the patient checked in at the
10 reception area.

11 Q. Now obviously you find these in two
12 different locations then?

13 A. Yes.

14 Q. So did the procedure files primarily remain
15 on what you called the clinic side where the procedures
16 were done or did they intermix?

17 A. They were intermixed and they were also
18 intermixed at the other location I was at on Tenaya.

19 Q. Okay. Now that's what the files generally
20 look like and where they were; correct?

21 A. Right.

22 Q. When you were going through the search
23 process did you ever locate a grouping of files of
24 patients that were of interest to you?

25 A. There was a post office box, a United

1 States Post Office I believe, and there were the patient
2 files that had been identified by the health department
3 as the victims in this case.

4 Q. Now let's talk about that. Is that
5 location anywhere on these diagrams that you --

6 A. It would be on the clinic side.

7 Q. Let's go back to that one. Referring back
8 to page 1 then of Exhibit 38. What area are you talking
9 about?

10 A. I didn't find them. I believe they were
11 located in a file room reception area.

12 Q. Did you see them at some point?

13 A. I did see them at some point.

14 Q. You didn't find them initially but then did
15 you did see them together?

16 A. Right. There were some other of the victim
17 files, we called them victims, located in Dr. Carroll's
18 office on the other side.

19 Q. Okay. So two different locations where
20 these were grouped?

21 A. Yes.

22 Q. So you find -- and these were all patient
23 files essentially or procedure files that were related
24 to --

25 A. They were both.

1 Q. They were both. To what the CDC or what
2 the health district had been focusing on as far as
3 patients go?

4 A. The patients they had identified from
5 September 21st and July 25th.

6 Q. They were all kind of grouped together in
7 those two locations?

8 A. Yes.

9 Q. Did you recover those items, not you
10 specifically necessarily, but did the police recover
11 those items?

12 A. We recovered all of the patient files from
13 those two areas.

14 Q. And it was up to you to sort of document
15 and categorize all this information?

16 A. I focused on the patient files that were
17 our victims from the 21st, all of the patients from
18 September 21st and all of the patients from July 25th.

19 Q. So not just the ones focused on as
20 potential victims being infected but all of the patients
21 period?

22 A. For those two days, yes.

23 Q. Now beside the things you just mentioned
24 did you do anything else related to the search warrant
25 execution or recovery of records or anything like that?

1 A. After all the evidence was at our office I
2 went through all of the evidence. I went through it
3 looking for business records, bank records, anything
4 related to any of our patients that had been identified
5 as victims.

6 Q. And did you generate any kind of analyzes
7 or reports or anything like that as a result of doing
8 that work?

9 A. I did, I generated several.

10 Q. Okay. Why don't we just kind of walk
11 through them. What were some of the reports or some of
12 the things that you looked at and generated?

13 A. I started with the patient files because we
14 were trying to get a handle on the sequence.

15 Q. When you say the sequence what are you
16 talking about?

17 A. Of what patients were seen first and second
18 and how long the procedures lasted, who was involved in
19 their procedures.

20 Q. And did you put that in some sort of form
21 so you could look at it or compare between patients?

22 A. I did, I put them in an Excel spreadsheet.

23 Q. I'm showing you what has been marked as
24 Grand Jury Exhibit 43, I know that this is going to be
25 difficult for the Grand Jury, it's in the spreadsheet

1 form but we'll make it available and the Grand Jury can
2 look at it at any time.

3 But can you tell us what this item is?

4 A. This is how I compiled the information from
5 the patient procedure files.

6 Q. What date does this information come from?

7 A. This is July 25, 2007.

8 Q. So tell us what we're kind of looking at
9 here. First of all is this all the patients listed for
10 that day?

11 A. This is all of the patients listed for that
12 day. One of the files was missing was Bruce Young so
13 his information is just -- I couldn't find it.

14 Q. So he was a patient listed for the day but
15 you couldn't find the information?

16 A. Right.

17 Q. Okay.

18 A. I got the names of all the patients for the
19 day from their endoscopy logs which were maintained at
20 the, on the clinic side. The endoscopy logs are big
21 books, they're about this big and --

22 Q. And for the record she's measuring it looks
23 like about two feet by, what, one and a half feet,
24 something like that?

25 A. Yeah, one foot. They were too big to copy

1 so I had to work off the originals. They had all of the
2 patients listed, it was handwritten by name for the
3 dates, and they had assigned them patient number and
4 this number was also the number on the procedure files.

5 Q. And you're referring to the right hand
6 column; is that correct?

7 A. Well, the second column in, the patient
8 file number column.

9 Q. We're talking moving from right to left on
10 this spreadsheet; is that correct?

11 A. Moving from left to right.

12 Q. Excuse me. I'm turned around, left to
13 right. Sorry.

14 A. Yes.

15 Q. My perspective, not yours.

16 Go ahead.

17 A. I took the information out of the patient,
18 the procedure files which included an anesthesia record
19 and that's the first record that is summarized here.
20 There was also a chart where they noted the procedure
21 time, when it started.

22 Q. As you go across as you're mentioning
23 things if you'd just give us what the column heading is
24 you're referring to.

25 A. All of the anesthesia records are

1 summarized off of, where it says medicine, chart
2 procedure start time, chart procedure end time, and then
3 I calculated using Excel the minutes for the procedure.

4 Q. And why did you do that?

5 A. Because we saw a pattern and we had been
6 told that they --

7 Q. First of all at this point I don't want to
8 get into anything that you were told by someone else.

9 But based on information you had received in your
10 investigation you focused in certain areas; correct?

11 A. Right.

12 Q. You focused on those areas. Did you see
13 the pattern that you were looking for?

14 A. Yes. Excel is a spreadsheet that will
15 calculate, it adds and subtracts and so I put in a
16 formula to calculate the time when the procedure started
17 and when it ended, and they were all 30 to 33 minutes on
18 the average for all the rooms I averaged. The one room
19 was 30 minutes, the other room was 31 minutes.

20 Q. Now you said there was a difference in
21 rooms. There were different times for different rooms?

22 A. When I, the first time I did this I, we
23 tried to figure out what rooms the different patients
24 were in.

25 Q. Okay.

1 A. And I sorted it by doctor, I sorted it by
2 CRNA, I sorted it by time, and nothing worked because it
3 was, we could not determine what room the patients were
4 in. And then we received information from the Board of
5 Medical Examiners that there was a computer glitch in
6 the reports that were generated, they were generated by
7 a computer. And the glitch actually is this blue
8 column. Those are the report times, the start times and
9 the end times, and that's what this was finally sorted
10 on were those report times. The glitch was in one of
11 the procedure rooms the computer had the wrong date and
12 so we were able to go back through and put all of the
13 rooms, designate all of the rooms that had that glitch
14 as room 1 or room 2.

15 Q. So you could separate them out based on
16 that information?

17 A. Yes.

18 Q. Did you in fact see the computer glitch
19 that you'd been given some information about?

20 A. Yes.

21 Q. So did they pretty much divide up the rooms
22 when you did that?

23 A. Yes.

24 Q. I'm going to look at one thing here before
25 I ask you another question.

1 Now on this particular diagram I note on,
2 where you did your minute calculation, I note that
3 virtually all of them are either 31 or 32 minutes; is
4 that correct?

5 A. That's correct.

6 Q. With the exception of one patient, Carolyn
7 Clark, who is listed at 30 minutes, and a patient named
8 Katie Lawson who is listed at 14 minutes; is that
9 correct?

10 A. Yes.

11 Q. And so the rest of them are either 31
12 minutes or higher?

13 A. Right. That was from the anesthesia logs.

14 Q. And it shows that a total of 65 patients
15 were done that day?

16 A. Yes.

17 Q. Is that right?

18 A. Yes.

19 Q. And does the first top portion of the
20 chart, does that correspond to one room and the bottom
21 portion to another room? Or how did you designate that?

22 A. Uhm, you know what, I have to look at this.

23 Q. Let me put it up here, maybe make it a
24 little easier. Well I don't know if it's easier or not.
25 I'll just let you take care of it.

1 A. It doesn't work with bifocals.
 2 On this particular day, the 25th, the
 3 computer glitch wasn't, it didn't apply to this day, it
 4 applied to the other one. And so these are sorted by
 5 CRNA.
 6 Q. Okay. In this particular diagram, this
 7 exhibit, you don't have them sorted by that computer
 8 glitch?
 9 A. That's correct, it didn't show up on the
 10 reports. The reports had the right date for both rooms.
 11 Q. So at this point we don't know which room
 12 is which?
 13 A. Right.
 14 Q. Now were you ever able to sort out which
 15 room was which for this date, the 25th?
 16 A. No.
 17 Q. As far as the breaking up then you only
 18 have two, or how many different CRNAs do you have for
 19 that day?
 20 A. We had two CRNAs.
 21 Q. Was it your understanding based on the
 22 review of the records that they primarily stayed in one
 23 room for the majority of the day?
 24 A. Yes.
 25 Q. So when you sort them by the nurse

1 anesthetist does that generally group them according to
 2 what your analysis was and record review as to the room
 3 that they were in?
 4 A. Pretty much.
 5 Q. Now with the exception of I assume they
 6 take breaks and so forth?
 7 A. That's what we were told, yes.
 8 Q. Again I want to stay away from things you
 9 were told specifically, just things that you did in your
 10 investigation. And anything you mention that you were
 11 told I'm admonishing the Grand Jury is not offered for
 12 the truth of the matter, just to show how she got to the
 13 next step in her investigation.
 14 So let's move forward. So what else did
 15 you do in this particular situation with this exhibit?
 16 A. In this particular day we had one victim,
 17 his name was Michael Washington, and the genetic testing
 18 had been done by CDC and they identified the source and
 19 the source was Sharrieff Ziyad.
 20 Q. So on this diagram Sharrieff Ziyad is
 21 listed here and I think that that is line or patient
 22 number what?
 23 A. Patient number 35.
 24 Q. Patient 35.
 25 A. Uh-huh.

1 Q. Do we see that the infected patient Michael
 2 Washington follows him in time?
 3 A. Yes.
 4 Q. And in fact he is the same anesthesiologist
 5 or, not anesthesiologist but nurse anesthetist as the
 6 one that performed both of those procedures; is that
 7 correct?
 8 A. That's correct.
 9 Q. What about the doctor involved, did that
 10 change?
 11 A. The doctor was Dr. Desai on both of them.
 12 Q. Now beside that information pertaining to
 13 this diagram, I mean you were able to at least sort this
 14 as best you could by the times, you said that all of
 15 these times varied depending on what you would look at,
 16 whether it was I think it was procedure time, machine
 17 time, all of that stuff. Is that correct?
 18 A. Right. I took the times from the procedure
 19 files, from the anesthetist log which is the first
 20 columns here, the chart, the medicine, the chart
 21 procedure start time, procedure end time, and then I
 22 added them up.
 23 Q. Is that the green column?
 24 A. That's the green column. The green column
 25 is my addition on all of those.

1 The next column is what kind of procedure
 2 it was. If it was an endoscopy those were E, if it was
 3 a colonoscopy those were C. The doctor was from the
 4 report and the signatures. The nurse was also from the
 5 report and the signatures. They had the GI tech so
 6 those were all listed on the reports.
 7 Q. So each one of these entities has its own
 8 time?
 9 A. Well, these were the people, these were the
 10 players that were on that procedure.
 11 Q. I see. Okay.
 12 A. Then the different logs started with the
 13 times. So the nurse filled out a log, in that she noted
 14 the procedure start time and end time, and I calculated
 15 the minutes from that. I took what scope they had used
 16 because that was written on there, on the file. They
 17 had a place where they put what time the physician was
 18 at the bedside so I took that time. What time they were
 19 discharged, I took that time. I calculated the time
 20 from that. Then the nurse who signed off on it, on that
 21 discharge. Then we had monitor tapes, one was from a
 22 heart monitor and one was from another monitor, so I
 23 have tape reading 1 and tape reading 2, and I took those
 24 times, and then I have the report time and that's what
 25 this is sorted on, the CRNA and the report time. And

1 then I have what time it ended and then how long it
 2 took.
 3 Q. Okay. So that was how you ended up sorting
 4 this?
 5 A. Right.
 6 Q. Did you ever have a feel for how accurate
 7 the times were that you were looking at, whether they be
 8 the taped time or machine time or the doctor's time or
 9 the nurse's time or the procedure time or whatever?
 10 A. Well, in order to try to make sense of that
 11 and to figure out the order everything happened in I
 12 sorted this spreadsheet on all of the times and they
 13 were different, it just didn't, it didn't match. So
 14 when we got the information about the report time that's
 15 what I went with for the sorts.
 16 Q. I note on this particular diagram that
 17 there, beside Ziyad Sharrieff which is line or row 35,
 18 and Michael Washington which is line, or rather row 39,
 19 you have Ziyad Sharrieff in it appears to be sort of
 20 orange-ish?
 21 A. That's correct.
 22 Q. And Michael Washington who is the infected
 23 patient who is designated in green?
 24 A. Yes.
 25 Q. There are some other lines up here that are

1 record?
 2 A. Yes.
 3 Q. So all of the ones designated as 31, 32
 4 minutes and so forth down that line come from that
 5 document?
 6 A. Yes, they noted the start time and the end
 7 time.
 8 Q. Did you ever add up all that time to see
 9 how much it added up to?
 10 A. How many minutes in the day?
 11 Q. Yes.
 12 A. No, I never did.
 13 Q. Did it look like it was possible?
 14 A. No.
 15 Q. Okay. As far as the 25th did you do any
 16 other analysis other than what you talked about thus far
 17 related to that?
 18 A. On the 25th?
 19 No.
 20 Q. Okay. You said that you moved, you also
 21 looked at the same types of information for the 21st of
 22 September of 2007; is that correct?
 23 A. Correct.
 24 Q. I'm going to go ahead and change out the
 25 exhibit right now.

1 also in orange. What relationship do those have?
 2 A. On the anesthetist log they would note if a
 3 patient had a disease and so those are the ones that
 4 were designated on the anesthetist log as having
 5 Hepatitis C.
 6 Q. So on that particular day we have four
 7 patients that are Hepatitis C positive at the facility?
 8 A. That they knew of, yes.
 9 Q. When you say anesthetist form do you mean
 10 the anesthesia record?
 11 A. The anesthesia log is what they called it.
 12 Q. Okay. So one of the persons that had been
 13 designated that day as being Hepatitis C positive was in
 14 fact I think Ziyad Sharrieff?
 15 A. Yes.
 16 Q. And then Michael Washington follows Ziyad
 17 Sharrieff after it looks like three patients?
 18 A. Yes.
 19 Q. Now beside the information here, I mean one
 20 of the columns I want to go back to is this column
 21 designated anesthesia minutes calculated from the
 22 records. And you designate that off of chart procedure
 23 start time, chart procedure end time?
 24 A. That's correct.
 25 Q. Do those times come from the anesthesia

1 And I will lay this out here, this exhibit,
 2 which is again Exhibit 43, it will be available, it's an
 3 admitted exhibit now and it's available for the Grand
 4 Jury for review and I'll lay it out on the table.
 5 Okay. Showing you what has been marked as
 6 Grand Jury Exhibit Number 42, what are we looking at
 7 here?
 8 A. This is the spreadsheet for September 21st.
 9 All of the information was taken from the patient
 10 procedure files. Same columns as on the 25th. I
 11 started with the anesthesia chart, I moved across taking
 12 all the information. This is the day that had the
 13 computer glitch so we were able to identify the patients
 14 that were in one room and the patients that were in the
 15 second room.
 16 Q. Was there more than two CRNAs on that day?
 17 A. I don't think so.
 18 Q. Or were there rather.
 19 A. No. We had Keith Mathahs and Ronald
 20 Lakeman.
 21 Q. The only two CRNAs on that day?
 22 A. Yes.
 23 Q. So when you sort them in this particular
 24 instance, although you've got your blue line here under
 25 report procedure start time, are these sorted by that or

1 not?

2 A. Yes. They're sorted by the room and the

3 time.

4 Q. So is the top grouping one room and the

5 bottom grouping another room?

6 A. That is correct.

7 Q. On this particular spreadsheet we have

8 colored rows.

9 A. Yes.

10 Q. Can you tell us what the colors indicate?

11 A. The orange are the hepatitis, the people

12 that were identified with hepatitis off the anesthesia

13 logs.

14 Q. So we have two for that day; is that

15 correct?

16 A. Yes.

17 Q. One appears at the end of the day and I

18 believe that is who?

19 A. Trina Smith.

20 Q. And one is at the very top of the day and

21 that is who?

22 A. Kenneth Rubino.

23 Q. So Kenneth Rubino. Did he have any

24 significance to any of the other patients later on?

25 A. He was shown to be the source patient

1 these the ones that are genetically matched?

2 A. Yes, those are genetically matched.

3 Q. Now you have designated these in two

4 separate rooms; correct?

5 A. That's correct.

6 Q. I note that there are, there is a source

7 patient on the top half and then it appears to be

8 infected patients below that person.

9 A. Yes.

10 Q. And those infected patients are whom? Do

11 you want to read off -- I'm talking about the ones in

12 green.

13 A. Rudolfo Meana, Sonia Orellana, Gwendolyn

14 Martin.

15 Q. Let's stop there. Those are the ones in

16 the one room where the source patient was?

17 A. Right.

18 Q. We also have three patients listed in the

19 other room as well?

20 A. Right.

21 Q. And who are they?

22 A. Stacy Hutchison, Patty Aspinwall and Carole

23 Grueskin.

24 Q. Now was there any indication based on your

25 review of things and all of the analysis that you did as

1 through the genetic testing.

2 Q. So the patients that follow after Kenneth

3 Rubino are the infected patients?

4 A. That's correct.

5 Q. That turn up positive that is.

6 A. That's correct.

7 Q. What is the yellow designation?

8 A. There were two patients who showed up with

9 Hepatitis C but there was not enough genetic material to

10 show the source of their infection.

11 Q. When you say enough genetic material, the

12 CDC couldn't make a match or they didn't have the

13 resources to be able to do so on those patients?

14 A. My understanding is the hepatitis virus

15 mutates and it adapts to the host, the person that it's

16 in, so it changes, and there wasn't enough, whether it

17 was too long in time or whatever reason I don't know,

18 but those two people they were not able to genetically

19 link to the source.

20 Q. But we see that one of those persons

21 directly follows Mr. Rubino; correct?

22 A. That's correct.

23 Q. Now what are the green lines?

24 A. Green lines are the infected patients.

25 Q. And when you say infected patients are

1 to any cross movement of any personnel or any supplies

2 or anything from one room to the other during the day?

3 A. Well, we really struggled with this because

4 it was very difficult to try to figure out how it

5 happened. Once we were able to separate the two rooms

6 we looked at the times. So Kenneth Rubino started -- I

7 can't tell what time that is. His procedure started at

8 9:50 in the morning and it was over at 10 o'clock and

9 Stacy Hutchison who was in the other room started at

10 9:52 and she was finished at 10:06.

11 Q. According to the records anyway?

12 A. According to the computer-generated report.

13 Those were the times I went off of to do this. So we

14 have the CRNA for Kenneth Rubino was Keith Mathahs and

15 the CRNA for Stacy Hutchison was Ronald Lakeman. The

16 next patient after Stacy Hutchison in the second room

17 was Renate Blenings and Renate Blenings records show

18 that Keith Mathahs was her CRNA. So what we have is

19 Keith Mathahs starting up here.

20 Q. When you say up here you're designating in

21 one room at the top; correct?

22 A. In the first room and ending up in the

23 second room right after Stacy Hutchison.

24 Q. So right about that time then somewhere

25 according to the records he at least moves over to that

1 room?

2 A. Right.

3 Q. And I wouldn't want you to speculate as to

4 how, what he brought with him or didn't bring with him

5 or whatever, but at least we have the CRNA, if I

6 understand you correctly, we have the CRNA where the

7 source patient originates and infected patients after

8 that in that same room?

9 A. Yes.

10 Q. And then we have around the time that the

11 infection start in the second room we have evidence that

12 shows that Mr. Mathahs is the CRNA that moves to that

13 room at least for a period of time?

14 A. That's correct.

15 Q. Now was there any indication that he in

16 fact had been involved in any way with Stacy Hutchison's

17 procedure?

18 A. Not according to the records. And the

19 records that I used were the ones that were generated

20 and signed off on in the procedure files.

21 Q. But you said not according to the records.

22 Did you have any other source of information that led

23 you to a different conclusion?

24 A. One of the depositions I read in the civil

25 litigation that's going on.

1 Q. Is that correct?

2 A. Yes.

3 Q. So we at least have movement and infections

4 follow from thereon after?

5 A. Yes.

6 Q. And if I need to leave this up here I can.

7 But I'm talking about the exhibit again, Exhibit 42 if

8 you still need to refer to that.

9 But the patients that follow in that room,

10 the second room, those patients, the anesthesiologist or

11 the anesthesia person, the nurse anesthetist at least of

12 record for those three procedures was who?

13 A. Ronald Lakeman.

14 Q. So Mr. Mathahs at least according to the

15 records had returned back to his room at some point?

16 A. Yes, but he shows up again.

17 Q. Go ahead.

18 A. We were told that they covered each other

19 for lunch.

20 Q. Okay. And again that's not offered for the

21 truth of the matter.

22 Based on that information did you see

23 anything that reflected that kind of thing in the

24 records that you reviewed?

25 A. Well, Keith Mathahs is in this room, in

1 Q. And I don't want to get into specifics

2 about what other people said, but were you able to

3 follow-up on any information based on any deposition

4 that you read?

5 A. Well, the information that I got made this

6 a little clearer for me.

7 Q. Okay.

8 A. The person that was deposed said that when

9 they started the computer-generated report they had a

10 drop down list and they would click off who was in the

11 room and I noticed on some of these reports that the

12 person that was listed on the report was not the person

13 who signed off.

14 Q. And ladies and gentlemen of the Grand Jury,

15 that information is not offered for the truth of the

16 matter and I would ask you not to consider that hearsay

17 statement in your deliberation, just for why this

18 individual, this particular witness was analyzing the

19 things as she did in this particular case.

20 That being said, did you, you obviously had

21 indication that at least right at the time that Stacy

22 Hutchison's procedure is either finished or sometime

23 within the procedure that Mr. Mathahs moves from the

24 room he was in to the second procedure room?

25 A. Yes.

1 room 1 until noon, about noon, 11:57, when Ronald

2 Lakeman took this procedure and then Keith Mathahs is

3 back. And then in the other room Keith Mathahs shows up

4 for this procedure after Stacy Hutchin -- Renate

5 Blenings at 10:13, then he comes back again at 11:34.

6 Q. Did that look like it was around a lunch

7 break then?

8 A. That's what it looked like to me.

9 Q. So the prior time when he's actually moved

10 over to that room you don't know why he came over?

11 A. No.

12 Q. And he's only over there for one recorded

13 procedure; is that right?

14 A. Yes.

15 Q. And that procedure immediately follows

16 Stacy Hutchison's procedure?

17 A. Yes.

18 Q. So you don't know if he came in there

19 before Stacy Hutchison or during the procedure at all?

20 A. No.

21 Q. Any other information related to this

22 exhibit?

23 A. On my comments, the last column, I call it

24 comment, and that's what I use for myself to make notes

25 or to notice something that is interesting. So we have

1 where I would say that in this case Linda McGreevy was
 2 listed on the report as the nurse but Karen Richvalsky
 3 off on it. So --
 4 Q. And could you spell Richvalsky?
 5 A. R-I-C-H-V-A-L-S-K-Y, Karen.
 6 So that was another discrepancy that I
 7 tried to note on the spreadsheets where the names didn't
 8 quite match up with the signatures.
 9 Q. So if I understand you correctly, and just
 10 so I can reiterate, that sometimes signatures and who
 11 was supposed to be in the room didn't match up; is that
 12 what you're saying?
 13 A. Yes.
 14 Q. And you saw that also around the time that
 15 Mr. Mathahs moves to the room with Stacy Hutchison or
 16 not?
 17 A. I don't remember. I know he was on Renate
 18 Blemings' report. Or on her procedure file. I don't
 19 remember if he was on the report or not.
 20 Q. Okay. Now let's move on. So you do all
 21 that analysis work, you lay it all out, that's part of
 22 those exhibits that you've got, what is the next thing
 23 you do as far as analysis goes in the case?
 24 A. We tried to see from the procedure files if
 25 there was another way this infection could have been

1 transmitted and it could have possibly been in the, when
 2 they had the heplock administered to them.
 3 Q. So somebody had raised that issue to you
 4 and I assume that meant you went back and tried to find
 5 any evidence to support it; correct?
 6 A. That's correct.
 7 Q. What did you do to try to either look at
 8 that problem and support it or discount it?
 9 A. Well, I went back to the patient, the
 10 procedure files, and I noted who had signed off as the
 11 heplock nurse, the person who had inserted the heplock.
 12 Q. And are you all hearing this by the way? I
 13 mean can you hear what she's saying?
 14 Try to speak up a little bit into the
 15 microphone.
 16 A. Okay. The procedure file shows Lynette
 17 Campbell was the heplock nurse for Kenneth Rubino.
 18 Q. What day are we talking about first of all?
 19 A. We're talking about September 21st, this
 20 day. So Lynette Campbell was --
 21 Q. And before we go any further, I can see
 22 you're referring to a document.
 23 A. Yes.
 24 Q. Is that correct?
 25 This is Grand Jury Exhibit Number 39. What

1 is this document first of all?
 2 A. This is an association chart that I
 3 prepared using software we have at Metro called Analyst
 4 Notebook.
 5 Q. Did you take this information in preparing
 6 this particular exhibit based on the information you had
 7 gotten in your investigation?
 8 A. Yes.
 9 Q. I'm going to go ahead and display that up
 10 here --
 11 A. Oh, good.
 12 Q. -- for the Grand Jury. And then you can
 13 tell us about it as we go through it and if you need me
 14 to zoom in on a particular section let me know.
 15 A. Okay.
 16 Q. Right now I'm zooming out so we have the
 17 entirety of the document showing. And if you can tell
 18 us kind of what we're looking at.
 19 A. Okay. This room is room 1 and this room is
 20 room 2.
 21 Q. And just for the record she's referring to
 22 the designations of those things on the document.
 23 A. Right. So based on the sort from the
 24 reports we have these people who were these victims and
 25 the source Kenneth Rubino who were in procedure room 1.

1 Q. And for the record she referred to all of
 2 the persons along the top portion of the screen going
 3 from left to right.
 4 A. And then we have the people who were in the
 5 other procedure room, Stacy Hutchison, Patty Aspinwall
 6 and Carole Gueskin.
 7 Q. And they are designated on the bottom of
 8 the screen for the record.
 9 A. In the center I have Lynette Campbell who
 10 was the heplock nurse, she's the person who initialed
 11 off that she had given, inserted the heplock into them
 12 before the procedure and she did the heplock for Kenneth
 13 Rubino, Rudolfo Meana, Sonia Orellana, Gwendolyn Martin
 14 and Nguyen -- I don't know how to pronounce his name,
 15 it's Vietnamese, he was one of our yellow that we didn't
 16 have the genetic matches for.
 17 Q. And when you say yellow are you referring
 18 to the yellow marking --
 19 A. Yes.
 20 Q. -- on the spreadsheet on Exhibit --
 21 whatever it is.
 22 A. Then we had Jeff Krueger who was,
 23 administered the heplock for Stacy Hutchison, Lakota
 24 Quannah, and he signed off on those.
 25 In the interviews that detectives conducted

1 Patty Aspinwall identified Jeff Krueger, she described
2 him as the person who had given her the heplock.

3 Q. But you also have a line in that diagram
4 going to Miss Campbell as well; is that right?

5 A. Right.

6 Q. Why is that?

7 A. Well, she signed off on it on the records.
8 Patty Aspinwall described Jeff Krueger.

9 Q. So tell us what -- I mean I see what you've
10 just described, but how does this, what does this mean?

11 A. This was to try to show that the same
12 person had given all of the heplocks and that didn't
13 happen because we have Jeff Krueger who signed off on
14 two of them and was identified on a third. It also
15 brought into my mind whether the records were correct or
16 not.

17 Q. Okay. So at least on this date we have for
18 sure Stacy Hutchison who was not administered a heplock
19 by Miss Campbell; correct?

20 A. That's correct.

21 Q. And actually the CRNA Jeff Krueger, not
22 CRNA, the nurse rather, Jeff Krueger, was the one who
23 administered that heplock?

24 A. That's correct.

25 Q. And then Miss Campbell seems to be tied at

1 least to the remainder and possibly Miss Aspinwall?

2 A. That's correct.

3 Q. You can sit down again if you would.

4 Now let's talk about this related to the
5 25th. Did you look at that issue possibly for the 25th
6 of July of 2007 as well?

7 A. Yes, we did.

8 Q. Did you find that there had been a
9 commonality between either Mr. Krueger or Miss Campbell
10 related to that particular procedure date?

11 A. No. On that procedure date the records
12 show that the CRNA administered the heplock to the
13 source patient Sharrieff Ziyad and somebody else
14 administered Michael Washington.

15 Q. So two different people administered the
16 heplock?

17 A. Right.

18 Q. But the key thing here I want to make sure
19 I'm clear on is that the source patient for the 25th was
20 actually, had his heplock put in by the CRNA who did his
21 procedure?

22 A. That is correct.

23 Q. Go ahead. Anything else about that?

24 A. No.

25 Q. So based on that did you have any

1 indication that there was overlap, there was some person
2 who was common between, or persons who were common
3 between all of these people?

4 A. Well, there wasn't one person who was
5 common between all of them, no.

6 Q. And in fact on the 25th there was, it
7 sounds like Mr., not Mr. Washington -- who is the source
8 patient?

9 A. Ziyad.

10 Q. Ziyad Sharrieff was the individual who
11 didn't even go to the procedure room, he just went, or
12 not the procedure room, to the pre-op room, he went
13 straight to the procedure room?

14 A. That is correct.

15 Q. Now what was the next thing you did in your
16 analysis or the next portion you went to?

17 A. I did a financial analysis to track the
18 money that Doctors Desai, Carrol and Carrera received in
19 2007.

20 Q. Now when you say financial analysis what do
21 you mean?

22 A. I took, I went through the evidence that we
23 had taken in the search warrant and I identified the
24 bank accounts that they had and in the bank accounts
25 summaries they also had listed all of the checks and who

1 they were paid to, so I took the accounts that had
2 payments to the doctors and I got a Grand Jury subpoena
3 for those bank records from the bank and I scheduled
4 those out to try to determine how much the doctors had
5 received in income for 2007.

6 Q. What was the purpose of that? Were you
7 trying to find out who was the main player or the minor
8 players or what?

9 A. Well that, to verify who the main player
10 was. Also to see if there was a financial incentive for
11 this infection.

12 Q. Okay. And you're looking at a document
13 here, it's marked as Grand Jury Exhibit Number 40, and
14 what is this document?

15 A. This is the summary page of my analysis
16 with all of the bank records. So I show that for 2007
17 Dr. Dipak Desai received \$6,809,003.74.

18 Q. What about the other two doctors that you
19 mentioned?

20 A. Dr. Clifford Carrol received \$1,967,446.17.

21 Q. And what about Dr. Carrera?

22 A. Dr. Carrera received \$1,403,010.64.

23 Q. So if I have it correct it looks like Dipak
24 Desai made the lion's share of the money?

25 A. That's correct.

1 Q. Now the next page, page 3 of the exhibit,
2 the bottom, there is also some numbers listed there is
3 are there not?

4 A. Yes.

5 Q. What are those?

6 A. These were amounts that came from one of
7 the bank accounts. When we took the records in the
8 search warrant one of the file folders said CRNA and it
9 was a bank account with Wells Fargo.

10 Q. So it was listed, its title was CRNA?

11 A. The handwritten title on the folder was
12 CRNA. The bank account's name was not CRNA.

13 Q. What was the bank account's name?

14 A. I don't remember.

15 Q. But it was different?

16 A. Yes.

17 Q. Do you know who had control of that
18 account?

19 A. Dr. Desai.

20 Q. Can you tell us what you found in that
21 account? Are we talking about just one year or more
22 years than that?

23 A. We're just talking about 2007. I looked at
24 this file folder at the first because I thought it would
25 show bonuses or payments made to the nurse anesthetist,

1 the CRNAs, and in fact there were no payments to the
2 nurse anesthetists, there were only payments to doctors.
3 So I pulled out these three doctors because they were
4 involved in our infections and it shows that Dr. Desai
5 received \$250,000 from that account, Dr. Carroll received
6 125,000 from that account, and Dr. Carrera received
7 25,000 from that account.

8 Q. But based on what you said earlier it would
9 have been Dr. Desai that would have made the
10 disbursements; is that correct?

11 A. That's correct.

12 Q. So he was the one who controlled the
13 account?

14 A. That's correct.

15 Q. Now beside that analysis what else did you
16 do?

17 A. We had allegations that they had reused
18 supplies, propofol, so I took all of their medical
19 supplies on those categories and I looked at the vendors
20 who had provided the propofol, the bite blocks and the
21 syringes and I did an analysis to see if they had
22 ordered enough supplies to provide a vial per person
23 without reusing it, adequate number of syringes and
24 adequate number of bite blocks.

25 Q. And just, you have a document in front of

1 you, it's quite large, but it is Grand Jury Exhibit
2 Number 41. So if you need to refer to that at any time
3 just let us know you're doing it. It's here available
4 to you and it is available to the Grand Jury as well.

5 So is that a summary report of that
6 particular analysis?

7 A. Yes.

8 Q. And tell us what it is you found related to
9 each one of those categories you mentioned.

10 A. Okay. I started with trying to determine
11 how many patients had been seen in 2006 and 2007 and the
12 reason I included 2006 was to see if they had an
13 existing inventory of supplies. So I counted the number
14 of patients in the endoscopy log book and we had the
15 registers for both the Burnham clinic and the Shadow
16 Lane clinic.

17 Q. Before you go on I just want to make sure,
18 you say you're using the endoscopy log books which is
19 the record from the business itself; correct?

20 A. The big book, yes.

21 Q. And that was information contained in the
22 search warrant?

23 A. That's right. And then we also served a
24 Grand Jury subpoena on the custodian for the Endoscopy
25 Center to get the ones we hadn't gotten in the search

1 warrant from the Burnham clinic, so we had all of the
2 endoscopy registers.

3 Q. And then beside that what other records did
4 you look at in tabulating and coming up with the
5 information that you're about to testify to?

6 A. I used the vendor files from the search
7 warrant, identified all of the vendors that provided the
8 propofol, the syringes and the bite blocks, and we
9 subpoenaed those records from the vendors to make sure
10 that I had all of the information. And then I was
11 worried that I had, I might miss a vendor so we
12 subpoenaed that information also from the custodian of
13 records for the Endoscopy Center so that I would make
14 sure I had all of the vendors.

15 Q. After you did all that did you have a
16 compilation of all the records you were aware of that
17 were related to what you're discussing?

18 A. Yes, I did.

19 Q. Okay. Go ahead.

20 A. Okay. In 2006 there was no existing
21 inventory for the bite blocks or the propofol or the
22 syringes. So in 2007 they had 7,521 endoscopy
23 procedures where they would have used bite blocks and
24 they --

25 Q. And let me make sure I'm clear on that.

1 You know there is a difference between a colonoscopy and
2 an upper endoscopy; correct?

3 A. Correct.

4 Q. In a colonoscopy they don't use a bite
5 block.

6 A. That's correct.

7 Q. On an upper endoscopy they do.

8 A. Yes.

9 Q. I assume you know that's to supposedly
10 protect a patient's teeth or protect the scope or both
11 or something along those lines?

12 A. That's correct.

13 Q. When you did your analysis, when you say
14 procedures that would have required a bite block, are
15 you talking about strictly upper endoscopy procedures?

16 A. Yes.

17 Q. Okay. Go ahead.

18 A. And I identified those by counting them in
19 the endoscopy logs. So there were 7,521 upper endoscopy
20 procedures and they ordered 3,250 bite blocks. So based
21 on those numbers I did a ratio of the procedures to the
22 bite blocks and it was two to one, two procedures for
23 every bite block.

24 Q. Go on.

25 A. I did the same for propofol logs. They

1 used propofol as the anesthetic for the procedures and
2 the CRNAs or nurses signed out the propofol logs every
3 day. The propofol vials, excuse me, every day.

4 Q. And before you get to that I want to ask
5 you if during your analysis and research you ever looked
6 into how propofol is distributed, the size, the amount
7 of container, or the size in the various containers that
8 were available at least for purchase.

9 A. We did. I did some research on the
10 internet, I looked up AstraZeneca and I got their
11 information for propofol, they were the manufacturers.

12 Q. Do you know what it comes in size wise?

13 A. They come in 10-milliliter vials,
14 20-milliliter vials and 50-milliliter vials.

15 Q. Are you aware of any larger quantity, up to
16 100CC?

17 A. I'm not.

18 Q. At the Endoscopy Center specifically did
19 you look at what they had or what they were using at any
20 of the centers but specifically the Shadow Lane center?

21 A. Yes, they ordered 20-milliliter and
22 50 milliliter vials.

23 Q. Generally through all the facilities or
24 just the one?

25 A. For both the facilities.

1 Q. And there were just two facilities that did
2 endoscopy procedures primarily?

3 A. There was a third one, it was the one on
4 Rainbow, it opened in late 2007 after our infections.

5 Q. And then it closed?

6 A. Yes.

7 Q. Go ahead.

8 A. The propofol logs were the sign out logs
9 for the vials of propofol that the CRNAs used every day
10 and they wrote how many they checked out and how many
11 they returned so I was able to calculate how many vials
12 they had used for the day.

13 Q. Okay.

14 A. The logs that I used were the 50-milliliter
15 logs and after I prepared this report I went back and I
16 found the 20 milliliter vials that they had also checked
17 out.

18 Q. So this report just deals with the 50 but
19 you've also looked into the 20 as well?

20 A. Yes, and I have an addendum report that
21 isn't here.

22 Q. Okay. But you do know the information from
23 the addendum report?

24 A. Yes, I do.

25 Q. Okay.

1 A. So the ratio of patients to propofol vials
2 for July 25th was three to one. So they had one vial of
3 propofol they used for every three patients. And the
4 ratio of patients to vials for September 21st was also
5 three to one.

6 Q. Now what about the 20-milliliter
7 containers?

8 A. Twenty milliliter containers on the 21st,
9 they checked out two which did not impact the ratio
10 significantly, and they didn't check out any on the
11 25th.

12 Q. Okay. So let's talk about the total number
13 of patients and the total number of vials on those two
14 days.

15 A. Okay.

16 Q. And just for the record she's referring to
17 page 9 designated as DA-endoscopy bates number 5211.

18 A. So on July 25th they had 65 patients. Two
19 of those patients had two procedures so they had 67
20 procedures. But when I did my analysis I just used the
21 number of patients because there should, the vials were
22 for single use, one patient only. Ronald Lakanan signed
23 out five vials and did not return any. Then he signed
24 out 20 vials and returned five. So the total number of
25 vials they used that day was 20. So the ratio of

1 patients to vials for July 25th was 3.25 patients to one
2 vial.

3 Q. So if I understand you correctly 20 vials
4 total that were used or just checked out?

5 A. They were checked out and I'm assuming that
6 they were used.

7 Q. So 20 checked out that didn't get returned?

8 A. Right.

9 Q. And they had 65 patients that day?

10 A. That's correct.

11 Q. Let's move to the 21st.

12 A. Okay. On the 21st they had 63 patients and
13 they had 64 procedures, one patient had both procedures.
14 So I counted 63 patients. CRNA Keith Mathahs signed out
15 18 vials and returned none. CRNA Mathahs signed out 20
16 vials and returned 14. So the total number of vials
17 signed out was 24. So the ratio of patients to vials
18 for this day was 2.62 to one. And then if you include
19 the other two vials that are in the addendum report it
20 doesn't change it significantly, it's still around
21 three.

22 Q. So it was actually a total of 26 vials that
23 were checked out then?

24 A. Yes.

25 Q. Including those two 20 ml ones?

1 A. Right.

2 Q. And there was a total of 63 patients?

3 A. Yes.

4 Q. Those are the ones you looked at for those
5 two days; correct?

6 A. That's correct.

7 Q. Did you do any analysis for any other
8 propofol use on any other days or in general?

9 A. I looked at the propofol in general to see
10 if they had ordered enough propofol vials for the number
11 of patients that they saw. In 2007 there were 23,576
12 patients seen at both clinics. We had information that
13 they shared medical supplies between the two clinics so
14 I included both sets of numbers in this analysis. They
15 ordered 11,844 vials of propofol and that would be both
16 the 50-milliliter and the 20-milliliter, and so that's
17 the ratio of patients to vials is two to one. They had
18 two patients for every vial of propofol that they
19 ordered.

20 Q. Okay. And that's giving at least the
21 benefit of two clinics seeing patients?

22 A. Right.

23 Q. Is that correct?

24 A. That's correct.

25 Q. Okay. And then just combining all the

1 patients and all the vials ordered by both clinics?

2 A. That's correct.

3 Q. Okay. Go on.

4 A. I also looked at the syringes to see,
5 because we had allegations that they reused syringes, so
6 I took both clinics once again for this because they
7 shared medical supplies. So on the two days in 2007
8 when they spread the infection I counted the number of
9 injections off of the anesthesia logs that they used and
10 there were --

11 Q. When you say injections you would mean
12 drawing up a syringe from a bottle, injecting that,
13 discarding that syringe and then drawing up from
14 possibly the same bottle with a new syringe for another
15 injection; is that right?

16 A. Well, I counted the number of injections
17 that they had listed on the, the CRNAs had listed on
18 their anesthesia logs.

19 Q. Okay. That's fine.

20 A. So I did that in order to get a ratio for
21 the number of injections that they should have had.

22 Just a minute. Let me make sure this is
23 the right page.

24 Okay.

25 Q. And just for the record we're referring to

1 page 13 of the document designated as DA-endoscopy bates
2 number 5215.

3 A. I took the number of injections, I counted
4 the number of injections that all of the patients
5 received on both of those two days. On July 25th there
6 were 123 injections and there were 65 patients. So I
7 took that and averaged it to 1.9 injections for that
8 day. On September 21st there were 63 patients and 185
9 injections so on that day the average was 2.93. And I
10 took an average of both of those averages and I got
11 1.92, or 2. -- I'm sorry, 2.425. So every patient
12 should have received 2.4 injections for their
13 procedures.

14 Then I took how many patients Burnham
15 had --

16 Q. Referring to page 14, DA-endoscopy 5216.

17 A. -- and for 2007 they had 8,619 patients,
18 they ordered 18,900 syringes, so the ratio of patients
19 to syringes was one patient to 2.19. My developed ratio
20 was one patient to 2.4. So the Burnham clinic was
21 close, close to the ratio that I had developed as to how
22 many injections were actually given.

23 The Shadow clinic, they had 14,957 patients
24 and they ordered 17,100 syringes, so their actual ratio
25 was one patient to 1.14 syringe. So they weren't even

1 close to the developed ratio I had.

2 Q. When you talked about syringes were you
3 talking about all types of syringes ordered by the
4 clinic?

5 A. I'm talking about the 100C syringes that --

6 Q. Were typically used?

7 A. -- were typically used for the injection,
8 injecting propofol.

9 Q. Okay. Anything else regarding that
10 analysis?

11 A. I don't think so. I looked at 2008 to see
12 if the ordering changed after they were notified by the
13 health district and in 2008 they ordered more bite
14 blocks. In 2008 they ordered 1400 bite blocks for five
15 weeks. Or for six weeks.

16 Q. And how many patients during that time if
17 you know?

18 A. I didn't count them.

19 Q. Okay.

20 A. And in 2007 they ordered, for the entire
21 year they ordered 3,250. So they ordered significantly
22 more bite blocks in 2008 than they did in 2007.

23 The propofol logs show that 38 vials, in
24 2008 38 vials were checked out for 34 patients, which
25 meant the ratio of patient to propofol vials was one

1 patient to every 1.1 vial. So they started ordering
2 more than they had in 2007. And that also followed
3 through for the number of vials that they ordered. They
4 ordered 3,125 vials of propofol and they had ordered
5 11,844 for the entire year of 2007. So the average
6 number of vials ordered per week in 2007 was 228, the
7 number of vials ordered for the six weeks in 2008 was
8 approximately 521 per week.

9 Q. So at least double?

10 A. Double, yes. And the same thing happened
11 for the syringes. The orders in 2008 changed, for the
12 period in five or six weeks in 2008 they ordered 5200
13 syringes and they ordered 36,000 for the entire year in
14 2007.

15 Q. So their average per week, did you do that
16 too?

17 A. I did. Number of syringes ordered per week
18 in 2007 was approximately 692, number of syringes
19 ordered per week for five weeks in 2008 was
20 approximately 1,040.

21 Q. Now beside the analysis of those three
22 items that you've described was there anything else of
23 significance contained in this report?

24 A. I don't believe there was.

25 Q. Now beside that analysis and the financial

1 one and the spreadsheets, things like that that you did,
2 what else, if anything, did you do in this case?

3 A. I went through all of the evidence, I went
4 through all of the interviews and indexed them by
5 topics.

6 Q. Did you do any further analysis work of any
7 type?

8 A. No, these were the two that I focused on.

9 Q. Okay. And when you say two, you're talking
10 about the financial analysis and the medical supplies
11 analysis?

12 A. That's correct.

13 Q. You also did the actual patient records
14 analysis too?

15 A. Yes, I did.

16 MR. STAUDAHER: I have nothing further for
17 this witness.

18 THE FOREPERSON: Are there any questions
19 from the Grand Jury?

20 We'll start over here with Bob.

21 BY A JUROR:

22 Q. In 2008 when they realized they were under
23 investigation and they ordered more vials of propofol,
24 what size did they order, the 20 or the 50?

25 A. They ordered the 20. They sent back all of

1 the 50 that they had.

2 THE FOREPERSON: Okay. On this side, Lisa.
3 BY A JUROR:

4 Q. And when you developed your ratios of
5 patients to supplies, you know, the bite blocks, the
6 propofol and the syringes, did you take into account
7 beginning inventory of 2007 of these supplies and ending
8 inventory in 2007?

9 A. There was no beginning inventory because I
10 looked at 2006 and they didn't order enough of any of
11 the supplies to have any inventory left over.

12 Q. Did you take into account beginning
13 inventory in 2006 to see if they ordered enough? I mean
14 because they could have had a significant amount
15 beginning of 2006 to where they didn't need to order as
16 much in 2007.

17 A. They could have. And there was one period
18 where they ordered in 2006 a significant number of
19 propofol vials, but they didn't, they wouldn't have
20 lasted until 2007.

21 Q. Were there -- this was a partner, do you
22 know what type of entity this was? Was it a partnership
23 or a corporation?

24 A. There were several agreements that changed
25 over the years so some of the partners and --

1 partnership is kind of loose.
 2 Q. Okay. I guess --
 3 A. Some of the partners were early on and they
 4 continued through, like I think Dr. Carroll had started
 5 early on, but as partners dropped off those agreements
 6 changed.
 7 Q. What I'm trying to get at was there a
 8 balance sheet where you could go in and see where they
 9 had taken an inventory, did you look at a balance sheet?
 10 A. An inventory of what?
 11 Q. Well, a balance sheet for the, for whatever
 12 this entity was, did they take a physical inventory at
 13 the end of the year that you looked at?
 14 A. I didn't see one.
 15 Q. They didn't have a balance sheet that they
 16 published for the partners or --
 17 A. No. One of the doctors that we
 18 interviewed, I was present for, he described it that
 19 they were employees, the other doctors were employees
 20 and Desai, Dr. Desai determined how much they would be
 21 paid and how much they would get from the CRNA account.
 22 Q. Okay. So bottom line --
 23 MR. STAUDAHER: And again, ladies and
 24 gentlemen, I'm going to admonish you about that
 25 statement. I want you to disregard that particular

1 was one patient for every 2.4 syringes and the number of
 2 syringes that they used at Shadow wasn't even close to
 3 what it should have been.
 4 Does that answer your question?
 5 Q. I'm not a math person. It just sounds like
 6 numbers to me. I was hoping it would be more like if
 7 you could give me an answer of they issued so many
 8 syringes per person or they didn't.
 9 A. They, at Burnham they used 2.19 syringes
 10 per patient.
 11 Q. Is that good or bad?
 12 A. Well --
 13 MR. STAUDAHER: And she can't make a
 14 qualification on that. She's just here to give you the
 15 information based on the analysis she did so I would ask
 16 her not to answer that particular question. Just
 17 telling you how many of whatever was used on the
 18 patients that were at the clinic when she did the
 19 analysis.
 20 BY A JUROR:
 21 Q. Okay. What's average amount of injections
 22 does one patient normally get?
 23 A. Well, that varied because the propofol was
 24 given according to their size and the duration of the
 25 procedure.

1 statement for your deliberation. It's a hearsay
 2 statement.
 3 BY A JUROR:
 4 Q. So there was no inventory that we could
 5 look at to say beginning or ending for the calendar
 6 years?
 7 A. I didn't find one in going through the
 8 records.
 9 Q. Thank you.
 10 A. You're welcome.
 11 THE FOREPERSON: Shelley.
 12 BY A JUROR:
 13 Q. You said in 2007 that, referring to the
 14 syringes, that, you gave the two numbers of 1.4 and then
 15 1. I think it was 9, and you said that the numbers
 16 didn't match, but by what percentage ratio though?
 17 A. I developed a ratio based on these, the two
 18 days that I had scheduled out, I counted all the
 19 injections, and that ratio was one patient and 2.4
 20 syringes. Then I took the number of syringes and the
 21 number of patients at the Burnham clinic and that ratio
 22 was one patient for 2.19 syringes. And then I applied
 23 the same developed ratio that I had to the number of
 24 patients and syringes at Shadow and that ratio was one
 25 patient for every 1.14 syringe. So my developed ratio

1 Q. Okay.
 2 THE FOREPERSON: Are there any further
 3 questions?
 4 Yes, Lisa.
 5 BY A JUROR:
 6 Q. Perhaps you can answer this, perhaps you
 7 can't. But we know that they would have needed at least
 8 two syringes for their heparin, one for the saline and
 9 one for the propofol, correct?
 10 A. That's correct.
 11 Q. Okay. So they, so --
 12 BY MR. STAUDAHER:
 13 Q. With the distinction -- I think I need to
 14 add and clarify -- when I asked the witness about the
 15 size of the syringe I believe that the size for the
 16 syringe that was used for injection of the drug propofol
 17 may have been different than for the injection of the
 18 flushes. Is that correct?
 19 A. That's correct.
 20 Q. So they would have been two different types
 21 of syringes. You only looked at the 10CC syringes which
 22 were typically used for the injection of the propofol
 23 drug alone?
 24 A. That's correct.
 25 Q. So there were other syringes used in the

1 practice, 500C syringes and smaller syringes and things
2 like that?

3 A. That's right.

4 Q. You didn't look at any of those?

5 A. No.

6 MR. STAUDAHER: Okay.

7 THE FOREPERSON: Are there any further
8 questions? Yes.

9 BY A JUROR:

10 Q. All the analysis you done were only, was
11 only on 25 July and on September 21st, right? There was
12 no, you didn't randomly pick another date and run an
13 analysis as a baseline to correlate these two?

14 A. Not of a complete day, but I did do some
15 additional work on information that we got from the
16 health district. They provided us a list of the
17 patients that had responded to a questionnaire that said
18 that they were infected. I put those on a spreadsheet,
19 I was looking for another cluster date and I found I
20 think three dates where there were two patients infected
21 on two of those dates and three patients infected on a
22 third.

23 MR. STAUDAHER: And again I'm going to
24 admonish the Grand Jury at this time there is not
25 evidence that they were infected at the clinic on those

1 days but just patients that reported infection had
2 procedures on those dates.

3 Is that correct?

4 THE WITNESS: That's correct.

5 THE FOREPERSON: Yes.

6 BY A JUROR:

7 Q. How did you know that they only used the 10
8 ml for the propofol or that they only used 10 ml for the
9 propofol injections?

10 A. In the interviews that detectives conducted
11 with the CRNAs.

12 Q. Okay.

13 BY MR. STAUDAHER:

14 Q. And one last question I have related to the
15 one that the Grand Juror asked. Typically if you had a
16 large inventory, let's say you had box, case after case
17 of propofol on January 1st of 2006, would you expect
18 to normally see ordering of propofol on a regular basis
19 with a large inventory in place?

20 A. Yes.

21 Q. Yes?

22 A. Well, no, not with a large inventory in
23 place. And I did look at those ordering records and I
24 noticed that one large order in 2006, but they had
25 continued ordering propofol all along.

1 Q. So there wasn't like January of that year
2 that they didn't have to order any propofol because they
3 had so much left over from the year before?

4 A. No.

5 Q. So they kept ordering in January and
6 February and March and April, all the months?

7 A. Yes.

8 Q. And then one month along there mid year
9 they ordered actually larger amount than they had even
10 on different months before and after that?

11 A. That's correct.

12 Q. Okay. But by the time they got to the end
13 of the year the amount they had ordered throughout the
14 whole year I think you said was not enough to do what
15 they needed to do?

16 A. Right.

17 Q. If they had used one per patient?

18 A. That's right.

19 THE FOREPERSON: Any further questions?
20 None?

21 THE WITNESS: I'd like to add one thing.
22 The standard I used on this was one patient, one vial, a
23 syringe per injection, one syringe per injection. So I
24 used that standard care, medical practice, to apply to
25 this ratio also.

1 BY MR. STAUDAHER:

2 Q. Was that what you were at least operating
3 on as accepted aseptic technique for handling drugs in
4 the way they were used in that type of practice?

5 A. Yes.

6 Q. So every time the vial is entered it should
7 have been entered with a new syringe, that's why if they
8 had a second injection of the drug you would have
9 attributed that to a new syringe?

10 A. That's correct.

11 THE FOREPERSON: Any further comment?

12 Questions? Okay.

13 By law, these proceedings are secret and
14 you are prohibited from disclosing to anyone anything
15 that has transpired before us, including evidence and
16 statements presented to the Grand Jury, any event
17 occurring or statement made in the presence of the Grand
18 Jury, and information obtained by the Grand Jury.

19 Failure to comply with this admonition is a
20 gross misdemeanor punishable by a year in the Clark
21 County Detention Center and a \$2,000 fine. In addition,
22 you may be held in contempt of court punishable by an
23 additional \$500 fine and 25 days in the Clark County
24 Detention Center.

25 Do you understand this admonition?

1 THE WITNESS: Yes, I do.
 2 THE FOREPERSON: Thank you. You may be
 3 excused.
 4 THE WITNESS: Thank you.
 5 THE FOREPERSON: You're welcome.
 6 MR. STAUDAHER: One second ladies and
 7 gentlemen.
 8 Ladies and gentlemen, that concludes it.
 9 Thank you for coming over. I will have one witness
 10 after -- they are going to present that case. So it's
 11 probably going to be about two hours for them to present
 12 it, I believe they're coming back at 1:30 or
 13 thereabouts. I know we went over a little bit so I'll
 14 let you decide when you want to come back. I know it's
 15 an important case for them. They anticipate two hours.
 16 I have one witness who is relatively short like the
 17 morning witness after that so we should be finished
 18 relatively early. So I know they'll be back here at
 19 1:30.
 20 (Recess.)
 21 (Juror Agnes Parker exits the proceedings.)
 22 MR. STAUDAHER: Ladies and gentlemen of the
 23 Grand Jury, we're back in case 09BGJ049A-C, Dipak
 24 Kantilal Desai, Ronald Ernest Lakeman, Keith H. Mathahs,
 25 State versus those individuals. We have one additional

1 witness to provide to you after you had your break
 2 earlier today. I'll call that witness in now.
 3 THE FOREPERSON: Please raise your right
 4 hand. Thank you.
 5 You do solemnly swear the testimony you are
 6 about to give upon the investigation now pending before
 7 this Grand Jury shall be the truth, the whole truth, and
 8 nothing but the truth, so help you God?
 9 THE WITNESS: Yes, ma'am.
 10 THE FOREPERSON: Thank you. You may be
 11 seated.
 12 THE WITNESS: Thank you.
 13 THE FOREPERSON: You are advised that you
 14 are here today to give testimony in the investigation
 15 pertaining to the offenses of performance of act in
 16 reckless disregard of persons or property, criminal
 17 neglect of patients, insurance fraud, obtaining money
 18 under false pretenses, and racketeering, involving Dipak
 19 Kantilal Desai, Ronald Ernest Lakeman and Keith H.
 20 Mathahs.
 21 Do you understand this advisement?
 22 THE WITNESS: Yes, ma'am.
 23 THE FOREPERSON: Could you please state
 24 both your first and last names spelling them for the
 25 record.

1 THE WITNESS: First name is Joanne,
 2 J-O-A-N-N-E, last name Sams, S-A-M-S.
 3 THE FOREPERSON: Thank you.
 4 THE WITNESS: You're welcome.
 5 JOANNE SAMS,
 6 having been first duly sworn by the Foreperson of the
 7 Grand Jury to testify to the truth, the whole truth,
 8 and nothing but the truth, testified as follows:
 9
 10 EXAMINATION
 11
 12 BY MR. STAUDAHER:
 13 Q. Miss Sams, what do you do for a living?
 14 A. I'm a certified coder for the Veterans
 15 Administration.
 16 Q. What do you do as a coder for them?
 17 A. What I do is I take medical documentation
 18 and I turn it into codes for billing and for reporting
 19 purposes.
 20 Q. Okay. In that process do you receive forms
 21 called HCVA 1500 forms from different providers?
 22 A. Yes, sir.
 23 Q. Do you take the information off that form
 24 and then base -- I assume that's a claim coming in;
 25 correct?

1 A. Yes, sir.
 2 Q. Do you then formulate what you would
 3 reimburse based off that claim?
 4 A. That's correct.
 5 Q. And then go through the process of actually
 6 paying out the vendor?
 7 A. And validating that the codes are verified
 8 by the documentation submitted.
 9 Q. Okay. I'm going to show you what has been
 10 marked as Grand Jury Exhibit Number 44, ask you to just
 11 flip through that document and tell me if you recognize
 12 it.
 13 A. Yes, I do recognize this.
 14 Q. Look at all the pages. I think there are
 15 five or six pages.
 16 A. Yes.
 17 Q. Five page document.
 18 A. Yes, sir.
 19 Q. What is this document, ma'am?
 20 A. This is a sample of a HCVA 1500 form.
 21 Q. Page 1.
 22 A. Page 1. Page 2 is a payment history for a
 23 veteran.
 24 Q. And who is that veteran?
 25 A. Michael Washington.

1 Third page is the operative report for a
2 procedure performed on Michael at the endoscopic center.
3 The fourth page is a spreadsheet that I created that
4 provides a description of services and definitions of
5 what the modifiers on the claim form and the time
6 indicated on the claim form as well. The fifth page is
7 an overview, it's an expanded view of the claims history
8 from page 3.

9 Q. Okay. So the first page, this HCVA form is
10 not filled out; is that correct?

11 A. That's correct.

12 Q. In this particular case were you able to
13 find the actual form that was submitted on that claim?

14 A. No, we were not.

15 Q. Do you normally get claim forms like this?

16 A. Yes, we do.

17 Q. Now you had said that the succeeding pages
18 of this exhibit though contain information that's in
19 your computers that was basically inputted from that
20 information form?

21 A. That's correct, yes.

22 Q. Is that correct?

23 A. Yes, sir.

24 Q. So even though you don't have the actual
25 HCVA form you have the information that was inputted

1 from the form?

2 A. Absolutely, that's correct.

3 Q. Have you gone back and looked at this
4 information to see if it conformed or if it matched this
5 operative report that was provided as well?

6 A. Yes, I have.

7 Q. Does it?

8 A. Yes, it does, it does match.

9 Q. I notice on page 3 of this document there
10 is an operative report from the Endoscopy Center of
11 Southern Nevada; is that correct?

12 A. Yes.

13 Q. I'll show it to you right here. And again
14 we're still looking for the record at Exhibit 44.

15 Is that a requirement from the Veterans
16 Administration that they provide an operative report of
17 the procedure done and the dates and times and all that
18 stuff associated with it?

19 A. Yes, it's for continuity of care and to
20 validate that the services were in fact rendered to a
21 particular patient, yes.

22 Q. Who was the information pertaining to on
23 that particular form?

24 A. This is for the patient Michael Washington.

25 Q. Who was the doctor who actually performed

1 the procedure?

2 A. Dr. Desai.

3 Q. Dipak Desai?

4 A. Dipak Desai, yes.

5 Q. Who was the individual who performed the
6 anesthesia services?

7 A. Anesthesia was provided by Ronald Lakeman,
8 CRNA.

9 Q. What procedure was performed?

10 A. A colonoscopy.

11 Q. What was the procedure date?

12 A. 7/25/2007.

13 Q. Now beside that information on the
14 operative report, you mentioned on page 4 that this was
15 information pertaining to this specific claim; is that
16 correct?

17 A. That's correct.

18 Q. What information is on that page?

19 A. The CPT code which is the procedure code,
20 the description of that code, the modifiers that the
21 provider billed us with the anesthesia time and the
22 units billed.

23 Q. Okay. I'm going to display this for the
24 Grand Jury so that we know what we're talking about as
25 we follow along.

1 I'm going to go back to page -- we'll start
2 off with page 1. And this is just, I think you said
3 just the blank --

4 A. It's the sample form, yes, sir.

5 Q. Page 2. And I note that up in the left
6 hand corner, upper left hand corner is Michael
7 Washington's name; is that correct?

8 A. That's correct.

9 Q. What is the information on this form
10 showing us?

11 A. It is showing us, the first entry is the
12 surgical center that they billed for the services, for
13 the use of their facility, vendor identified as
14 Endoscopic Center of Southern Nevada. The second entry
15 is the vendor, the Gastroenterology Center, it is an
16 office call, the date of service is 2/1/08.

17 Q. And I think what I'd like to do is move
18 down to the actual date for the procedure.

19 A. The 7/25?

20 Q. Yes, the 7/25 date.

21 A. The highlighted 7/25/07 is the, 00810 is
22 the anesthesia code.

23 Q. For what?

24 A. For the colonoscopy performed on that day.

25 Q. Let's move to the next page. I know you've

1 already testified to it but I just want you to highlight
2 the portions that we specifically discussed. This is
3 the operative report is it not?

4 A. Yes, sir.

5 Q. And it shows the Endoscopy Center of
6 Southern Nevada, 700 Shadow Lane?

7 A. That's correct. Michael Washington as the
8 patient, it shows your procedure date of 7/24/07.

9 Q. 7/24?

10 A. 7/25, I'm sorry, '07. It shows the
11 attending physician is Dr. Dipak Desai and the
12 medication used and their findings of the procedure.

13 Q. Now one other thing I wanted to point out
14 to you. Under the indications does it also have, or the
15 providers, does it also have CRNA Ronald Lakeman's name?

16 A. Yes, sir.

17 Q. Beside that type of anesthesia --

18 A. Is the propofol.

19 Q. What does that mean exactly?

20 A. That was the type of medication, the
21 anesthesia, that they administered to the patient.

22 Q. Okay. Next page which I just want to make
23 sure we have is page 1, 2, 3, 4 I believe, this is the
24 spreadsheet information that you said came from this
25 particular claim?

1 A. That's correct.

2 Q. And tell us what we're looking at here
3 specifically.

4 A. Okay. What I did is I took the procedure
5 codes from the previous page and I just did a
6 description showing what the procedure was, as a lower
7 intestinal endoscopic procedure, the modifiers that were
8 billed and the total units billed being eight, the total
9 anesthesia time as 31 minutes for a total of three
10 units.

11 Q. So explain the difference between three
12 units versus the total eight being billed.

13 A. Okay. The anesthesia code, the anesthesia
14 services comes with a base code, base unit value of
15 five, it's in the very first block, I identified that as
16 five, that is added to the times units.

17 Q. So if the base is five and the time is
18 three that would be a total of eight?

19 A. Total of eight. And that's what they
20 billed us for was a total of eight units.

21 Q. And the total time they billed you for was?

22 A. Thirty-one minutes.

23 Q. Let's go to the last page of this exhibit
24 and we'll start at the top. There's a lot of stuff here
25 so why don't you walk us through what we're looking at

1 just generally and I would like you to focus on just
2 that procedure date at this point.

3 A. Okay. Again this is the claims history for
4 Michael Washington with the date of service of
5 7/25/2007, the anesthesia, the 00810, showing the P3
6 modifier, the -- what I did was I expanded that view to
7 show the procedure code, the amount that the Veterans
8 Administration paid --

9 Q. So if I understand you correctly this
10 number 4 listed in the middle of the page refers back to
11 this number 4 here?

12 A. That's correct.

13 Q. Is that correct?

14 A. That's correct.

15 Q. And that's the date of 7/25/07?

16 A. Correct.

17 Q. And then down below --

18 A. It gives you more detail to that particular
19 line.

20 Q. So you just expand out number 4?

21 A. That's correct.

22 Q. Let's talk about that for a moment. On
23 number 4 walk us through what we're looking at.

24 A. Okay. What it's showing you is the amount
25 that was paid to the provider, it shows the amount of

1 units that was paid, total number of eight, it shows you
2 the anesthesia time as 31 minutes and any of the
3 modifiers, the Q2, the Q3 and the P3 modifiers that were
4 also billed.

5 Q. What are those?

6 A. Those identify that it was monitored
7 anesthesia care, that it was provided by, services
8 performed by a CRNA, and that the patient has a systemic
9 disease, he's categorized as having a severe systemic
10 disease.

11 Q. Okay. Let's talk about the top. It says
12 service provided, that's 00810?

13 A. That's correct.

14 Q. Is that a colonoscopy?

15 A. That's --

16 Q. Or anesthesia for a colonoscopy?

17 A. Anesthesia code for colonoscopy, yes.

18 Q. Got it. And below that it says amount
19 paid. What does that mean? Is that the actual dollar
20 amount paid to the clinic?

21 A. That's correct.

22 Q. And how much is that?

23 A. That's a hundred dollars.

24 Q. Now if we move over where it says, on the
25 right hand side of that expanded section, it says amount

1 claimed. Do you see that?
 2 A. Yes, sir.
 3 Q. It also has another number there. What is
 4 that number?
 5 A. That is also a hundred dollars.
 6 Q. Is that what was actually claimed on this?
 7 A. That's right, they billed a hundred dollars
 8 and they were paid a hundred dollars.
 9 Q. Now if we go down to the bottom we see it
 10 says units paid and it has a number there.
 11 A. Yes, sir.
 12 Q. What is that?
 13 A. That is the number 8.
 14 Q. And anesthesia time?
 15 A. Was 31 minutes.
 16 Q. So even though the amount billed was a
 17 hundred dollars and the amount claimed was a hundred
 18 dollars, this 30, I just want to be clear, this
 19 anesthesia time of 31 minutes and the units that they
 20 claimed were eight, were actually, that's the
 21 information that was contained in the form that was
 22 submitted to you for payment?
 23 A. That's correct, uh-huh.
 24 Q. So if this was an incorrect amount, if it
 25 really wasn't 31 minutes, that would be something that

1 would be incorrect on the form that was submitted to
 2 you?
 3 A. That's correct, yes.
 4 Q. Now did you have anything else to do with
 5 this particular claim or work or are you just providing
 6 this information to us today?
 7 A. That's it, uh-huh.
 8 MR. STAUDAHER: I have nothing further for
 9 this witness.
 10 THE FOREPERSON: Are there any questions
 11 from the jury?
 12 There are none.
 13 By law, these proceedings are secret and
 14 you are prohibited from disclosing to anyone anything
 15 that has transpired before us, including evidence and
 16 statements presented to the Grand Jury, any event
 17 occurring or statement made in the presence of the Grand
 18 Jury, and information obtained by the Grand Jury.
 19 Failure to comply with this admonition is a
 20 gross misdemeanor punishable by a year in the Clark
 21 County Detention Center and a \$2,000 fine. In addition,
 22 you may be held in contempt of court punishable by an
 23 additional \$500 fine and 25 days in the Clark County
 24 Detention Center.
 25 Do you understand this admonition?

1 THE WITNESS: Yes, ma'am.
 2 THE FOREPERSON: Thank you. You may be
 3 excused.
 4 THE WITNESS: Thank you very much.
 5 MR. STAUDAHER: One second ladies and
 6 gentlemen.
 7 Ladies and gentlemen of the Grand Jury,
 8 that concludes the testimony in this particular case
 9 today. We are not going to submit it for deliberation
 10 at this time. We have at least one more presentation to
 11 make. So I will submit it to you at another date but at
 12 this point we'll conclude testimony. Thank you.
 13 (Proceedings adjourned, to reconvene
 14 At a later, undetermined time.)
 15 --oo0oo--
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 **REPORTER'S CERTIFICATE**
 2
 3 **STATE OF NEVADA**)
 4 **COUNTY OF CLARK**) Ss
 5
 6 I, Danette L. Antonacci, C.C.R. 222, do
 7 hereby certify that I took down in Shorthand (Stenotype)
 8 all of the proceedings had in the before-entitled matter
 9 at the time and place indicated and thereafter said
 10 shorthand notes were transcribed at and under my
 11 direction and supervision and that the foregoing
 12 transcript constitutes a full, true, and accurate record
 13 of the proceedings had.
 14 Dated at Las Vegas, Nevada,
 15 May 15, 2010.

Danette L. Antonacci
 Danette L. Antonacci, C.C.R. 222

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER 09BGJ049ABC:

☒ Does not contain the social security number of any person,

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to-wit: NRS 656.250.

-OR-

B. For the administration of a public program or for an application for a federal or state grant.

Danette L. Antonacci
Signature

5-15-10
Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

RA000353