

1 been a nurse administrator at the hospital where I was, and
2 decided that for my family and everything I needed something a
3 little more low key. So I wanted to go back to the bedside
4 and looked for clinic work, and I looked in the newspaper.
5 They were advertising for a nurse. I sent my resume in and I
6 was called for an interview.

7 In the meantime, I found out where it was and
8 researched. It was the largest privately owned clinic, who
9 the owners were and that they were involved with the medical
10 board, things like that. So I went in, was interviewed by
11 Jeff Krueger and Tonya Rushing and was hired.

12 Q And how long after your interview did you start
13 working approximately?

14 A It wasn't that long. I can't remember. It was
15 really quick, because we -- I wanted to get a job as quick as
16 possible, so maybe it was a week or so.

17 Q When you were working at the endoscopy center,
18 you're an RN, correct?

19 A Yes, ma'am.

20 Q Did you -- did you work all areas of the
21 practice; meaning preop, procedure room and recovery?

22 A Not when I was first there. When I was first
23 there I was trained in the endoscopy room pretty much
24 exclusively. And then later some things happened and I wound
25 up being most of my time there the preop nurse.

1 Q And so you first -- you first started in the
2 procedure room?

3 A Yes.

4 Q Okay. That's what we've been calling it.

5 A Okay.

6 Q I think you used a different word, but is --

7 A Endoscopy room.

8 Q Okay. Is procedure room okay, just so we're --

9 A That's fine.

10 Q -- you know, talking about the same thing?

11 Who trained you to work in the procedure room?

12 A Maggie Murphy was one person who trained me.

13 Jeff Krueger also trained me. Rod Chaffee also was a person I
14 oriented with, and I believe Lisa Falzone.

15 Q And in the procedure room, were your
16 responsibilities monitoring the patient somewhat, but
17 documenting what happened in the procedure?

18 A Right.

19 Q But I think you said that eventually you were
20 spending a lot of your time in preop.

21 A Right.

22 Q So you would have been the first medical person
23 that the patients came in contact with once they were brought
24 back for their procedures?

25 A Yes, ma'am.

1 Q As the person in the preop room, were you called
2 upon to administer IVs to patients?

3 A That was our job, to start the IVs. That was
4 the primary thing, to give an IV, and they wanted the best
5 person possible to do it. They only wanted one stick per
6 patient and I kind of had the skills, so that's where I wound
7 up.

8 Q Now, we've heard people describe like, well, I
9 looked for a good vein. I guess you must be good at finding a
10 good vein?

11 A Yeah.

12 Q And when you say one stick, what do you mean?

13 A That instead of using multiple needles to get
14 into the vein, that you would put the tourniquet on, look for
15 a vein that either popped out or that you could feel, and then
16 I could get the needle in, take the needle out and leave the
17 catheter behind just in one stick.

18 Q When you -- when you were working the procedure
19 room and you got the IV administered, would you flush it with
20 saline?

21 A Yes.

22 Q Was that your normal practice, did you --

23 A Right.

24 Q You have to --

25 A And we had bottles of saline and it was like a

1 tray that we had set up with all our supplies. And you would
2 take a new syringe that had a needle already attached to it,
3 clean off the top of the saline, pull back like 2 to 3 cc,
4 which is the smallest syringes, and then just flush the port
5 of the heparin lock -- I'm sorry. It's a saline lock.
6 There's no heparin in it. Just flush it with some saline to
7 make sure it stayed open until they got in the procedure room.

8 Q And did -- to your knowledge, did all preop
9 nurses flush that with saline?

10 A All the RNs did, yes.

11 Q In your training in nursing and then your
12 obviously your experience working in New Orleans prior to
13 coming to Las Vegas, were you familiar with aseptic technique
14 or universal precautions?

15 A Intimately.

16 Q Very, very familiar?

17 A Extremely. I was considered the gestapo in some
18 places where I worked.

19 Q Okay. And what does that mean to you, those
20 techniques?

21 A You treat every patient -- universal technique
22 means you treat every patient as if they were infected with
23 something that could potentially harm you or something back to
24 them, so you would always wear gloves. You would always make
25 sure that anything you're using on the patient is sterile,

1 clean, appropriately cleaned used on the patient, and that you
2 wouldn't use one thing from one patient to another that had
3 been used.

4 Q And along those lines, if you had administered
5 something to a patient, would you ever go back into the common
6 saline vial with that needle and syringe?

7 A No. Never.

8 Q Why not?

9 A Because you could contaminate that saline with
10 whatever was in that patient's IV into that saline bottle.

11 Q Now, is this some secret bit of knowledge that
12 you have?

13 A No, no. That's Nursing 101.

14 Q So that's pretty basic?

15 A Yes.

16 Q When you -- when you were working at the clinic,
17 did you ever have a supervisory role?

18 A I was supposed to be taking over the charge
19 nurse position starting March 1st of 2008.

20 Q Okay.

21 A But -- I'm sorry. I never signed any papers.
22 It was never given over to me. It was never decided that I
23 finally had it. I was in grooming, training.

24 Q When you were working at the clinic, did you
25 work with Lynette Campbell?

1 A Yes, I did.

2 Q And is she the lady that just left the
3 courtroom?

4 A Yes.

5 Q And what -- well, in what proximity did you work
6 with her, or --

7 A I was responsible for training her when she came
8 to the endoscopy center.

9 Q And in training her, did you have the
10 opportunity to observe her technique in administering the IV
11 and flushing it with saline?

12 A Yes, ma'am.

13 Q In your experience, did she ever violate those
14 precautions or proper technique?

15 A I never saw her do that.

16 Q And were you, you know, pretty strict? I mean,
17 were you watching, or were you --

18 A Oh, again, no, I stood there and watched her. I
19 had like a three or four time thing that I would watch, and
20 then even though she was working in the same room with me,
21 because the preop area was very small, I would still
22 occasionally watch other people doing IVs mostly because I
23 wanted to see who was going to be getting sticks and if they
24 did it right. She was still learning to do IVs, so I stayed
25 real close to her for a long time.

1 Q And so you had a -- at least a pretty good
2 opportunity to observe her practices?

3 A Yes.

4 Q During the time that you worked at the endoscopy
5 clinic, how would you describe the patient load?

6 A Very heavy. Extreme some days. I was surprised
7 at the number of people but -- that came through as patients.
8 I wasn't familiar with that type of workload, but I kind of
9 attributed to a new place. I'd never lived anyplace but New
10 Orleans, so.

11 Q This is how it is out in Las Vegas?

12 A The Wild West we jokingly call it in my family.

13 Q Was it hard for you to keep up with your work?

14 A Extremely hard. I was going through some
15 medical problems at the time, pretty much the whole time I was
16 employed at endoscopy center, and sometimes the physicality of
17 the job was very extreme on me. And emotionally sometimes it
18 would take a lot because I -- just the long hours and the
19 volume of patients, you didn't get a chance to care sometimes.

20 Q When you were in the procedure room and you
21 would initially have contact with patients when they first
22 came in, I mean, were you the one that kind of got a rapport
23 with them?

24 A Yeah. And that's kind of what I did too as
25 preop. I felt like that was one of the things that I could do

1 is put some humanity into it. And that's just the way I am
2 with patients; hey, how you doing, how's it going, wow, that
3 was a great drink, you had a drink last night, yeah, yuk, yuk.

4 You know, who's this, your wife with you, whatever,
5 is this the first time you've had this. Try to answer any of
6 their questions, explain to them a little bit about what's
7 going to happen as quickly -- I'm a fast talker, so I could
8 get some of that in before we had to move on.

9 Q Did the patients stay in preop long before they
10 were moved into recovery?

11 A Sometimes. It depended upon what was going on
12 with the patients in the procedure rooms. If you had a
13 patient that had a more complicated colonoscopy, several
14 polyps or something, they might be in there and so we kind of
15 would get backed up. So then I would talk to the patients.
16 We had a TV in there. We'd talk about what was on TV or
17 whatever, you know, human stuff we'd try to talk about.

18 Q Yeah. I mean, part of that, I would assume, was
19 to kind of lower their stress level and...

20 A Yeah.

21 Q Did you -- okay. You mostly were in preop, but
22 you were sometimes in the procedure rooms; is that right?

23 A Yes.

24 Q In the procedure rooms, did you observe or have
25 the opportunity to observe the CRNAs that were practicing?

1 A Yes.

2 Q And did you see how they would handle bathroom
3 breaks or lunch breaks?

4 A Yes.

5 Q Describe what you saw.

6 A For the most part always, whether it was the
7 nurses or the CRNAs, we would break between patients. It was
8 very infrequent that you would see someone leave the room
9 during a procedure. The procedures went so fast it wasn't
10 like you were holding on to go do something for, you know, 30,
11 40 minutes or something like that. So during the time that --
12 if somebody needed to take a break, the other person would
13 cover by going to the other room, anesthesiologists.

14 Same thing with the nurses. They would cover and
15 we'd have one doc going between the rooms and the anesthesiologists
16 would just follow them. And that's what happened at lunchtime
17 also. We'd go down to just one anesthesiologist, and that
18 anesthesiologist would follow the doc into the next room and then
19 back again to the next room.

20 Q And I mean, were -- I mean, in addition to lunch
21 breaks, were there like bathroom breaks or a personal break or
22 anything like that?

23 A Usually, if -- not usually. Like I said, we
24 usually did it between times. There may have been an
25 occasional time when someone was called out of the room during

1 the beginning of the morning around 10:00-ish or so. Like
2 when Dr. Desai was finished with his procedures during the
3 daytime, if he wanted to speak to somebody, if it might be
4 another doctor or Ron or somebody, then we'd kind of do the
5 same particular thing of switching through with just one.

6 Q Do you ever remember observing Ron Lakeman meet
7 with Dr. Desai in the mornings?

8 A Not before everything. But I do recall a couple
9 of times, I'm not specific about the dates, of being called
10 out to come meet with Dr. Desai, and whoever the other
11 anesthetist was would have to go between the rooms.

12 Q Now, did you yourself work with Dr. Desai?

13 A Yes.

14 Q And in your work with him, I mean, did you get
15 along with him?

16 A We had a mutual respect.

17 Q Did you ever talk to him or have a discussion
18 with him about the reuse of forceps?

19 A That wasn't a discussion. That was a yelling
20 match.

21 Q When was the yelling match?

22 A I don't know the date. I can't even tell you
23 when it was, but I remember it very vividly and apparently
24 even the nursing board heard about it, so. A lot of people
25 also remembered it. But I was working in the room and he was

1 going between patients, and one of the technicians came up to
2 me and said, He asked me -- he meaning Dr. D, had asked her to
3 use, reuse the forceps.

4 And I said, What are you talking about? And she
5 says, We're reprocessing the forceps. And I started talking
6 very loudly, screaming at some point, no, that's single use
7 only, you're not going to do that while I'm here, I will walk
8 out, I'm not doing this, this is putting patients at risk.

9 Q Who were you talking to when you were saying
10 that?

11 A Dr. Desai.

12 Q And --

13 A In the patient room.

14 Q Okay. And loud voice from you, or how would you
15 describe --

16 A Well, I talk loud anyway, so I didn't think I
17 was talking loud, but everybody heard it in the -- so I was --

18 Q What was the outcome?

19 A My perception of the outcome was that from that
20 time forward no one ever said anything about reusing anything
21 again in front of me, whether it was bite blocks or biopsy
22 forceps or anything. I always saw my technicians, then I was
23 really on the watch of seeing them open them or myself opening
24 the biopsy forceps to give to the physicians during the
25 procedures. But I can't attest to what was going on

1 everyplace else. I know that in my sight after that it never
2 happened that I saw.

3 Q In your time at the clinic, did you ever not
4 participate, but did you ever witness Dr. Desai and Dr. Carrol
5 maybe having a meeting?

6 A I would never witness a meeting. But when
7 somebody's pulled off with a patient, working on the patients
8 to go to Dr. Desai's office for awhile, you just assumed that
9 that was a meeting, because that's the only time -- that's
10 what a meeting was, to go to Dr. Desai's office, to be pulled
11 off of doing patient cases, and then we'd kind of have to go
12 to other physicians.

13 Q What about Tonya Rushing?

14 A Tonya would -- Tonya would participate in some
15 of those meetings sometimes, because I know we'd say, Well,
16 Dr. Desai and Tonya want to see you in Dr. D's office, that's
17 where he's going, he's going to Dr. D's office. I myself had
18 been called up to Tonya's office when I was working with
19 Katie, who was the director of nursing, on some policy changes
20 and things. And even though it was clinical, we had to go sit
21 in front of Tonya and discuss what those changes were going to
22 be.

23 Q Okay. And Tonya Rushing doesn't have a medical
24 background?

25 A No, she does not.

1 Q But you had some meetings with her about policy?

2 A Yeah. Specifically policies about what we would
3 be doing for every specific thing, whether it be how we
4 transport patients, who transports the patients, things that
5 were really under nursing's jurisdiction.

6 MS. WECKERLY: The Court's indulgence.

7 (Pause in proceedings)

8 BY MS. WECKERLY:

9 Q Ms. Drury, do you remember occasions or
10 instances where the CRNAs would put in the IV when you were in
11 the procedure rooms?

12 A Yes.

13 Q And did you observe whether or not they would
14 flush the heplock with saline?

15 A Most of the anesthesiologists did not use anything
16 but the propofol with or without the lidocaine in it. They
17 really didn't -- I've even -- I remember specifically even
18 offering them a couple of times a saline flush, and they're
19 going, No, no, we're good. So they would just start the IV,
20 put the cap on and have it ready to go just to put the
21 propofol. And when you're doing it in the room, it really was
22 only a few minutes before the case was going to start and they
23 were going to do that anyway, so.

24 Q And what -- I mean, what's the medical reason
25 why they wouldn't need to do the saline flush in the procedure

1 room?

2 A Because the -- well, there's no medical reason,
3 I guess. They just figured that they were going to be doing
4 the procedure so quickly, so shortly after that, that they
5 would just leave it open. I never thought that was good
6 practice, because you always want to make sure that that IV
7 stays patent; in other words, working, so that you would put
8 saline in it to make sure it stays working so that when you go
9 to give the anesthesia, you're not going, oh, it's clotted now
10 and I have to restart an IV. It's just better practice to
11 make sure it's going to stay there.

12 Q But in your experience, what you observed, they
13 didn't --

14 A No.

15 Q -- they didn't do the saline flush?

16 A No. No, they did not.

17 MS. WECKERLY: Thank you. I'll pass the witness,
18 Your Honor.

19 THE COURT: All right. Cross.

20 CROSS-EXAMINATION

21 BY MR. SANTACROCE:

22 Q Good afternoon, Ms. Drury.

23 A Mm-hmm.

24 Q I represent Ron Lakeman. You know Ron, correct?

25 A Yes.

1 Q When did you first come to meet Ron?

2 A When I started working at the endoscopy center.

3 Q And was your relationship just a working
4 relationship, or was there a social relationship?

5 A We had a little bit of social things at first.
6 We met a couple times for dinner. And when he was getting rid
7 of some furniture, because we had lost so much, he generously
8 gave us some linens and a couple of pieces of furniture.

9 Q And your professional relationship with him, you
10 worked in the procedure room with him on some occasions?

11 A Yes, I did.

12 Q We'll talk about that in a minute, but before we
13 do, I want to talk about the preop procedures as you described
14 them. The supplies that you used to do the heplocks were in a
15 utility tray of some kind, correct?

16 A Yes.

17 Q Would you fill up your own utility tray in the
18 morning?

19 A Usually it was the job of the preop nurses the
20 day before when they were finishing, to make sure the tray was
21 well stocked before you put it on the shelf and get it locked
22 up for overnight.

23 Q There's been some testimony that the unused
24 portions of saline would be -- at the end of the day would be
25 stored and then reused the next day; is that your

1 recollection?

2 A No. Because when I did it, I would throw away
3 the salines and start the new day. Because they're only good
4 for 24 hours without any preservatives in them.

5 Q Okay. So unlike propofol, which is only several
6 hours, saline can last up to 24 hours without being --

7 A That's what the standard is, yeah.

8 Q -- contaminated?

9 A Yeah.

10 Q Okay. So that wasn't your practice, but it
11 might have -- well, let me ask you this: Did you ever start a
12 day where there was unused portion of saline?

13 A There might have been. I can't remember off the
14 top of my head. But I would have never used it. I would have
15 thrown it away and opened my own bottles.

16 Q But there might have been occasions where there
17 were unused portions of saline in your tray to use the next
18 day, correct?

19 A I can't say definitely. I can't remember seeing
20 that.

21 Q And you can't say whether or not Lynette
22 Campbell or Jeff Krueger wouldn't have used those, can you?

23 A No. That's why I would have never used anything
24 that was opened, because I only use what I open.

25 Q Was there times when there was two RNs in the

1 preop area that would start --

2 A Yes.

3 Q -- heplocks?

4 You need to let me finish. I'm sorry. It's late in
5 the day and I'm slurring my words. It's going to take me a
6 little longer --

7 A That's okay. And I'm anxious and --

8 Q -- to get them out.

9 A -- I want to answer.

10 THE COURT: He usually doesn't slur his words
11 until 7:00 or 8:00 o'clock at night.

12 THE WITNESS: And I'm talking fast Southern. I just
13 want to get out of here, so.

14 MR. SANTACROCE: Me too.

15 BY MR. SANTACROCE:

16 Q In any event, there was times when there was two
17 RNs in the procedure -- preop room that would administer
18 heplocks, correct?

19 A Yes.

20 Q Okay. You testified that you never saw Lynette
21 Campbell use non-aseptic practices; is that correct?

22 A Correct.

23 Q On September 21, 2007, Lynette Campbell started
24 the heplocks on Rubino, Meana, Orellana, Martin and this guy,
25 and she also started it on Aspinwall and Grueskin. Did you

1 witness her start those heplocks --

2 A On that day?

3 Q -- on those patients on that day?

4 A No, because I was not there that day.

5 Q Okay.

6 A I was out on medical leave.

7 Q So you can't testify as to what procedures or
8 practices she used on September 21, 2007 whatsoever?

9 A I cannot. I was not there.

10 Q Jeff Krueger started a heplock on this patient
11 and this patient on that same day. And again, you weren't
12 there, so you can't testify as to what his practices and
13 procedures were?

14 A Correct.

15 Q And you can't testify that in the beginning of
16 the day Lynette Campbell didn't use saline bottle that was
17 already open from the day before, can you?

18 A I cannot say that, no.

19 Q You talked about these -- when the CRNAs took
20 lunch breaks, the procedure for that. Were you ever aware
21 that sometimes a third CRNA would come in at 11:00 o'clock in
22 the morning?

23 A That wasn't an always practice, but I -- now
24 that you're saying that, I do have recollection of that,
25 but --

1 Q And the reason that person would come in would
2 be to relieve a CRNA for lunch; isn't that correct?

3 A Yep.

4 Q So on these occasions where you witnessed CRNAs
5 relieving another CRNA for a lunch break, how often did you
6 witness that?

7 A Three people or two people? Two people
8 happened -- with only two people, that was the usual thing.

9 Q Okay. And how often did you work in the
10 procedure rooms as opposed to the preop room?

11 A Well, from May of 2006, when I was first hired,
12 to about that following December of 2006, I pretty much was in
13 there all the time. Peggy Tagle had one room and I had the
14 other pretty much all day. All day meaning you didn't even
15 get lunch and nobody came to relieve you for bathroom. After
16 December of 2006 to the rest of the time is when I started
17 doing the preop area and I continued that until the place
18 closed.

19 Q So from 2000 and -- the end of 2006 until the
20 operation closed in 2008, you were in preop?

21 A Mm-hmm. I did give lunch relief to nurses, and
22 I did start in the morning sometimes as an early person. I
23 would start the rooms.

24 Q What do you mean by that?

25 A I would be the preop nurse and follow the

1 patient into the room, so I might do one or two procedures in
2 the morning, and then it would switch to the nurse that was
3 going to be in the room all day.

4 Q So there'd be times throughout that 2006 to 2008
5 time period where you would work in a procedure room, but your
6 primary responsibility was preop during that time period; is
7 that correct?

8 A Yep.

9 Q And from the preop area, I suppose you were
10 pretty busy, because in your testimony to -- or your interview
11 with Metro you said that there'd be times when there'd be
12 three chairs, four people waiting to get heplocks started and
13 things of that nature, correct?

14 A Yes, I did.

15 Q So you were busy all day long, correct?

16 A Yep.

17 Q So you didn't have much time to look at what was
18 going on near the procedure rooms, did you?

19 A Not when I wasn't in the rooms, no.

20 Q You talked about the -- you had some heated
21 discussion with Dr. Desai about the reuse of bite blocks and
22 forceps; is that correct?

23 A Yes.

24 Q When was that?

25 A I can't recall what time frame that was.

1 Q Do you recall what year it was?

2 A No. I'd be guessing, and I'm not going to
3 guess. I really can't have a time frame for it.

4 Q So there was a time period when bite blocks and
5 forceps were reused?

6 A I don't know that. All I know is that's one of
7 the technicians came up to me and said she was told to do that
8 and I said, That's not happening while I'm here, so.

9 Q Okay. I want to jump back for a second, because
10 something struck me as not being right, and I don't know. You
11 testified that the syringes for the saline didn't come with
12 needles.

13 A No, I did. They had needles and syringes. They
14 were one piece.

15 Q Okay.

16 A And then later in the time that I was there, in
17 my tenure, it was just syringes that had saline in them, so
18 then you just had to hook them to the port.

19 Q Okay. So the time that the needles came with
20 the syringes, that was all one package?

21 A Yes.

22 Q Okay. So it must have been somebody else that
23 testified that the needle and the syringe came in two pieces.
24 Are you aware of that?

25 A I know that in the procedure rooms for

1 anesthesia, they had 10 cc syringes --

2 Q I'm not talking about that. I'm talking about
3 the preop saline.

4 A And I'm telling -- I'm trying to tell you that
5 in one place they had needles and syringes together, and that
6 was the preop area. There were other places in the facilities
7 where the needles and syringes were not together.

8 Q Was there ever a time in the preop area when the
9 needles and syringes weren't together?

10 A Not that I recall.

11 Q You talked about the CRNAs starting heplocks; is
12 that correct?

13 A Yes.

14 Q And when was that?

15 A That would be either when someone couldn't get
16 the IV, as in the preop area, or when a patient -- so it was a
17 difficult stick, or when the patients were one of the first
18 patients in the morning.

19 Q Well, we know that on September 21st of 2007,
20 the heplocks were all started by Lynette and Jeff Krueger, at
21 least for the infected patients. So when you're talking about
22 the CRNAs starting a heplock, you're not talking about
23 September 21, 2007, are you?

24 A No. I wasn't there, but you're showing me who
25 started them.

1 MR. SANTACROCE: I have nothing further. Thank you.

2 THE COURT: Ms. Stanish.

3 MS. STANISH: I know I'm not going to finish in 15
4 minutes, Your Honor, but do you want me to start, or just wait
5 until tomorrow?

6 THE COURT: I guess we can just take our evening
7 recess then.

8 MS. STANISH: Okay. Scrry, ma'am. You're going
9 to --

10 THE COURT: You're going to have to --

11 MS. STANISH: -- be welcomed back.

12 THE COURT: You're going to have to come back either
13 way.

14 THE WITNESS: My boss isn't really happy, but that's
15 okay.

16 THE COURT: What are they going to do.

17 THE WITNESS: I know.

18 THE COURT: Their bosses aren't happy.

19 MS. STANISH: We can take on your boss.

20 THE COURT: No one's boss is happy.

21 All right. Ladies and gentlemen, we're going to go
22 ahead and take our evening recess at this point in time.
23 We'll reconvene tomorrow morning at 9:00 a.m.

24 During the evening recess, you're reminded that
25 you're not to discuss this case or anything relating to the

1 case with each other or with anyone else. You're not to read,
2 watch or listen to any reports of or commentaries on this
3 case, any person or subject matter relating to the case.
4 Don't do any independent research by way of the Internet or
5 any other medium, and please don't form or express an opinion
6 on the trial.

7 Place your notepads in your chairs and follow Kenny
8 out through the rear door.

9 (Jurors recessed at 4:40 p.m.)

10 THE COURT: And ma'am, during our evening recess,
11 please don't discuss your testimony with anybody. Okay.

12 MS. WECKERLY: I missed the time that you said to
13 start tomorrow.

14 THE COURT: 9:00.

15 MS. WECKERLY: Okay. We have -- I've told the
16 defense that in addition now to Ms. Drury, we're planning on
17 calling Vince Sagendorf. He's out of state and then going on
18 vacation, so I --

19 THE COURT: Okay.

20 MS. WECKERLY: And I'm told he may be an all day
21 witness.

22 THE COURT: Really?

23 MR. WRIGHT: Another CRNA.

24 MS. WECKERLY: So --

25 THE COURT: Well, the other CRNAs didn't take all

1 day.

2 MR. SANTACROCE: Just a day and a half.

3 THE COURT: It just felt like it.

4 MS. WECKERLY: I'll have one other nurse kind of for
5 late afternoon that maybe we can call at the lunch break. But
6 based on their representations, I'm having that one witness
7 and Ms. Drury in the morning.

8 THE COURT: Okay. I will bring -- I had the bailiff
9 feel the -- wrong word, kind of test the waters --

10 MR. STAUDAHER: We knew what you meant.

11 THE COURT: Feel around with a juror, not a good word
12 choice, to see if our gal with the Safe Key issue could maybe
13 get other family members to kind of start stepping in so we
14 can start going to 6:00 to get this thing wrapped up. So far
15 no. And then she even complained before we asked her that
16 leaving at 5:10 she was late yesterday, when we ended a little
17 bit later.

18 So I'm going to see if maybe there's some way we can
19 start having longer days to get this wrapped up. I don't like
20 to start too early, but I'm thinking of maybe starting to
21 start at 8:30.

22 MR. WRIGHT: That's not -- I'm going to object to
23 that. When we started this, I explained the condition of my
24 client.

25 THE COURT: And so far we've been working, I think

1 we --

2 MR. WRIGHT: Yeah, but now you're talking about
3 changing it. He has not made a doctor's appointment. He has
4 not made a therapy appointment at all during this trial. And
5 he's wearing down.

6 THE COURT: Okay.

7 MR. WRIGHT: And I thought we had -- and we've told
8 the jurors our time.

9 THE COURT: Exactly, 9:00 to 5:00, and we've been
10 observing that. But we've had some late days, some 12:30
11 days. We've had a couple of early days last week. We had a
12 3:30 out or 3:45 out. We had a 1:00 o'clock out on Friday.
13 So we've also had some short days.

14 I mean, here's the thing. As I'm, you know, sitting
15 here, I don't want, you know, we talked about this before,
16 but, you know, I don't want any heart attacks here, myself
17 included. And I'm trying to figure, you know, what's the
18 least stressful thing, to have some longer days to maybe
19 shorten the time, you know.

20 But so far we've kept it always within the 9:00 to
21 5:00, and like I said, we had a couple of short days last
22 week. We've had two short days this week, and it's only been
23 a four-day week. So, you know, if we have an occasional day
24 of 8:30 to 6:00 or 9:30 to 6:00, or something like that, I
25 don't -- I'm not suggesting going 12-hour days every single

1 day.

2 MR. WRIGHT: Well, I can't do it. I told you what I
3 have to do in working with Dr. Desai. This isn't something
4 where I just go home or something.

5 THE COURT: No, I understand that.

6 MR. WRIGHT: Because of his diminished capacity, I
7 work -- I go back and work on the thing with him before
8 working on the case. This is the situation.

9 THE COURT: Okay. Then we'll stay with 9:00 to 5:00
10 days or shorter days, which again, we've had, you know, of the
11 last five days, four have been short days. This is -- and
12 this really wasn't even a long day because we didn't start --
13 the start time was 9:45. By the time they got here it was --
14 everybody was here, it was 10:00 o'clock.

15 We took an hour and a half for lunch, which turned
16 out to be longer than an hour and a half because three jurors
17 were late. So within the past five days, we have not had a
18 single full day within the past five days. Because we had, I
19 think Thursday was the 3:45, 3:30 out. Friday was the
20 holiday, that was a 1:00 o'clock out.

21 MR. STAUDAHER: Monday we weren't here.

22 THE COURT: Monday we weren't here. Tuesday was a
23 12:30 start. Wednesday was a 12:30 start. Today was a 9:45
24 start with an hour and a half taken for lunch.

25 MR. WRIGHT: We started at 9:00 o'clock Wednesday.

1 MR. SANTACROCE: Yeah. We had the Petrocelli.

2 MR. WRIGHT: We had a hearing that went the entire
3 time.

4 THE COURT: Oh, we did. We did. I'm talking about
5 the jurors.

6 MR. WRIGHT: And my client's here. This isn't a
7 leisurely pace. I don't know what [inaudible].

8 MS. STANISH: [Inaudible.]

9 MS. WECKERLY: I wasn't complaining about the time.
10 I just was saying I was going to have one other witness
11 besides Sagendorf.

12 THE COURT: I've had it with your lollygagging,
13 Mr. Wright. No, I know it's not a leisurely pace. I'm
14 just -- look, I'm trying to balance, you know, with the jurors
15 as well. I mean, they don't like long days either. But the
16 trial's taking a long time and all I'm --

17 Okay. So we'll stay with the 9:00 to 5:00, the days.
18 And again, I forgot that we all started at 9:00, but we've had
19 some shorter was my only point. We've had some shorter days
20 and some, you know, a long lunch today, so whatever. All
21 right.

22 MR. WRIGHT: I appreciate what we've done. I only
23 thought -- I was only objecting if it was moving off.

24 THE COURT: All right.

25 MS. WECKERLY: I'll email the name of the nurse. I

1 think I told you who it is, but...

2 THE COURT: Okay. So we'll see everybody at 9:00.

3 MR. SANTACROCE: Your Honor, what are we doing with
4 Ms. Pomikal [phonetic]?

5 MS. STANISH: Oh, right. Can we get the transcript?

6 THE COURT: I haven't had a chance to look at it,
7 notwithstanding the leisurely pace. It's on my desk. We'll
8 have copies for everyone tomorrow to look at. We also have
9 Mack Brown kind of hanging in the wind. He's now gone. I
10 wasn't too concerned about him, because he was still on paid
11 days. He's now transitioning into unpaid.

12 MR. WRIGHT: Has he said anything?

13 THE COURT: No. He hasn't said anything yet, so.

14 (Court recessed for the evening at 4:47 p.m.)
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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**KARR REPORTING, INC.
Aurora, Colorado**


KIMBERLY LAWSON

1 now. We're going to take our lunch break.

2 Ladies and gentlemen, we'll be in recess for the
3 lunch break until 2:30. During the lunch break, you are
4 reminded that you're not to discuss the case or anything
5 relating to the case with each other or with anyone else.
6 You're not to read, watch or listen to any reports of or
7 commentaries on the case, person or subject matter relating to
8 the case. Don't do any independent research by way of the
9 Internet or any other medium, and please do not form or
10 express an opinion on the trial.

11 Notepads in your chairs. Follow the bailiff through
12 the rear door.

13 (Jurors recessed at 12:57 p.m.)

14 THE COURT: And ma'am, don't discuss your testimony
15 with anybody else during the lunch break.

16 (Court recessed at 12:58 p.m. until 2:34 p.m.)

17 (Outside the presence of the jury.)

18 MR. WRIGHT: Judge, I think Ralph McDowell took
19 Exhibit A1 when he left.

20 THE COURT: Oh, he did?

21 MR. WRIGHT: So I replaced it with an identical one.

22 THE COURT: Okay.

23 MR. WRIGHT: And put a D where the A was. I had had
24 him correct it.

25 THE COURT: Okay.

1 MR. WRIGHT: And so I gave it to the clerk, because
2 we can't find it and he had it last.

3 THE COURT: He asked me. He said, What do I do with
4 this? He tried to hand it to me and I said, Leave it there
5 for now.

6 MS. STANISH: Oh, and he took it probably.

7 THE COURT: So maybe that meant take it with you when
8 you go.

9 Tell Kenny to bring them in.

10 MR. WRIGHT: Yeah, but there was with his own stack
11 of papers.

12 MR. STAUDAHER: Yeah. That was his perception of
13 what she said. [Inaudible.]

14 MR. WRIGHT: He brought his own interviews.

15 THE COURT: Does anyone -- well, never mind.

16 (Pause in proceeding.)

17 (Jurors reconvene at 2:36 p.m.)

18 THE COURT: Court is now back in session. And ma'am,
19 obviously you're still under oath. And Mr. Santacroce, you
20 may resume your cross-examination.

21 MR. SANTACROCE: Okay.

22 CROSS-EXAMINATION (continued)

23 BY MR. SANTACROCE:

24 Q When we left off we were looking at the
25 September 21, 2007 patient chart prepared by the State, and we

1 left off with this patient right here, Patient 23. And it
2 showed that there were two nurses in the room at the time of
3 that procedure, Cathy Stedner [phonetic] and yourself,
4 correct?

5 A Right.

6 Q And I believe you testified that you were
7 training her?

8 A Yes.

9 Q And tell me again -- now, you told me about the
10 preop area and how you trained RNs in that area. How did you
11 train an RN in the procedure room?

12 A I would show them that after the nurse
13 anesthetist got finished with the chart, I would show them the
14 process of going over and introducing yourself to the patient,
15 then asking the patient what they were there for, which
16 procedure and what prep did they take. And then I would ask
17 them what their name was, full name and their date of birth.

18 And by that we could double-check and make sure we
19 had the right patient with the right chart, because some of
20 the names are duplicate, especially some of the Hispanic
21 names. You would get Juan Garcia, and there might be three or
22 four of them, but the way you could tell them apart was by
23 their birth date.

24 Q Was there anything else you would do to train
25 them?

1 A I would show them then how to enter the
2 information into the computer, and then I would show them how
3 to fill out the paperwork that was required of us, as well as
4 the lab forms.

5 Q And the State showed you Exhibit Bates No. 3468,
6 which is the patient file for Sonia Rivera. And I believe
7 they showed you this document.

8 A Yes.

9 Q Correct?

10 A Yes.

11 Q Now, what would you show the nurse trainee
12 regarding this document? I presume this is where you typed in
13 the information in the computer, correct?

14 A That's not the same document.

15 Q Oh, okay. Let's see.

16 MS. WECKERLY: It was a page before.

17 BY MR. SANTACROCE:

18 Q This one?

19 A That one. I would show them how to type in
20 the -- do -- it either gave you the option of doing a
21 colonoscopy or EGD, and this one had a colonoscopy. Then I
22 would show them how to put -- first I would verify if the name
23 was spelled, and you would put the medical record number in
24 over --- it's on the far right.

25 Q You can write on that screen. You can just use

1 your fingernail.

2 A Right here is the medical record number. And
3 then their date of birth is what we would verify on that.
4 This one actually has a Social Security number. We would also
5 verify that if they had one. Not all of them had Social
6 Security numbers. And then I would show her how to put the
7 doctor's name, the nurse's name and the nurse anesthetist in
8 that, and which referring clinic and doctor.

9 Q And all this would be done in the procedure
10 room --

11 A Yes.

12 Q -- before the procedure started?

13 A Yes. Yes.

14 Q And then turning to Bates Stamp 3510, I believe
15 you were shown this document as well; is that correct?

16 A Okay. This here is the -- I can't see the whole
17 form, but it looks like the preop.

18 Q Maybe that's the wrong one. I think it was this
19 one --

20 A No.

21 Q -- 3513?

22 A That's not it.

23 Q Okay. We'll get to it eventually. This one?

24 A That one.

25 Q Okay. Would you show the nurse trainee anything

1 to do with this form?

2 A Yes. This here is our nurse procedure record.
3 And I would show her that we would fill in the physician, the
4 nurse's name, the tech, and where this is missing is the nurse
5 anesthetist. And then we would go ahead and put the propofol
6 there in the milligrams, but we would leave the milligram off
7 until the case was finished.

8 Q Okay. I need you to mark it with your
9 fingernail what you're talking about.

10 A We would fill in the propofol and the mg,
11 because that's how it comes, and then we would put by, we
12 could go ahead and put that on there until it was finished,
13 then we would finish it out when the case is over.

14 Q Okay. When you say you'd finish it out when the
15 case was over, what would you do when the case was over?

16 A When the nurse anesthetist would hand us their
17 record, it would show us the amount of propofol that they
18 gave, and we'd put that amount in. And we -- when the nurse
19 anesthetist comes in, we'd put their initials because they are
20 the ones that are administering it.

21 Q Okay. Anything else on this form you would fill
22 out?

23 A Yes. It's at the bottom.

24 Q Okay. Tell me about it.

25 A All right. I've got my signature here and

1 you -- if you roll it up, I'll show you more. Okay. The
2 procedure --

3 Q Hit the -- yeah. Good deal.

4 A The procedure starts from the EKG strip that we
5 get with the -- and the first vital sign.

6 Q Okay. Stop right there and tell me about the
7 procedure time. Is the patient in the room at this time?

8 A Yes. The patient is in the room and hooked up
9 to the monitor, and has his EKG strip as well as his vital
10 signs taken. That's the time that we start.

11 Q And where do you get that 10:44 time from?

12 A It's from the rhythm strip as well as the vital
13 sign strips, we print them off and they're on the chart.
14 They're stapled into the chart.

15 Q Okay. All right. Go ahead.

16 A And the end time is also from the vital signs
17 strip. The vital sign strip will show the first time -- the
18 first vital signs that was taken, and this is the last one
19 before we take to the recovery room.

20 Q And the patient is still --

21 A And then --

22 Q -- still in the procedure room at this time?

23 A That's when we ended and disconnected --

24 Q Okay.

25 A -- and took the patient to the recovery room. I

1 do the nurse's notes. We went ahead and positioned her if we
2 did no biopsies on her and she didn't have any problems with
3 the procedure. If there was any complications with her heart
4 rate dropping or anything else that come about, that's where
5 we would put it, right there.

6 Q And that -- this is your particular note,
7 correct?

8 A Yes.

9 Q And so you trained every nurse that you trained
10 in the procedure room the same way?

11 A Yes.

12 Q Okay. Going back to the patient list here, I'm
13 going to step over here because I can't read that. So when
14 you're in the room with Cathy Stedner, okay, it looks like you
15 had her for two procedures, correct?

16 A Yes. And then she just put her name in and I
17 would have her for the whole day. So obviously she did not
18 put my name in the rest of the day after I showed her how.

19 Q Okay. So where Cathy Steedner appears on
20 Patient No. 28, it looks like, in between the two green strips
21 there --

22 A Yes.

23 Q -- would you have been in the room with her on
24 that occasion?

25 A Yes. I would be in the room with her.

1 Q You started out with McGreevy. Do you see that
2 earlier in the day?

3 A Yes. I see that she was there.

4 Q And I believe you were training her also?

5 A I trained several of the nurses.

6 Q Okay. But on this particular day, I believe you
7 testified that you were training McGreevy too; is that
8 correct?

9 A I do not know the dates that I trained the
10 nurses.

11 Q So you can't tell me if you were in the room
12 with Ms. McGreevy during these procedures or not?

13 A No, sir, I cannot tell you for sure without
14 looking at when they were there and what days that I did train
15 them. I'm sure it's documented somewhere where they come in.

16 Q Okay. But where your name appears and where
17 your name and Cathy Steedner name appears, we can be certain
18 that you were in the room at that time on those procedures,
19 correct?

20 A Yes.

21 Q Now, I'll represent to you that the different
22 colors of the strips, the first one Kenneth Rubino, he
23 appeared to be the source patient for this day, that's why
24 he's in orange. Then there's a yellow strip there which could
25 not be genetically linked to Mr. Rubino. Then there's green

1 strips, and these were people that have been alleged to have
2 gotten hepatitis C from the clinic on that day. So do you see
3 all of those?

4 A Yes, I see them.

5 Q It appears that you were in the room with
6 Kenneth Rubino, correct?

7 A Yes.

8 Q During that procedure with Mr. Rubino, were you
9 cognizant or conscious or aware of any unsafe practices by
10 anyone in the room during that procedure?

11 A I do not recall any.

12 Q If you had recalled some, would you have
13 reported them or taken some action?

14 A I would have went to my chain of command.

15 Q Who is your chain of command?

16 A It was Jeff Krueger was the charge nurse. And
17 then it was Katie -- it started with an M.

18 Q Katie Maley?

19 A Maley.

20 Q So you would have reported anything abnormal to
21 them, correct?

22 A Yes.

23 Q But you don't recall that happening with Kenneth
24 Rubino, do you?

25 A No.

1 Q Let's go on to the next patient, 55C. It says
2 Linda McGreevy, but I believe you couldn't testify whether or
3 not you were in the room with that one, correct?

4 A No. I could not.

5 Q The next one down is Rodolfo Meana. You were
6 the nurse, Keith Mathahs was the CRNA?

7 A Yes.

8 Q Were you cognizant or aware or conscious of any
9 unsafe practices that occurred in the procedure with
10 Mr. Meana?

11 A No.

12 Q Going down to Sonia Orellana, you were the
13 nurse, Keith Mathahs was the CRNA?

14 A Yes.

15 Q Same question. Were you cognizant or aware or
16 conscious of any unsafe practices that occurred in that
17 procedure room with Ms. Orellana?

18 A No.

19 Q How about with Gwendolyn Martin? You were also
20 the nurse, Keith Mathahs the CRNA.

21 A No, I did not see anything.

22 Q So all of the procedures you did on September 21
23 were basically the same thing you had observed throughout your
24 career at the endoscopy center; is that correct?

25 A Yes.

1 Q And nothing out of the ordinary or unusual?

2 A No.

3 Q And during those procedures we just went over,
4 you stayed in the room throughout those procedures; is that
5 correct?

6 A Yes.

7 Q And it's fair to say that Mr. Mathahs was in the
8 room during those procedures?

9 A Yes.

10 MR. SANTACROCE: I have nothing further. Thank you.

11 THE COURT: All right. Redirect.

12 REDIRECT EXAMINATION

13 BY MS. WECKERLY:

14 Q Ma'am, do you have any independent recollection
15 of September the 21st, 2007?

16 A No.

17 Q And so when you were asked about the procedure
18 on Mr. Rubino, are you basing your answer on the totality of
19 your work experience, or because you actually remember what
20 procedure you did in that procedure room on September the
21 21st?

22 A Work procedure.

23 Q Okay. So on like over the course of my
24 employment, I don't remember seeing anything dangerous; is
25 that fair?

1 A That's fair.

2 Q Okay. Not because you go, oh, my gosh, Mr.
3 Rubino, he was this tall, I remember his procedure and this is
4 what happened?

5 A No. I do not remember.

6 MR. SANTACROCE: I'm going to object to leading, Your
7 Honor.

8 THE COURT: Overruled.

9 BY MS. WECKERLY:

10 Q And if I understood your testimony on direct and
11 cross-examination, you trained several nurses.

12 A Yes, I did.

13 Q And do you independently remember if September
14 the 21st was a day you were training?

15 A I do not.

16 Q And I believe your testimony on direct was when
17 we see your name in the nursing record but not on the doctor's
18 chart, that's a likely explanation for that?

19 A Yes.

20 Q Okay. Because you maybe would have the trainee
21 do the computer part, but you were the person in the room?

22 A Yes.

23 Q But as you sit here today, I would assume you
24 don't know for sure whether or not you were training without
25 looking at the documents?

1 A I do not.

2 Q Thank you.

3 THE COURT: Recross?

4 MS. STANISH: No, Your Honor.

5 THE COURT: Mr. Santacroce?

6 MR. SANTACROCE: No, Your Honor.

7 THE COURT: All right. We have a juror question up
8 here. A juror would like to know, was the sharps container in
9 the preop area portable, or was it attached to a wall?

10 THE WITNESS: Both.

11 THE COURT: So there were two?

12 THE WITNESS: There was a portable one that we could
13 take to the -- there was one close to one of the chairs that
14 was up on the wall. And two of the chairs, you had to have
15 somewhere to put the sharps without carrying them across the
16 room, so you used a portable one.

17 THE COURT: Okay. And did you ever see a heplock
18 being reflushed between the preop area where it was installed
19 and the procedure rooms, flushed with saline?

20 THE WITNESS: It was flushed once.

21 THE COURT: Just once. Okay. Was that always done
22 when it was, for lack of a better word, inserted or installed?

23 THE WITNESS: Once it was installed, you -- because
24 it does have the blood flush where it -- a backflash on it,
25 and you want to make sure the blood is flushed out of the

1 cannula, as well as that it's going, that it's in the vein.

2 THE COURT: State, any follow-up?

3 MS. WECKERLY: No, Your Honor.

4 THE COURT: Defense, any follow-up?

5 MR. SANTACROCE: No.

6 MS. STANISH: No, Your Honor.

7 THE COURT: Any additional juror questions for this
8 witness?

9 All right. Ma'am, there are no further questions for
10 you. Thank you for your testimony. Please don't discuss your
11 testimony with anyone else who may be called as a witness in
12 this matter. Thank you. You are excused.

13 State, call your next witness.

14 MS. WECKERLY: Anne Yost.

15 MS. STANISH: Your Honor, may we approach as the
16 witness is on her way?

17 THE COURT: Sure.

18 (Off-record bench conference.)

19 ANNE YOST, STATE'S WITNESS, SWORN

20 THE CLERK: Please state and spell your first and
21 last name for the record.

22 THE WITNESS: First name is Anne, A-n-n-e. The last
23 name is Yost, Y-o-s-t.

24 THE COURT: All right. Ms. Weckerly, go ahead.

25 DIRECT EXAMINATION

KARR REPORTING, INC.

1 BY MS. WECKERLY:

2 Q Ms. Yost, did you live in Las Vegas in 2007?

3 A I did.

4 Q And during that time period, how were you
5 employed?

6 A In 2007, in July for three days I was employed
7 at the Endoscopy Center of Southern Nevada.

8 Q And how are you -- what was your job there?

9 A I was a registered nurse.

10 Q Where had you gone to school that allowed you to
11 work as a registered nurse?

12 A The College of Southern Nevada.

13 Q And when did you graduate?

14 A 2007.

15 Q And so was the endoscopy center your very first
16 job?

17 A It was.

18 Q How did you go about getting the job?

19 A I'm not sure where I saw the ad for it, but then
20 I interviewed with Katie Maley, the director of nursing. Then
21 right after that, I started a week later.

22 Q So pretty quickly after your interview you
23 started?

24 A Yes.

25 Q And I think you said at the beginning of your

1 testimony you worked there three days?

2 A Three days.

3 Q In July of 2007?

4 A Yes.

5 Q Do you know the three days, or you just know it
6 was July?

7 A It was the 2nd, 3rd and 5th.

8 Q So kind of spanning the holiday?

9 A Right.

10 Q When you first got there on your very first day
11 of work, what happened? Tell us how you went into the
12 facility and what they did with you on your first day?

13 A Basically just some quick first name
14 introductions with everybody there, showed me around the
15 place, showed me what this room is this, this room is that.
16 Then I was taken into the procedure room, and then mainly the
17 rest of the day I spent my time there.

18 Q Okay. And you're an RN, correct?

19 A That's correct.

20 Q And you -- was the job that you were hired for
21 to be a circulating nurse, you know, in different parts of the
22 facility, or did you know exactly what you were going to be
23 doing when you got there?

24 A I wasn't sure exactly where I would be. I knew
25 it wasn't going to be the preop area, but then they put me

1 into the procedure rooms.

2 Q Okay. And on the procedure rooms, or when you
3 were there on your first day, did you follow anyone around, or
4 did anyone train you or kind of orient you to how they do
5 things?

6 A Yes. I shadowed a nurse when I was there.

7 Q Do you remember that person's name?

8 A Unfortunately, no.

9 Q Okay. When you shadowed though, that nurse, was
10 it a female?

11 A It was.

12 Q What did that person show you how to do?

13 A Basically how to do the charting, some of the
14 billing, and how to discuss things with the patient.

15 Q Okay. What -- how were you trained to do the
16 charting?

17 A The charting was basically from -- it kind of
18 varied. From time to time there would be some precharting
19 done; as in the preop nurse would do a little bit of the
20 charting, and that would already be on the chart. And then
21 from there we would just take over, or that -- rather the
22 nurse teaching me would take over and show the rest of the
23 charting. Sometimes the charting would start from point
24 blank, when the patient came in, and then go -- fill out from
25 there.

1 Q And on your days there, what part of the
2 facility were you stationed in? Were you in the preop or the
3 procedure --

4 A Always the procedure room.

5 Q In the procedure room?

6 A Mm-hmm.

7 Q And so if I'm understanding you, sometimes
8 you -- well, you'd get charts from a nurse who was working in
9 preop?

10 A Right. It would just arrive with the patient on
11 the gurney, or they might just hand it to you real quick.

12 Q And when you looked at those charts, you said
13 there was some precharting. In what manner did you see the
14 precharting? Like what did you see?

15 A Just a couple of things checked off for the
16 procedure room that should have just been in the procedure
17 room, charted there. There'd have been a couple things would
18 be checked off.

19 Q Would they be like patient vitals or
20 observations of the --

21 A More observation.

22 Q And would the observations be oriented to the
23 procedure?

24 A Yes.

25 Q So they were checked off before the procedure

1 occurred?

2 A Yes.

3 Q And then when you receive it, you're in the
4 procedure room, what did you do when you saw the chart that
5 had stuff checked off that was, I guess, supposed to be
6 checked off by you?

7 A If it did match what the situation was, I would
8 leave it. If it did not match, I would correct it.

9 Q Okay. Was there anything in terms of the charts
10 that you remember that had to do with timing or filling in
11 times?

12 A Yes. There was -- it's kind of complicated to
13 discuss it. But basically the nurse training me said don't --
14 make sure that your time does not overlap the preop nurse's
15 time. So let's say that nurse had written that she finished
16 at 9:45, make sure that you don't write that the patient came
17 in at 9:44, even though the patient might have been there
18 at 9:44.

19 Q Okay. So make sure that your --

20 A Make sure that you're at 9:46.

21 Q Okay. So there was no overlap?

22 A Correct.

23 Q And I mean, did you do that? Did you do that
24 kind of timing, or fill in your timing to make sure there was
25 no overlap?

1 A I made sure that I did it correctly. Like when
2 the patient came in the room, that's the time I put down.

3 Q And is that how you were trained to do it?

4 A It's just --

5 Q I mean in nursing school.

6 A In nursing school, yeah. Yes. In nursing
7 school we were trained that when the patient comes in the
8 room, that's the time that you start.

9 Q Okay. Did you ever see, I guess, not a vital,
10 but like a, you know, the patient is alert or the patient is
11 oriented sort of observational categories on a chart?

12 A Did I see that?

13 Q Mm-hmm.

14 A Yes.

15 Q And did you ever see those filled in when you
16 were the person that was supposed to be making the
17 observation?

18 A Yes.

19 Q In those instances, how did you handle that in
20 your three days there?

21 A At one point I told the nurse I didn't like it,
22 that that's not the way I was trained for it to be done. So
23 like I said, if -- I made sure that it did match my situation,
24 and if it didn't I corrected it.

25 Q And was this -- was the charting unique to one

1 case, or did it happen on all three days that you were working
2 there?

3 A It was really sporadic. Like I said, sometimes
4 we'd get a little bit of precharting. Sometimes they wouldn't
5 have done that at all, it was the correct way. It come in the
6 correct way.

7 Q Were you ever asked as the procedure room nurse
8 to chart for a nurse in recovery?

9 A I was encouraged to do that, yes.

10 Q And did you do that?

11 A No.

12 Q What -- do you remember what types of things you
13 were being asked to chart for the recovery room nurse?

14 A I believe it was the same sort of observations
15 that we had made in the -- in the procedure room.

16 Q Now, you said that you talked to someone in
17 during either your first, second or third day about being
18 uncomfortable with this method.

19 A Mm-hmm.

20 Q Do you remember who it was that you talked to?

21 A I don't.

22 Q It was just one of the nurses training you?

23 A Right.

24 Q Were you -- were you worried about your
25 professional license with this?

1 A I was, and that's why I resigned my position.

2 Q Now, before you resigned, and we'll come back to
3 that, did you in the three days that you were there, how would
4 you describe the business of the facility? Were there a lot
5 of patients, a few patients? What was your observation?

6 A The waiting room was almost always jam packed
7 full of people. Sometimes there were people standing, not
8 even seated it was so full. Patients were rapidly going into
9 the procedures and back out.

10 Q When they were in the procedure room and you
11 were training, you were the -- obviously training as the
12 procedure room nurse; is that yes?

13 A Yes.

14 Q Okay. Did you -- were you able to keep up with
15 the patients as they moved through the procedure room?

16 A I was not. No.

17 Q And what happened in those instances when you
18 couldn't keep up?

19 A What I -- well, I was trying to do it correctly
20 every time, and the nurse would get frustrated with me and
21 she'd say, Hurry, hurry up, faster, faster. The physicians
22 would say, Why aren't we ready for the next patient. And so
23 it was real frustrating.

24 Q When you were in the procedure room, how long --
25 do you remember how long the procedures were lasting, or do

1 you have any recollection of that?

2 A Some of them would take about -- it seemed like
3 it, about seven minutes. It was really rapid. And others
4 would take 45 minutes.

5 Q And then there -- was there a turnover time
6 between patients in the rooms? Were anything -- was anything
7 done to the rooms?

8 A No. There would be a patient, that patient
9 would leave and the next one would come in.

10 Q Was there any cleaning or anything between
11 people?

12 A No.

13 Q Are you aware of the drug propofol?

14 A Yes.

15 Q And were you aware at the time you worked there
16 that that was used to sedate patients?

17 A Yes. It was what was on the counter, yes.

18 Q From your vantage point in the procedure room,
19 were you able to see the person administering the propofol?

20 A Yes.

21 Q And I guess, how would you explain where you
22 were situated in relation to the patient and the anesthetist?

23 A It was pretty much all in front of me. The
24 patient would be in the gurney sort of in front of me to the
25 right. The CRNA would be to my left of that gurney. They

1 would reach over to the right and administer the propofol.

2 Q Could you see the CRNA's like work area or what
3 they were working from?

4 A I could see when they would administer to the
5 patient. I could see what they were drawing from to the left
6 on the counter.

7 Q How about them actually drawing medication up,
8 could you see that?

9 A I could see them draw it up, yes.

10 Q Okay. What did you -- what did you observe
11 about the CRNAs and the medication?

12 A Basically there were -- at any given time there
13 were two vials on the counter that were drawn from.

14 Q For a single patient?

15 A Yes.

16 Q So there'd be two -- well, were they like
17 partially used vials?

18 A Yes.

19 Q And they would draw from both for a single
20 patient?

21 A I don't know if they would draw from both of
22 those for a single patient. They would draw from perhaps one
23 for the single patient.

24 Q And did you see what happened to those vials?

25 A They -- the whole time the vials would either be

1 up on the counter or in a drawer, so.

2 Q Would they ever be moved when the next patient
3 came in?

4 A No. They were still there.

5 Q Could you see if they were drawing up from the
6 same, like from a previously used vial?

7 A That's what it looked like, because they were
8 always the same two vials there.

9 Q And did you see that all three days that you
10 worked there?

11 A Yes.

12 Q Could you tell whether or not syringes were
13 being reused or changed between draws -- well, I'll ask that
14 first. Between draws?

15 A That I couldn't see because the CRNA's body
16 obscured my view.

17 Q Okay. How about between patients, did you see
18 anything that looked like there was a change of a syringe
19 between patients or anything like that?

20 A That I couldn't see, yeah.

21 Q Could you tell what the size of the vial was?

22 A It was a larger vial that's commonly seen with
23 multi-use.

24 Q Now, during the procedure, I assume you were
25 present in the room, the doctor was present, and a tech was

1 present?

2 A Mm-hmm.

3 Q Is that yes?

4 A Yes.

5 Q And the CRNA was present?

6 A Yes.

7 Q Did you ever see the CRNA leave during a
8 procedure?

9 A Yes, I did.

10 Q On how -- on the three days you were there, how
11 many times did you see that?

12 A I don't know how many times exactly. It was
13 rather infrequent, but I did see it.

14 Q And this would be when the patient was
15 unconscious?

16 A Yes.

17 Q How long would the CRNA be gone in those
18 instances?

19 A I'd say no more than 30 seconds.

20 Q So just very, very briefly?

21 A Yes.

22 Q When you were there those three days, did you
23 have any opportunity to work in the recovery area after, after
24 the patient had their procedure?

25 A No.

1 Q Did you view it at all?

2 A Yes, I did.

3 Q Did you ever see doctors or CRNAs in that area
4 the three days you were there?

5 A No, I didn't.

6 Q Now, you -- you weren't there long. Why did you
7 resign?

8 A I resigned because I was taught in nursing
9 school that precharting is not something that you do. It's
10 unethical. It's also something that could cause you to lose
11 your nursing license.

12 Q And how did you go about resigning? What did
13 you do?

14 A I typed up a letter, addressed it to Katie
15 Maley, and I spelled out that I was resigning because of the
16 precharting issue, I felt it was unethical, that I could lose
17 my nursing license because of it, and then I faxed it over to
18 her.

19 Q Did you ever contact the nursing board?

20 A Yes.

21 Q How long after you left did you contact the
22 nursing board?

23 A It would have been within two months.

24 Q And did you -- I mean, do you file a complaint
25 with them, or what's the process?

1 A I did. I let them know what was going on, what
2 I had seen. They said that I needed to have specific names of
3 people to address. Because I didn't work there very long, I
4 only had people's first names, because that's how we knew each
5 other. So there wasn't any particular name I could point to
6 and say that person did this. So it didn't go much further.

7 Q Right now are you -- are you still working as a
8 nurse?

9 A Yes.

10 Q And you live out of state though; is that
11 correct?

12 A Correct.

13 MS. WECKERLY: I'll pass the witness.

14 THE COURT: All right. Cross, Mr. Santacroce.

15 MR. SANTACROCE: Yes.

16 CROSS-EXAMINATION

17 BY MR. SANTACROCE:

18 Q Good afternoon, Ms. Yost. I represent Ronald
19 Lakeman. You don't know Ron Lakeman, do you?

20 A No, I don't.

21 Q Back on January 3, January 2nd, 3rd and 5th, you
22 never worked with Ronald Lakeman; isn't that correct?

23 A Not that I recall.

24 Q Who did you work with as far as the CRNA goes?

25 A I don't see him in here.

1 Q Was it a male?

2 A It was.

3 Q You gave an interview to the metropolitan police
4 department; isn't that correct?

5 A Correct.

6 Q And you told the metropolitan police department
7 that you never saw any reuse of syringes; isn't that correct?

8 A Correct.

9 Q You also told them that you never saw propofol
10 go from room to room; isn't that correct?

11 A Correct.

12 Q You also told them that you never saw a CRNA go
13 from room to room; isn't that correct?

14 A Hmm. I'm not sure.

15 (Pause in proceedings)

16 BY MR. SANTACROCE:

17 Q I'm going to direct your attention to page 13 in
18 your interview. I'd ask you to take a look at that.

19 A Okay.

20 Q Does that refresh your recollection?

21 A Yes.

22 Q You were asked did you ever see a CRNA go from
23 room to room. What was your answer?

24 A In that, no.

25 Q Pardon me?

1 A In that copy, no.

2 Q In this copy. Is there a different copy?

3 A I know that I did see them go -- I mean, I know
4 what I said there, but I did see them go from 30 seconds out
5 of the room.

6 Q Okay. This interview was given on March 29,
7 2008.

8 A Mm-hmm.

9 Q Would it be fair to say that the events were
10 fresh in your recollection at that time?

11 A Sure.

12 Q And your answer was that -- "Did you ever see a
13 CRNA go from room to room?" You said, "No. He was in the
14 same room that I was in all day."

15 A Okay.

16 Q Is your testimony different today?

17 A Yes.

18 Q And how is it different?

19 A Because I saw them leave the room for about 30
20 seconds.

21 Q What would they do in that 30 seconds, if you
22 know?

23 A That I don't know, because I didn't leave the
24 room either, so.

25 Q And how often would that be that they'd leave

1 the room for 30 seconds?

2 A It had been rarely.

3 Q Rarely?

4 A Yes.

5 Q You talked about precharting and you said it was
6 sporadic. That means sometimes it was done and sometimes it
7 wasn't done, at least that's my interpretation; is that yours?

8 A Yes.

9 Q And the times that it was done it matched what
10 you had visibly observed, no problem, correct?

11 A Correct.

12 Q And when it wasn't what you had observed, you
13 would change it; isn't that correct?

14 A Correct.

15 Q Now, when you saw these vials of propofol on the
16 counter, you testified that they were large vials?

17 A Yes.

18 Q In your nursing experience, would 50 cc be what
19 you saw?

20 A Roughly.

21 Q And you saw a couple of the vials on the
22 counter?

23 A Yes.

24 Q But you couldn't testify as to whether the CRNA
25 used one bottle on multiple patients or not?

1 A Correct.

2 MR. SANTACROCE: I have nothing further.

3 THE COURT: Ms. Stanish.

4 CROSS-EXAMINATION

5 BY MS. STANISH:

6 Q Good afternoon, Ms. Yost.

7 A Hello.

8 Q My name's Margaret Stanish. I represent Dr.
9 Desai. Isn't it the case that you did not see Dr. Desai in
10 the clinic while you were employed those three days?

11 A That's correct.

12 Q And clarify something for me, ma'am. Your --
13 you're in the procedure room. Are you there as an
14 observant -- observant -- are you observing, or are you
15 actually participating in the procedure?

16 A The majority of the time I was shadowing. By
17 the third day I was doing more of the actual job that I would
18 have been doing in the procedure room as an RN.

19 Q All right. And do you recall, in the three days
20 that you were there, and my understanding is Dr. Desai was not
21 in the procedure room; is that correct?

22 A That's correct.

23 Q Do you recall the doctor or doctors who were in
24 the procedure room on those days?

25 A I don't recall their names now.

1 Q Fair enough. And do you recall that during
2 while a patient was under anesthesia they sat up in the bed?

3 A Yes.

4 Q Tell us about that.

5 A It was very rare, but I think it was probably at
6 least a couple times the patient sat completely up in the bed.
7 It kind of surprised me, because I figured they'd be under
8 sedation. So they would just sit up, but they were just --
9 they were not coherent. So they would sit up and the CRNA
10 would do something, a real quick movement, and then the
11 patient would calm back down and lie back down.

12 Q Were you given any training on that day
13 regarding the effects of anesthesia, when somebody's given
14 anesthesia that they can still move?

15 A No.

16 Q Did you get any explanation -- without telling
17 me who said what, were you -- did somebody explain to you what
18 was going on?

19 A Yeah. The nurse that was there with me said
20 sometimes that happens.

21 Q Did you ever have to do anything to help, you
22 know, still a patient, keep them still?

23 A No. The CRNA pretty much took care of that
24 really quickly.

25 MS. STANISH: I have nothing further. Thank you.

1 THE COURT: Redirect.

2 MS. WECKERLY: Just one question.

3 REDIRECT EXAMINATION

4 BY MS. WECKERLY:

5 Q Ms. Yost, do you remember being asked about what
6 the CRNAs would do in terms of room coverage for a lunch
7 break?

8 A Yes.

9 Q What would they do, in your observation?

10 A When one would go to lunch, we would get another
11 CRNA that would take their place.

12 Q And in that instance, would one CRNA cover both
13 rooms while the other was at lunch, or am I misunderstanding
14 you or...

15 MR. SANTACROCE: Objection. Leading.

16 THE COURT: Overruled.

17 BY MS. WECKERLY:

18 Q You can go ahead.

19 A Pretty much what I saw was just one was covering
20 for the other. They weren't -- I didn't see them leave to go
21 to the other room.

22 Q And do you remember whether or not you explained
23 them going back and forth between rooms over the lunch period
24 in your interview with the police?

25 A I don't recall.

1 MS. WECKERLY: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MS. WECKERLY:

4 Q This is page 13. You can [inaudible] as much as
5 you want [inaudible] this last half here.

6 A Okay.

7 Q And this -- sorry.

8 A It's okay.

9 Q This interview that you did with the police was
10 back in May of 2008; is that right?

11 A That's correct.

12 Q So a few years ago, but closer in time to when
13 you worked there; is that fair?

14 A Yes.

15 Q Because that was about a little less than a year
16 after you went there. And having read that, what is your
17 recollection about lunchtime and the CRNAs?

18 A I'm going to say I don't recall at this point,
19 but if that is what I said back then, then that is accurate.

20 Q Okay. And what you tell -- I'm going to come
21 back up there just to make sure --

22 A Okay.

23 Q -- I'm reading this right. And this is the
24 bottom of page 13. The detective asked you, "What about
25 lunch?" And you say, "Lunch, that's true. During lunch they

1 would replace with somebody else." And then the detective
2 asked you, "Okay. And would it be the CRNA from the other
3 room, do you know, or," and this is you. You said, "Yeah. It
4 was a female. They would bring the female from the other room
5 over and she would replace him for lunch." And then the
6 detective says, "And she would go back and forth between the
7 rooms?" And your answer was --

8 A Yeah.

9 Q -- affirmative, correct?

10 A Correct.

11 Q Is it fair to say, you know, right now all these
12 years later you don't have a good memory of that?

13 A I don't have a recollection, yes.

14 Q Okay. Thank you.

15 MS. WECKERLY: I have no other questions, Your Honor.

16 THE COURT: All right. Mr. Santacroce.

17 RECROSS-EXAMINATION

18 BY MR. SANTACROCE:

19 Q So you're saying that your testimony as to that
20 was accurate in the interview?

21 A Yes.

22 Q But you're saying your testimony as to the CRNAs
23 leaving the room in that interview was not accurate?

24 A Correct.

25 Q And this person that you saw relieve for lunch

1 was a female?

2 A I believe it says in there, the documentation,
3 that the female is the one that replaced the male.

4 Q I'm asking you what you saw.

5 A The female --

6 Q You said you saw a female CRNA relieve another
7 one for lunch; is that correct?

8 A Relieve a male. Relieve a male CRNA for lunch.

9 Q Is that correct?

10 A That's correct.

11 MR. SANTACROCE: Nothing further.

12 THE COURT: Ms. Stanish.

13 MS. STANISH: Nothing further, Your Honor.

14 MS. WECKERLY: I just have one more question.

15 FURTHER REDIRECT EXAMINATION

16 BY MS. WECKERLY:

17 Q Do you remember if you mentioned that the CRNAs
18 left while a patient was unconscious during your interview --

19 MR. SANTACROCE: Objection. Outside the scope.

20 BY MS. WECKERLY:

21 Q -- back in 2008?

22 MS. WECKERLY: He just asked it.

23 BY MS. WECKERLY:

24 Q Do you remember if you talked about that in
25 2008, in your police interview?

1 A I'm sorry. I'm confused now.

2 Q In your -- when you were interviewed by the
3 police, do you recall if you mentioned observing the CRNAs
4 leave for that 30 seconds or a short amount of time during
5 that interview?

6 A I don't believe so, but I believe during the
7 grand jury testimony I did.

8 Q Let me show you your interview. This is page
9 14, at the top.

10 MS. WECKERLY: May I approach?

11 THE COURT: You may.

12 BY MS. WECKERLY:

13 Q If you could just look at the top of page 14 of
14 your police interview.

15 A Okay.

16 Q And having looked at your interview, does that
17 refresh your recollection as to whether or not you had
18 mentioned the CRNAs leaving when the patient was already
19 unconscious?

20 A Yes.

21 Q And you actually did mention that in your police
22 interview?

23 A Yes.

24 MS. WECKERLY: Thank you.

25 THE COURT: Anything else?

1 FURTHER RECROSS-EXAMINATION

2 BY MR. SANTACROCE:

3 Q Is that the 30 seconds you were talking about?

4 A Yes.

5 MR. SANTACROCE: Nothing further.

6 THE COURT: Ms. Stanish, anything else?

7 MS. STANISH: No, Your Honor.

8 THE COURT: Ms. Weckerly?

9 MS. WECKERLY: Nothing. Thank you.

10 THE COURT: Any juror questions for this witness?

11 All right. Ma'am, there are no further questions.

12 Please don't discuss your testimony with anyone else who may
13 be a witness in this matter, and you are excused.

14 State, call your next witness.

15 MS. WECKERLY: Lynette Campbell.

16 LYNETTE CAMPBELL, STATE'S WITNESS, SWORN

17 THE CLERK: Please state and spell your first and
18 last name for the record.

19 THE WITNESS: Lynette Campbell. L-y-n-e-t-t-e.
20 Campbell, C-a-m-p-b-e-l-l.

21 THE COURT: All right. Ms. Weckerly.

22 DIRECT EXAMINATION

23 BY MS. WECKERLY:

24 Q Ms. Campbell, how are you employed?

25 A I work at Valley Hospital.

1 Q And what do you do for Valley Hospital?
2 A I work in the nursery.
3 Q Are you a nurse?
4 A Yes.
5 Q Are you a registered nurse?
6 A Yes.
7 Q Where did you go to school to become a nurse?
8 A At CCSN.
9 Q Do you recall the year that you graduated?
10 A May of 2007.
11 Q After you graduated in May 2007, where did you
12 work?
13 A At the endoscopy center.
14 Q Do you remember what month it was that you
15 started working there approximately?
16 A July, I believe.
17 Q Okay. And that would be July --
18 A Of 2007.
19 Q Okay. When you got the job there, what was the
20 process? How did you go about getting your job?
21 A I interviewed. I believe it was with Katie
22 first, and I think I spoke to Jeff, and then I was hired.
23 Q And do you know how long it was between your
24 interview and your actual first day of work?
25 A No.

1 Q Was it a long period of time?
2 A No. It was short.
3 Q When you got to the endoscopy clinic, where were
4 you assigned to work primarily?
5 A In the beginning, I was in the preop room.
6 Q How long were you assigned to preop, how many
7 like weeks or days or...
8 A Probably weeks.
9 Q And did you also work in the procedure rooms at
10 some point?
11 A Yes.
12 Q And how about in recovery?
13 A Very little in recovery.
14 Q When you worked in preop, do you remember if
15 someone trained you to do the preop duties?
16 A Yes.
17 Q Do you know who that was?
18 A Mainly Janine and Jeff.
19 Q Would that be Janine Drury?
20 A Yes. I forgot her last name.
21 Q And Jeff Krueger?
22 A Yes.
23 Q What were the duties of someone who was working
24 in preop?
25 A To get the IVs inserted in the patients before

1 they had their procedures.

2 Q So you were the first contact the patient had, I
3 mean, other than a tech bringing them back to you?

4 A Yes.

5 Q When you were in preop, you were the one placing
6 heplocks or IVs in people?

7 A Yes.

8 Q What was the -- well, let me ask you this: In
9 your training to become a nurse, was that something that you
10 learned how to do?

11 A Yes.

12 Q And in your nurse training, did they teach you
13 universal precautions or aseptic technique?

14 A Yes, both.

15 Q Did you apply those principles to your work when
16 you were putting in those IVs or heplocks at the endoscopy
17 center?

18 A Yes.

19 Q Just briefly, will you go through the steps that
20 you go through in order to put in an IV?

21 A Put on gloves. Place a tourniquet. Find a good
22 vein. Wipe it down with alcohol. Insert the cannula. Take
23 off the tourniquet and take out the needle, attach the
24 heplock, and then tape it down and flush it out, and throw
25 away the sharps in the sharps container.

1 Q Now, when you would flush the heplock --

2 A Mm-hmm.

3 Q -- what was -- what substance did you flush it
4 with?

5 A Saline. Normal saline.

6 Q And how much did you use?

7 A It would vary. At times we had preloaded 10
8 milliliter wrapped syringes, and just put all of that in. If
9 you didn't, it went in the sharps container.

10 Q And the other kind, or the other one?

11 A And then the other kind you drew up yourself.
12 They weren't 10 mil syringes, but I don't remember what size
13 they were. I would guess either 3 or 5, and they're
14 individually wrapped. You put a needle on them, draw them out
15 of a little bottle of saline and use that.

16 Q Now, you said at some point when you worked
17 there, there were actually preloaded saline syringes?

18 A Yes.

19 Q And those had the saline already in them, if I'm
20 understanding you correctly?

21 A Yes.

22 Q And you'd just put those -- or flush the heplock
23 and put the whole unit into a sharps container?

24 A Yes.

25 Q In the instances where you didn't have the

1 preloaded kind and you had to draw up your own saline, where
2 was the saline that you used in the preop area?

3 A It's in a little tray that was kept at the sides
4 on the chairs.

5 Q And was that saline container multi-use? Was it
6 used on multiple patients?

7 A Yes.

8 Q What steps would you have to take to make sure
9 that could be used safely on multiple patients?

10 A You'd wipe off the top with alcohol prior to
11 each use. You've got a clean needle each time that's being
12 discarded afterwards.

13 Q Did you ever flush a heplock with a needle and
14 syringe and go back into the saline bottle --

15 A No.

16 Q -- to draw out more saline?

17 A No.

18 Q Would you ever do something like that?

19 A No.

20 Q Why wouldn't you do something like that?

21 A Because there's a chance of contamination then.

22 Q Are you trained in nursing school to only use
23 one needle and syringe for the flush?

24 A Yes.

25 Q Have you ever deviated from that practice?

1 A No.

2 Q Have you ever used a needle and syringe on one
3 patient and used that same needle and syringe on a subsequent
4 patient?

5 A No.

6 Q You know at this point that you were the
7 procedure nurse on several patients that were treated on
8 September 21, 2007?

9 A Yes.

10 Q In your recollection of your work at the clinic,
11 did you ever reuse a needle and syringe?

12 A No.

13 Q Did you ever draw up -- or remove a needle and
14 draw up additional saline to administer to a patient after
15 you'd already used that syringe on somebody else?

16 A No.

17 Q Did you use a single needle and syringe every
18 time and a new one every time you drew up saline or flushed a
19 heplock?

20 A Yes.

21 Q In addition to working in preop, I believe you
22 said you worked in the procedure room and then maybe just a
23 little bit in recovery?

24 A Yes.

25 Q Okay. When you were in the procedure room, what

1 were your responsibilities?

2 A Mainly chart work.

3 Q Charting what's going on in the procedure?

4 A Yes.

5 Q What was your impression of the volume of
6 patients when you were working either in preop or in the
7 procedure room?

8 A It was heavy.

9 Q Did you have trouble completing your paperwork?

10 A In the procedure room?

11 Q Yes.

12 A At times.

13 Q When you were in the procedure rooms, did you
14 have the opportunity to observe the CRNAs at all?

15 A Somewhat.

16 Q Did you -- did you know that the drug they were
17 using to sedate patients was called propofol?

18 A Yes.

19 Q Did you ever see more than one vial of propofol
20 out that a CRNA was using?

21 A Yes.

22 Q Did you ever see propofol being moved from one
23 procedure room to another?

24 A Yes.

25 Q Describe that. How would that occur?

1 A On breaks, at lunch, at the end of the day if
2 one room needed more and the other room was done, they would
3 share to get them finished.

4 Q Did you ever see syringes being reused?

5 A No.

6 Q Now, when you worked in -- I think you said you
7 worked briefly in recovery?

8 A Yes.

9 Q Out of the time you worked there, what
10 percentage of time do you think it was that you were in
11 recovery?

12 A Maybe a couple of days.

13 Q So really not very much?

14 A Mm-hmm.

15 Q Is that no?

16 A That is no.

17 Q For the record.

18 A Thank you.

19 Q Sorry. I can't -- yeah, we can't --

20 A No.

21 Q But on those couple days that you did do it,
22 what were the responsibilities for the recovery room nurse?

23 A To watch the patient as they're fully waking up,
24 making sure there's not any complications, answering their
25 questions, helping them.

1 Q Did you ever see the doctors come out to
2 recovery?
3 A Yes.
4 Q Frequently, infrequently, how would --
5 A Infrequently.
6 Q In?
7 A Infrequently.
8 Q How about the CRNAs?
9 A I did see them come out.
10 Q How often?
11 A Infrequently.
12 Q Do you know what precharting is?
13 A Yes.
14 Q What is that?
15 A It's filling out the paperwork before the actual
16 events occurred.
17 Q Did that occur at the endoscopy center?
18 A Yes.
19 Q Did you participate in that?
20 A I don't remember, but I would assume I probably
21 did.
22 Q Okay. And how would that have taken place?
23 What would the precharting have been, if you recall?
24 A The times. Writing down -- they had kind of a
25 rote method as to what the time frames would be.

1 Q And can you explain that just a little more,
2 what you mean by the method of the times?

3 A They'll assume that the patient's going to take
4 a half-hour to recover, so they would note the recovery time
5 before it was actually up.

6 Q Are you -- on your training, are you supposed to
7 do that?

8 A No.

9 Q Do you do that now in your current job?

10 A No.

11 MS. WECKERLY: I'll pass the witness, Your Honor.

12 THE COURT: All right. Cross.

13 MS. STANISH: The Court's indulgence.

14 (Pause in proceedings)

15 CROSS-EXAMINATION

16 BY MS. STANISH:

17 Q Hi, Ms. Campbell. My name's Margaret Stanish.
18 I represent Dr. Desai. I just have a few points that I want
19 to clarify with you. Did you ever have any contact with the
20 CDC or the Southern Nevada Health District?

21 A Yes.

22 Q And tell us about that, please, without going
23 into what they told you. Did they -- did they interview you?

24 A I believe they did.

25 Q And can you -- let's talk -- I want to set some

1 foundation here. Do you recall when this conversation
2 occurred?

3 A I believe it was in the preop room.

4 Q And are we talking about in January of 2008,
5 when the CDC was in the facility observing procedures?

6 A Yes.

7 Q All right. And so you're -- in what room are
8 you?

9 A The preop room.

10 Q And somebody is observing what you're doing?

11 A No.

12 Q Okay. Maybe I didn't understand you. Did --
13 what happened with the -- what was your contact with the CDC?
14 Did they interview you?

15 A Yes. They just asked questions.

16 Q Okay. Can you tell us who asked you
17 questions --

18 A No.

19 Q -- do you know?

20 Okay. Do you know if it was somebody from the CDC,
21 or was it somebody from the Southern Nevada Health District,
22 or do they all look alike to you?

23 A I couldn't tell you which one.

24 Q They didn't give you a business card or tell
25 you, or you don't recall?

1 A I don't recall.

2 Q Was anyone -- how many people were present for
3 that interview?

4 A I don't remember.

5 Q Were they taking notes?

6 A I don't remember.

7 Q Do you remember how long the meeting lasted?

8 A Meaning specifically with me?

9 Q Yes.

10 A Short. Maybe two minutes.

11 Q And you also had to give a blood sample, I
12 assume, at some point, correct?

13 A Yes.

14 Q Did anybody, when you were in the preop area,
15 did they have to train you how to do a saline flush, or was
16 that something you already knew?

17 A I already knew that, but they showed me also.

18 Q And just clarify something for me, please. I
19 understood you to say that at different times there were
20 different types of syringes used for the purposes of flushing;
21 is that correct?

22 A Yes.

23 Q And one was you actually just had the syringe
24 and then you had to put a needle on it; is that what I'm
25 understanding you to say?

1 A Yes.

2 Q And then the other one was later on the
3 prefilled syringe with the needle already attached, correct?

4 A There was no needle on it.

5 Q Oh, okay. Well, gosh, I'm glad I asked you that
6 then. So even the prefilled one, you had to put a needle
7 on it?

8 A Or just screw it right onto the heplock.

9 Q The heplock lets you screw the syringe directly
10 [inaudible]?

11 A I don't remember which one we had, whether it
12 was the needle one or the screw-on one.

13 Q In your -- in your duties, did you help keep the
14 facility clean?

15 A Minimally.

16 Q What for instance did you do?

17 A Clean up after we put in the IVs, you know,
18 throw away the sharps and make sure things were stocked to
19 start the IVs, things like that.

20 Q And did you -- were you always able to get
21 supplies when you needed to have supplies available?

22 A Yes.

23 Q And I meant to ask you this when we were
24 discussing preop. I know you were a relatively new nurse. By
25 the way, was Anne Yost a classmate of yours in the community

1 college, or the -- what was it, Southern Nevada College --

2 A Yes.

3 Q -- of Nursing?

4 Was she a classmate of yours?

5 A Yes.

6 Q And did you socialize with her during this time
7 frame where you worked?

8 A You mean school?

9 Q Outside of school once you graduated.

10 A We kept in touch. I wouldn't say we socialized.

11 Q Did you discuss this case at any point since the
12 outbreak was announced?

13 A No.

14 Q The -- when you're in preop -- I know this was
15 your first job out of nursing school. When you're in preop
16 and a patient walks in, how do you go about assessing their
17 condition?

18 A Ask them if they've done their prep, if they've
19 not eaten, answer any questions that they have and get
20 their -- any background that they're asking that relates to
21 the testing.

22 Q What was it you currently do?

23 A Right now I work in the nursery.

24 Q And where?

25 A At Valley Hospital.

1 Q And at this time, I'm going back to your first
2 job, of course, when you're doing the assessment, is there
3 anything that you do where you're just eyeballing that patient
4 when they come in, in order to do your assessment?

5 A Mm-hmm.

6 Q Tell us about that.

7 A You can just look at them, make sure that
8 they're stable, everything's all right, that they've got
9 enough hydration, things like that.

10 Q And are some of those observations part of what
11 you need to chart in preop?

12 A Oh, I don't know. It may be charting by
13 exception. If there is an issue, alert somebody to it.

14 Q What does that mean, charting by exception? I
15 don't understand that.

16 A That there was something out of the ordinary,
17 make note of that and maybe call it to someone's attention.

18 Q To the extent that you were involved in
19 precharting, if you saw something that was different from what
20 you precharted, like the condition of the person, what would
21 you do?

22 A I'm sorry. I lost your train of thought there.

23 Q Yeah, me too. Oh, yeah. When you are -- I
24 understand that there was precharting in the preop room,
25 correct, or no?

1 A Not that I did.

2 Q Okay. So what -- I misunderstood you. So what
3 you're telling me, when you had the responsibility of the
4 prechart [sic] room, you would accurately fill out the part of
5 the chart that dealt with the assessment of the patient,
6 correct?

7 A Yes.

8 Q And moving now to the procedure room, am I right
9 to understand that when you wrote down the procedure time, it
10 was the time that was taken right from the -- the vitals
11 strip? Do you know what I'm saying?

12 A Mm-hmm. And I'm a little bit fuzzy about where
13 those times came from, but I know they came off of some
14 paperwork that came from the nurse anesthetist.

15 Q And speaking of the nurse anesthetist, was it
16 your experience that when you're in the procedure room, the
17 nurse anesthetist is doing their own assessment of the
18 patient?

19 A Yes.

20 Q And tell us what that involves based on your
21 observations.

22 A Making sure they're breathing, making sure their
23 heart rate's okay.

24 Q I'm really talking about before they start
25 administering anesthesia.

1 A Oh.

2 Q Do they do an assessment --

3 A They speak -- they speak to the patient, make
4 sure that they're alert and conscious and they know what
5 procedure is going to happen and what they're going to do.

6 Q And do the -- do the CRNAs generally have a
7 clipboard and a piece of paper that they're writing on as they
8 do that interview, if you recall?

9 A I don't remember a clipboard, but I remember a
10 piece of paper that they're writing on. It could have been
11 just on the counter.

12 Q An anesthesia record?

13 A Yes.

14 Q When you worked there, did you ever observe or
15 have to be involved in a procedure in any fashion when the
16 patient opted out of anesthesia, saying I want to go cold
17 turkey, don't give me any anesthesia?

18 A I believe there was a time.

19 Q Do you recall that time?

20 A Vaguely. I don't remember if it went through or
21 not. I think they wanted to drive home, and if you have the
22 anesthesia you can't drive home.

23 Q I see. So if somebody doesn't have someone who
24 can take off of work and escort them home and chauffeur them,
25 people will have the procedure without anesthesia?

1 A They could. I don't remember if we did that day
2 or not.

3 Q All right. And that's fair enough. It's been a
4 while. I understand. You ever see anybody mistreat a
5 patient?

6 A No.

7 Q If you did, what would you have done?

8 A I would have reported it and called them on it
9 at the time.

10 Q On September 21st, 27 [sic], you're involved in
11 a number of these procedures as the preop nurse, correct?

12 A Yes.

13 Q Something went horribly wrong that day, correct?

14 A I don't know.

15 Q You don't know. You were not cognizant of any
16 unsafe practices going on in the clinic that you were aware
17 of, that you saw?

18 A I knew that the numbers were way high.

19 Q And when the -- despite the numbers being high,
20 were you able to do your job safely? Just I'm talking about
21 you.

22 A Yes.

23 Q And if that meant slowing down procedures or
24 getting behind, so be it, you were going to do your job right,
25 correct?

1 A Yes.

2 MS. STANISH: Okay. I have nothing further. Thank
3 you, ma'am.

4 THE COURT: All right. Mr. Santacroce.

5 MR. SANTACROCE: Thank you.

6 CROSS-EXAMINATION

7 BY MR. SANTACROCE:

8 Q Good afternoon, Ms. Campbell. I represent Ron
9 Lakeman. You know Ronald Lakeman, correct?

10 A Yes.

11 Q You've worked with him in the past?

12 A Yes.

13 Q I want to talk to you about the preop procedures
14 and what you did on September 21, 2007. Okay?

15 A Okay.

16 Q I want you to go through the heplock procedures
17 as you administered those heplocks on September 21, 2007.

18 A I can do that, but it will be generalized,
19 because I don't remember that day in particular.

20 Q Okay. Would you say that you employed the same
21 procedure on that day as you had on any other day?

22 A Yes.

23 Q Tell me about it.

24 A Put on some gloves. Apply a tourniquet.

25 Q Okay. Let me stop you there. Where would you

1 get the gloves?

2 A They're in a rack on the wall. You can --

3 Q In the preop area?

4 A Mm-hmm. And you can pick the size you want or
5 need.

6 Q Can you hold on one second? I want to get the
7 picture of the preop area.

8 (Pause in proceeding.)

9 MS. STANISH: It's probably the last one.

10 MR. SANTACROCE: Yeah, because I'm getting to the
11 last one. It probably is.

12 MS. STANISH: Give me half of them and I'll help you
13 out.

14 MR. SANTACROCE: Okay. Thank you.

15 BY MR. SANTACROCE:

16 Q Okay. While we're looking at that, let's
17 continue. So you would get gloves out of a container off a
18 wall somewhere, right?

19 A Mm-hmm.

20 Q How many beds were in the -- or how many chairs
21 were in the preop area?

22 A I believe there was three.

23 MS. STANISH: Rick.

24 BY MR. SANTACROCE:

25 Q Showing you Exhibit 117, is that the preop -- a

1 preop area?

2 A It looks like it. Mm-hmm.

3 Q Okay. And I guess in that picture we only see

4 two --

5 MR. SANTACROCE: Is there any more pictures of that?

6 MS. STANISH: [No audible response.]

7 BY MR. SANTACROCE:

8 Q We only see two chairs?

9 A Yes.

10 Q But you recall there being three chairs?

11 A Yes. Off to my right.

12 Q Okay. Over here somewhere? Over here? Where?

13 You can touch the screen.

14 THE COURT: If you touch the screen, like you run

15 your finger down, it'll make a mark.

16 BY MR. SANTACROCE:

17 Q Okay. We have three patients in that room at a

18 time?

19 A You could. It would fluctuate.

20 Q And you have a door to that room; is that

21 correct?

22 A There was an archway. I don't recall if there

23 was an actual door on it or not.

24 Q I'm going to move this over. It looks to me

25 like a door. I don't know. You tell me.

1 A Oh, that -- you're standing in the entranceway
2 though.

3 Q I am. Okay. This is the entranceway, correct?

4 A That door is not the entranceway in my mind.

5 Q Okay.

6 A That door goes into utility; telephone,
7 electrical in my mind. I could be wrong.

8 Q Is it open in this picture?

9 A It is open.

10 Q So you're saying that I'm standing in an
11 entryway which would be right in this area, correct?

12 A Yes.

13 Q So you'd walk in. Is this room sealed off from
14 the rest of the facility?

15 A I don't remember there being a door there. A
16 doorway, but no door attached to it.

17 Q And what could you see from this room? If you
18 were looking out the door where I'm standing, what would you
19 see?

20 A A large area of recovery off to your right, and
21 the procedure rooms off -- excuse me. I got it backwards. To
22 the left would be the recovery areas, and to the right would
23 be the procedure rooms.

24 Q You couldn't see the procedure rooms from this
25 room though, correct?

1 A No, just the doors into there.

2 Q Okay. All right. So where on this wall are the
3 gloves kept? Oh, I see them. Right here?

4 A Yes.

5 Q Okay. All right. So you get gloves on, then
6 what would you do?

7 A Then put a tourniquet on the patient's arm, look
8 for a vein, find the one you want, wipe them down with
9 alcohol, insert a cannula, take the tourniquet off, take the
10 needle out, attach the hepllock, tape it down good, and flush
11 it out with saline.

12 Q What are these things on the wall?

13 A They're oxygen in case there's a problem.

14 Q Did you ever have to use that?

15 A No.

16 Q Where is -- where would you keep the saline?

17 A If I remember, there was trays, little prep
18 trays. I don't see them in here.

19 Q Can you describe what that prep tray looks like?

20 A I believe they were white in color, rectangle,
21 10-by-14. They had the needles in them, the saline, the
22 alcohol, two-by-twos, the hepllocks.

23 Q And who would prep those trays?

24 A I don't specifically know, but I think it was
25 just a group effort that we kept them filled up with supplies.

1 Q So if you ran out of supplies you'd fill them
2 up?

3 A I could if I knew where the stuff was. I didn't
4 always know where they were.

5 Q Well, did you know where the stuff was?

6 A Some.

7 Q Did you know where the saline was kept?

8 A I don't recall.

9 Q You don't have a recall of getting saline and
10 putting it in the prep tray?

11 A I don't.

12 Q So are you telling me that the saline was always
13 in the prep tray when you took the prep tray?

14 A Or I asked someone for it.

15 Q And those saline bottles could have been used on
16 other patients?

17 A The ones I asked for?

18 Q Yeah.

19 A No, because they would come new to us.

20 Q So every time you would start out with a tray,
21 it would be a new bottle of saline?

22 A No.

23 Q It would be a partially, could be used, had been
24 used?

25 A It could be on the tray there.

1 Q So when you got a tray and there could have been
2 a saline bottle that was partially used, correct?

3 A Yes.

4 Q Was there ever a time when there was two RNs
5 that did the heplocks on the same day?

6 A Yes. Uh-huh.

7 Q Okay. So another RN could have put a heplock
8 in, correct?

9 A [No audible response.]

10 Q Put a saline bottle back in a tray, correct?

11 A Mm-hmm.

12 Q You picked up that tray, used that saline
13 bottle; isn't that correct?

14 A Huh. Yes. Excuse me.

15 Q You would have no idea whether the other RN used
16 aseptic practices or not, would you, unless you observed them?

17 A That's correct.

18 Q Now, I want to show you Bates No. 007911. This
19 is a chart of the infected patients on September 21, 2007.
20 I'm going to try to get this so we can see all of it, and I'm
21 going to step -- oh, I'll stay here. I can see that. Can you
22 see it okay?

23 A I think so.

24 Q Okay. And your name is in the middle here, do
25 you see that?

1 A Yes. Yes.

2 Q And this information purports to say that you
3 started the heplock on the source patient, Kenneth Rubino.
4 Okay. Would you have any reason to disagree with that?

5 A No.

6 Q Did you know that Kenneth Rubino had hepatitis C
7 when you inserted the heplock?

8 A Right now, I can't --

9 Q No. I mean at the time.

10 A At the time I would have because it's on their
11 chart.

12 Q Would you have taken any special precautions
13 knowing that?

14 A Nothing different other than just making note of
15 it in my mind.

16 Q Interestingly, Kenneth Rubino's the source
17 patient. You also start the heplock for Rodolfo Meana on the
18 same day. Do you see that?

19 A Uh-huh.

20 Q You have no reason to dispute that, right?

21 A No.

22 Q You also started the heplock for Sonia Orellana
23 on that day, correct?

24 A I have no reason to doubt it.

25 Q Gwendolyn Martin and this other fellow, right?

1 A I've got no reason to doubt it.

2 Q Now, if you look down on the bottom line, you
3 also started a heplock for Patty Aspinwall and Carole
4 Grueskin, correct?

5 A I've got no reason to doubt that either.

6 Q Now, there's another individual here named Jeff
7 Krueger. Do you see that?

8 A Yes.

9 Q And it purports -- the records purport to
10 indicate that he started heplocks on Lakota Quannah and Stacy
11 Hutchison. Could he have shared the same preop room with you
12 on that day and started some heplocks?

13 A Yes.

14 Q Now I want to show you State's Exhibit 156. And
15 I will represent to you that the orange stripe means the
16 source patient, which was Kenneth Rubino. And we -- you've
17 already stated that you have no reason to doubt that you
18 started the heplock on Kenneth Rubino, correct?

19 A I believe so.

20 Q And the yellow line is patient that cannot be
21 genetically connected to Rubino. Then the green stripes are
22 the people that allegedly got hep C at the clinic on this day.
23 Do you see that?

24 A Yes.

25 Q And you started the heplock on Kenneth Rubino,

1 Rodolfo Meana, Sonia Crellana, Gwendolyn Martin and Patty
2 Aspinwall, who's on the bottom of that chart. Do you see
3 that?

4 A Yes.

5 Q Every person that got hepatitis C except for
6 Stacy Hutchison, the heplock was started by you, correct?

7 A I have no reason to doubt that.

8 Q Now, you were asked some questions about seeing
9 propofol go from one room to another. Do you remember that?

10 A Yes.

11 Q And you testified that you saw propofol going
12 from one room to another, correct?

13 A Yes.

14 Q But what I didn't hear you say is that the
15 propofol you saw going from one room to another was sealed
16 bottles of propofol; isn't that correct?

17 A Yes.

18 Q So every time you saw a bottle go from room to
19 room, it was sealed new bottle, correct?

20 A No.

21 Q Okay.

22 A I couldn't say that.

23 Q Do you remember giving an interview to the
24 metropolitan police department?

25 A Yes.

1 MR. SANTACROCE: Do you guys have the hard copies?

2 MS. STANISH: Oh, I do.

3 (Pause in proceedings)

4 MR. SANTACROCE: I'm going to show you page 13 of
5 your interview with the metropolitan police department, and
6 see if this refreshes your recollection. And just ignore the
7 highlighted area. That's Ms. Stanish and she likes to color.

8 MS. STANISH: Outside the box.

9 THE WITNESS: Do you want me to look at the whole
10 page, or --

11 BY MR. SANTACROCE:

12 Q Yeah, if you can read that whole page or
13 particularly this area.

14 A Okay. I answer something yes. And then they
15 ask --

16 Q Just read it to yourself.

17 A Oh, okay.

18 Q Tell me when you're done reading it.

19 A I'm done.

20 Q Okay. Do you remember your testimony as to when
21 they asked you what you observed as to the propofol going from
22 room to room?

23 A Now that you've refreshed my mind, I believe
24 that's what it was.

25 Q You believed it was sealed bottles, correct?

1 A No. I believe that's what my testimony was --
2 Q At the time?
3 A -- at the time. But right now I don't remember.
4 It could have been.
5 Q Okay. But your testimony at the time when you
6 gave the interview -- unfortunately, I don't have the date on
7 this copy. I can look it up. But your interview at the time,
8 and it's fair to say that it was closer in proximity to the
9 date of the incidents, correct?
10 A Yes.
11 Q And your memory would have been better at that
12 time, would you say?
13 A Yes.
14 Q And didn't you tell them that you believed that
15 they were sealed bottles?
16 A Yes.
17 Q And today you have no recollection as to whether
18 they were sealed or not sealed, correct?
19 A I don't remember.
20 Q And you also said that you saw these bottles go
21 from room to room toward the end of the day; isn't that
22 correct?
23 A Yes.
24 Q And the reason why? You gave a reason. Do you
25 remember?

1 A To my recollection right now the reason was when
2 they're getting to the end of the day, you have a patient in
3 one room and not the other, you need to finish up the last
4 patient, so you need the propofol for that patient.

5 Q And they didn't want to check back the bottles,
6 full bottles back into the room, so they would use what they
7 have rather -- they didn't want to go check out more bottles
8 at the end of the day, so they would get full bottles and use
9 those full bottles; isn't that your testimony?

10 A Yes.

11 Q Thank you. And you were asked in that interview
12 do you remember which CRNAs would do that, that is get sealed
13 bottles from other CRNAs at the end of the day. And you said
14 you didn't remember which ones, correct?

15 A I don't remember what my testimony was, but
16 that's what I was thinking my answer is right now.

17 Q And you don't remember today, do you?

18 A No, I do not remember.

19 Q So you couldn't say whether Keith Mathahs or
20 Ronald Lakeman did that kind of thing, could you?

21 A That's correct.

22 MR. SANTACROCE: I don't have anything further.
23 Thank you.

24 THE COURT: Redirect.

25 REDIRECT EXAMINATION

KARR REPORTING, INC.

1 BY MS. WECKERLY:

2 Q Ms. Campbell, when you were working at the
3 clinic, did you ever observe a fellow RN to violate aseptic
4 technique or universal precautions?

5 A No.

6 Q Did you ever violate those principles when you
7 were working?

8 A No.

9 Q Mr. Santacroce asked you about the propofol
10 moving from room to room, and your interview said, I believed
11 the bottles were sealed?

12 A I think that's what it said.

13 Q Okay. And there was -- you believed it was at
14 the end of the day because of the back and forth between the
15 CRNAs, correct?

16 A Yes.

17 Q And they were talking about like how many cases
18 you have left and in your mind it was rather than going and
19 checking out more, they would just use what's in the rooms?

20 A Yes.

21 Q But it would go back and forth, whatever it was?

22 A Yes.

23 MS. WECKERLY: Thank you.

24 THE COURT: Any recross?

25 MR. SANTACROCE: Just a brief question.

RECROSS-EXAMINATION

BY MR. SANTACROCE:

Q You were asked if you ever saw a fellow RN use non-aseptic techniques, correct?

A Yes.

Q Did you witness Jeff Krueger starting a heplock
on Lakota Quannah on September 21, 2007?

A No.

Q Did you witness Jeff Krueger do the heplock on Stacy Hutchison on September 21, 2007?

A I can't say that I did.

MR. SANTACROCE: That's it. Thank you.

THE COURT: Ms. Stanish?

MS. STANISH: Nothing further. Thank you, Your Honor.

THE COURT: Any additional -- any juror questions for this witness? All right. Ms. Weckerly, any questions?

MS. WECKERLY: No. Sorry. Thank you.

THE COURT: Was the saline bottle that was used and shared in the preop room opened fresh every morning?

THE WITNESS: Not that I remember. I don't remember either way.

THE COURT: You don't remember whether you -- so you don't remember whether or not the bottle was thrown out at the end of each day if it wasn't finished?

1 THE WITNESS: I don't remember that.

2 THE COURT: Okay. Any questions from the defense
3 based on that last juror question?

4 MS. STANISH: No, Judge.

5 THE COURT: From the State?

6 MS. WECKERLY: No, Your Honor.

7 THE COURT: Any additional juror questions?

8 All right. Ma'am, there being no more questions,
9 thank you for your testimony, and please don't discuss your
10 testimony with anyone else who may be a witness in this case.
11 Thank you, and you are excused.

12 State, call your next witness.

13 MS. WECKERLY: Janine Drury.

14 JANINE DRURY, STATE'S WITNESS, SWORN

15 THE CLERK: Please state and spell your first and
16 last name for the record.

17 THE WITNESS: Janine, J-a-n-i-n-e, Drury, D-r-u-r-y.

18 THE COURT: Thank you. Ms. Weckerly.

19 DIRECT EXAMINATION

20 BY MS. WECKERLY:

21 Q Ms. Drury, how were you employed in 2007?

22 A As a preop nurse at the endoscopy center.

23 Q And how -- as of that date, how long had you
24 worked as a nurse?

25 A As of that date I had worked since 1983 as a

1 nurse.

2 Q Where did you go to nursing school?

3 A At Louisiana State University in New Orleans.

4 Q And did you work as a nurse in New Orleans prior
5 to coming to Las Vegas?

6 A Yes, ma'am.

7 Q Where did you work?

8 A I worked at Memorial Medical Center, previously
9 Baptist Hospital.

10 Q And when you first came to Las Vegas, was your
11 first nursing job at the endoscopy center?

12 A Yes, it was.

13 Q And what major event was it that caused you to
14 come to Las Vegas?

15 A Katrina happened and my hospital closed, and we
16 lost our house and my husband lost his job. So my sister
17 offered for us, she lived out here, to come and relocate to
18 here for awhile.

19 Q And what -- I think you might have just said it,
20 but just so I'm clear, when did you start at the endoscopy
21 center?

22 A In -- on May 1st of 2006.

23 Q Who was it that hired you? How did you go about
24 getting your job?

25 A I found it in the newspaper. I had previously

1 Hubbard and Dr. Desai?

2 A Yes, a heated discussion.

3 Q A heated discussion. And do you remember
4 approximately when that was in relationship to the date you
5 started work?

6 A No. I cannot tell you.

7 Q Was it towards the end of your employment, or...

8 A I can't -- I really can't. I remember the
9 occasion, but I cannot remember exactly when it was.

10 Q The heated discussion, where did it take place?

11 A It was in the procedure room while the patient
12 was still anesthetized.

13 Q Were you the assigned procedure room nurse on
14 that occasion?

15 A At that time, yes.

16 Q And would there have been a tech in there as
17 well?

18 A Sometimes techs were not in there, and I really
19 don't recall if there was a tech in the room or not.

20 Q What do you remember about the heated
21 discussion?

22 A I don't. I remember they were talking back and
23 forth, but I do not recall what they were talking about.

24 Q Do you remember giving a deposition in this
25 case?

1 A Yes.

2 Q Well, in these -- do you remember describing the
3 situation as Linda Hubbard wanting to give more propofol to a
4 patient?

5 A I reviewed my deposition, yes, that's what I
6 was -- I had swore to.

7 Q And I would assume that was your best
8 recollection at the time?

9 A That's the best that I could recall. I can't
10 remember any of the other.

11 Q What was Dr. Desai's response to her wanting to
12 give additional propofol to the patient?

13 A That's been six years ago. I cannot recall
14 the -- recall of it.

15 Q Okay. I'm going to just show you the page in
16 your deposition and see if that refreshes your recollection.

17 MS. WECKERLY: And this is page 258.

18 MS. STANISH: Of which volume?

19 MS. WECKERLY: When --

20 MS. STANISH: Oh, yeah. There's two. Okay.

21 MS. WECKERLY: Yeah. But it's numbered all the way
22 through.

23 MS. STANISH: Right. You're right. I'd forgot about
24 that.

25 MS. WECKERLY: May I approach the witness?

1 THE COURT: Mm-hmm.

2 BY MS. WECKERLY:

3 Q Now I'm showing you page 258. And you've seen
4 this document before; is that fair?

5 A Yes.

6 Q Could you just read at the top there for me,
7 please, to yourself, and then just let me know when you're
8 done.

9 A Okay.

10 Q Does that refresh your recollection as to what
11 Dr. Desai said to Linda Hubbard about her wanting to give
12 additional propofol?

13 A I would say that's what it was. I could
14 remember it better then than I can now.

15 Q Okay. And do you -- what did you say that his
16 response was at that time?

17 A That he was in charge and that -- I don't
18 remember the words exactly. That he was in control and that
19 she was going to do what he told her.

20 Q Okay. And do you remember what her response was
21 back at the time?

22 A I only read that part. I'm sorry.

23 Q That's okay. I'll come back up there. It's the
24 same page, for counsel. I should have let you read more.

25 A Well, basically that she screamed back at him

1 and that it -- she was wanting to give the patient more
2 propofol and he -- and the patient started thrashing on the
3 table and he said he was coming out with the scope.

4 Q Was there a point when the two of them left the
5 room and you couldn't hear --

6 A After the patient was taken to the recovery room
7 they both left for a few minutes.

8 Q Okay. And then I assume you don't know what if
9 anything was said at that point?

10 A I do not.

11 Q Okay. I'm going to show you a couple of patient
12 charts, and I'm starting with State's Exhibit 12.

13 MS. WECKERLY: And this is -- I'm going to be
14 referencing, for counsel, Bates No. 3131 and 3191. May I
15 approach the witness, Your Honor?

16 MS. STANISH: Pam, what patient is that?

17 MS. WECKERLY: Oh, I'm sorry. Rodolfo Meana.

18 MS. STANISH: Okie doke.

19 BY MS. WECKERLY:

20 Q Ma'am, I'm showing you State's Exhibit 12. And
21 there's numbers at the bottom of these pages. The first one
22 I'm showing you is Number 3131. Do you recognize what that
23 document is?

24 A That is the computer generated report of the
25 physician that he finishes when the procedure is over.

1 MR. SANTACROCE: I can't hear. I'm sorry.

2 BY MS. WECKERLY:

3 Q Can you speak up just a little bit?

4 A It is the procedure report, is the report that
5 is completed by the doctor on the computer when he finishes
6 the procedure.

7 Q And the next page I'm showing you is Bates No.
8 3191. Do you recognize what that document is?

9 A Yes.

10 Q What is that?

11 A That is the endoscopy procedure nursing record.

12 Q And was this one that you -- you would have
13 filled out, correct?

14 A Yes.

15 Q And this is your signature at the bottom here?

16 A Yes.

17 Q Okay. Now, that screen in front of you is going
18 to show these documents so you can look at them. Is your
19 screen on?

20 A Yes.

21 Q Okay. The first one I'm showing you is Bates
22 No. 3131. And this is what, the --

23 A That is the procedure report.

24 Q Okay. And when it says -- whoops. When it says
25 providers, can you --

1 Can you tell us who the providers are that are
2 listed on this report?

3 A Dr. Desai, Linda McGreevy [phonetic], which is
4 an RN. Keith Mathahs is the nurse anesthetist.

5 Q Okay. And I'm going to -- just to compare, now
6 I'm going to show you the other document I showed you, which
7 is the procedure room nursing record, correct?

8 A Yes.

9 Q And that's Bates No. 3191, for the record. And
10 in this area here, the providers are listed for the same
11 procedure, correct?

12 A Right.

13 Q And who are they?

14 A That's Desai and myself and Monica, which is the
15 GI tech, and Keith Mathahs.

16 Q So looking -- looking back at the first one,
17 which is 3191, we have Desai, and then we have Linda McGreevy
18 instead of you. Do you have any idea --

19 A I -- best -- when we reviewed this before, it is
20 that I trained her and it could have been at that time period
21 of the training.

22 Q Okay. Is it also possible that you might have
23 been called out during this procedure, or you think it was
24 training?

25 A I would have to look at the -- it's looking at

1 the procedure. And if you'll look at the preop, whenever she
2 would come in there, you'll see that it's her signature on the
3 page before that. So I would most likely say this is the time
4 that I was training her how to do it.

5 Q And the fact that there -- usually we have a --
6 there's a GI tech listed on this record, correct, usually?

7 A Right.

8 Q But it's -- but there isn't one listed here.
9 But there is a GI tech listed on the nursing record.

10 A Sometimes the GI tech comes in after the
11 procedure is started, then we cannot get the GI tech on the
12 report.

13 Q On the initial note?

14 A Right.

15 Q So it looks at a minimum like this note was
16 started before the GI tech came in the room?

17 A We do the top part of it. That's what we were
18 putting in the computer of what they're there for, what would
19 this come in for, a colonoscopy. That's what we'd make sure
20 it's in there. And we put the providers and we put which
21 office they come from, and then the rest of it's done after
22 the procedure is complete.

23 Q Okay. And so I mean, on this one you could just
24 write it in because at some point a GI tech showed up?

25 A Yes.

1 Q Now I'm going to show you, this will be State's
2 11. And this is, for counsel, Sonia Orellana Rivera. And
3 ma'am, this is State's Exhibit 11, and Bates No. 3467. Would
4 this be the same doctor's note that you just described?

5 A Yes. That is the post procedure record where he
6 did that. And I do the top part. I put the colonoscopy, the
7 doctor's name, the nurse and the nurse anesthetist, and which
8 office they come from.

9 Q And again, on this page it looks like there's no
10 GI tech listed.

11 A No.

12 Q And on the nursing record, what --

13 A The nurse anesthetist had got -- missed off on
14 that, but it does have the GI tech and the KM stands for Keith
15 Mathahs.

16 Q Okay. And this is record, or Bates No. 3512,
17 for the record. So ma'am, looking at this record in State's
18 11, which is Bates No. 3467, it would have been your
19 responsibility to fill out the initial part of this document;
20 is that right?

21 A Yes.

22 Q And you would have listed the providers?

23 A Providers. I would have listed the colonoscopy,
24 then I would list Dr. Carrol, myself and Keith Mathahs, and
25 the referring MD, from which office, like Shadow Lane office

1 and the doctor who referred the patient.

2 Q Okay. And this one again, there's no GI tech.
3 Is it the same situation, you think?

4 A That was not uncommon for the GI tech to come in
5 later.

6 Q And then I'm going to go to the nursing record
7 which you just looked at, which is Bates No. 3512. And again
8 we have a listing here of the providers, but it doesn't have
9 the CRNA's name on this list; is that fair?

10 A That's right.

11 Q But you said you did note it somewhere else on
12 your record. Can you circle --

13 A If you look over -- pull it over so the -- there
14 it is. That KM, where the propofol was administered by, and
15 it was KM would be Keith Mathahs.

16 Q Do you -- and we looked at this one. This is
17 your actual record, right?

18 A Yes. That is my note.

19 Q Is there any reason that you can think of why
20 you wouldn't have noted his name? Do you think it was just a
21 mistake or...

22 A Well, a lot of times we would fill in who was
23 coming in the room, and if they're switching, rotating the
24 nurse anesthetists, we have to wait for them. And I probably
25 went ahead and was able to get it into the chart upon the

1 computer, but I missed putting it on there.

2 Q Okay. But you did note it on the --

3 A Yes.

4 Q -- on the -- where you would have said who's
5 administering the medication?

6 A Yes.

7 Q And the last one I wanted to show you, and this
8 is Gwendolyn Martin's file for counsel. And ma'am, just once
9 again, this is State's Exhibit 9, and we're looking at
10 pages 3763, which is again, the doctor's note, correct?

11 A Yes. That's the procedure note.

12 Q Okay. And this has Linda McGreevy's name, who
13 you recollect you might have been training?

14 A Yes. I did train her.

15 Q And the nursing note is you.

16 A Yes. I did the nurse's note.

17 Q And on this note it has everyone filled out on
18 the nursing note, who the providers were?

19 A Yes.

20 Q And for the record, that's Bates No. 3777.

21 And putting this on the overhead, this is Bates
22 No. 3763. You would have either supervised or filled out this
23 nursing note because you were supervising Ms. McGreevy?

24 A Yes. I would have her to there and I would
25 stand beside her to talk her through how to fill it out.

1 Q And this one on this page is missing the GI
2 tech, but as you said, it wasn't unusual for them to --

3 A I don't recall, but I think a lot of times the
4 GI techs did not come up on the -- if I remember right. But
5 the main ones that we had to get was the doctor, the nurse and
6 the nurse anesthetist, and then the GI techs showed up on our
7 written part.

8 Q And on the written part, there's your name and
9 Dr. Carrera --

10 A Dr. Carothers, and C Smith is the tech that come
11 in, and Keith Mathahs is their CRNA.

12 Q Okay. Were you present when the health
13 department and the CDC came into the endoscopy center?

14 A I was present with inspectors, but I don't know
15 which was which.

16 Q Okay. But you remember some officials coming
17 in?

18 A Yes.

19 Q Do you remember whether or not they observed
20 Linda Hubbard?

21 A I know they were in the room whenever she was in
22 the -- doing a procedure, yes.

23 Q Okay. So you would have seen them and her at
24 the same time, or them --

25 A We were doing a procedure and she was the nurse

1 anesthetist in that room at that time.

2 Q Thank you.

3 MS. WECKERLY: I'll pass the witness.

4 THE COURT: All right. Cross.

5 CROSS-EXAMINATION

6 BY MS. STANISH:

7 Q Good morning, ma'am.

8 A Good morning.

9 Q My name's Margaret Stanish. I represent Dr.
10 Desai.

11 A Okay.

12 Q I want to touch on a -- let me start with this.
13 You were trained as a nurse in Washington state, correct?

14 A Yes.

15 Q And did you hold any jobs up there as a nurse?

16 A As an LPN.

17 Q Oh, as an LPN. In what kind of setting was
18 that, ma'am?

19 A I was -- well, I was doing my RN and I was -- I
20 had got out of the Navy, and I had two months before I moved
21 to Texas as a graduate nurse, so I worked in a nursing home.

22 Q I see. And then you came to Las Vegas and
23 worked in the hospitals, as you described?

24 A No, ma'am.

25 Q Oh, more. Okay. What else?

1 A I went to Texas. I went to Big Spring, Texas.
2 I worked at the VA and I -- after I got my RN, I worked at the
3 VA for over a year. Then I went to Arlington, Texas. I went
4 to -- I worked in the ICU at the Arlington, Texas, which was
5 a 12-bed ICU. And then I was reactivated to active duty and
6 went back into the military as an officer, and went up to OI,
7 officer indoctrination school in Newport, Rhode Island.

8 And then I was stationed at Portsmouth, Virginia
9 naval hospital, which I worked at the ICU there. And then I
10 was medically discharged from there and I went to Gold Beach,
11 or Gold Beach, Oregon. I worked as the night supervisor at
12 Gold Beach, Oregon before I come to Nevada.

13 Q So before you came to Nevada you had a total of
14 how many years in the nursing profession?

15 A I started in -- I got my LVN in '79. I got my
16 RN in '89.

17 Q Okay. I'm not going to do the math, but that's
18 a lot of years, correct?

19 A Yes.

20 Q And fair statement that it was busy at the
21 gastro center, correct?

22 A Yes.

23 Q Were you able to, in your opinion, do a good job
24 while you were there?

25 A I always tried to give 100 percent.

1 Q Let me start with touching on a few matters in
2 the preop room. You've already described in some detail your
3 heplock procedure, so I'm not going to drag -- put you through
4 that again. But I did want you to clarify a point for me. In
5 your practice, would you sometimes pre-fill the saline
6 syringes, have, you know, two or three of them ready to go?

7 A When we would start out the procedures in the
8 morning, as we're getting -- opening up at 7:00 o'clock, we
9 would fill three to five syringes ready to go.

10 Q And when you did that, ma'am, where did you
11 place those syringes before using them?

12 A I kept them in my pocket.

13 Q And I assume the needles have caps on them?

14 A Yes.

15 Q And the tray, is there actually a tray by the
16 patient when you're -- to set up?

17 A No, ma'am. We carry the tray around. It was --
18 it looked similar to a utility tray that a housekeeper would
19 put their supplies in, the different supplies there. Except
20 instead of utility stuff, we put the IV equipment.

21 Q I understand. So it's something you can carry
22 around if you want?

23 A You carried it from one patient to the other.

24 Q And that reminds me. The room that you're in,
25 the preop room, how many patient chairs are there?

1 A Three.

2 Q And are those chairs separated by a curtain?

3 A Yes.

4 Q So there's some privacy between the patients
5 with the curtain?

6 A Yes.

7 Q In your experience in nursing, is it unusual
8 when you have a number of patients getting prepped or awaiting
9 a procedure, that they are put in an area with simply curtains
10 separating them?

11 A Yes, ma'am. They -- I've had that as a patient
12 and also as a nurse.

13 Q You and me both. The -- in preop, were -- you
14 did some charting obviously, correct?

15 A Yes.

16 Q And would you explain to us in the preop area,
17 what was your charting duties in preop?

18 A Mainly the charting duty that we did was you
19 would fill out when you put the IV in and the size of gauge of
20 the IV that you put in.

21 Q And just to go before you insert the IV, are you
22 doing any kind of evaluation of the patient?

23 A As a nurse, when you walk in and I first see
24 you, I'm already evaluating you from the minute that I put
25 eyes on you.

1 Q And I don't even know that. What are you
2 looking at when I'm sitting there waiting for you to do
3 something?

4 A Well, I was trained when you walk up to a
5 patient, if they can respond to you, you're already checking
6 their alertness and you're checking their breathing. You're
7 watching their chest rise and fall. You're looking at the
8 color of the patient. And whenever you shake their hand or
9 touch them, you're already feeling are they clammy, are they
10 dry or are they warm, cold. You're already assessing that
11 patient.

12 Q And as part of your charting duties in preop,
13 would you record your observations?

14 A There is a column there that you do, do the
15 initials of the initial -- it was an initial thing.

16 Q And is that something that you would fill out
17 before the patients would come into the room?

18 A Come into which room?

19 Q I'm talking preop now. Is --

20 A It's not before the patient comes in the preop.
21 The techs bring them into the preop to us.

22 Q And just to be clear, so the patient -- you
23 would not fill out your evaluation of the patient until they
24 are in the room?

25 A That's right.

1 Q And when you trained new nurses, would you train
2 them to do that, or is that something they already knew how to
3 evaluate patients?

4 A Well, if they -- that's part of the nursing
5 school. That is part of your training, is whenever you're
6 going through nursing school, when you start to assess and how
7 many times do you assess. You assess, you see something could
8 change, you reassess. You're constant reassessing that
9 patient until they're out of your sight.

10 Q Now, we know this is a busy facility. Is the
11 volume of patients impairing your ability to do your job in
12 the preop area?

13 A No.

14 Q Why do you say that?

15 A It takes five seconds to assess a patient. It
16 actually takes longer to document it on the paper than it does
17 to actually assess somebody.

18 Q Fair enough. Thank you. As part of your
19 assessment, did you have to determine whether the patient
20 complied with the prep instructions?

21 A We would ask them did they -- what prep did they
22 take, and with their answers, if they said they were just NPO,
23 nothing by mouth that morning. And then we would ask them and
24 what procedure are you taking this morning, and they would
25 tell us that they were doing an upper GI or an EGD. And then

1 if they had told us that they had done a bowel prep, we also
2 asked them what bowel prep did they take and how much did they
3 take, and when was the last time they ate any food or drank
4 any water.

5 Q If you -- at that stage, if you had determined
6 based on your conversation with the patient that they did not
7 do the appropriate preparation, what would you do?

8 A I would go to the physician and the nurse
9 anesthetist and let them know that the patient did not do the
10 prep, and most of generally all the time they would have us --
11 if it's an upper GI, sometimes they would have them, since
12 they did drink that morning, they would have them to go out to
13 the waiting area and wait for three hours so their stomach
14 would empty before they could do the procedure for safety. If
15 it was a colonoscopy, they would have to be rescheduled,
16 because they did not take the prep and the bowel is not clean.

17 Q And if you recall, I know this was a while ago,
18 was there -- can you estimate for us how often you had to
19 cancel appointments at that stage?

20 A No, ma'am, I cannot.

21 Q All right. Fair enough. Now I want to move you
22 into the -- well, let me ask you while we're still talking
23 preop, was there any limitation, any limitation from
24 management that you should not -- that you should limit your
25 use of syringes?

1 A Not to me.

2 Q And had you ever heard of any policy coming down
3 that syringe use should be limited?

4 A [No audible response.]

5 Q I'm sorry?

6 A No.

7 Q Now I want to move you into the procedure room.
8 From 2006 to closure you were there, so approximate what, 2
9 1/2 --

10 A A year and a half.

11 Q Pardon me?

12 A A year and a half.

13 Q Okay. During your year and a half there, did
14 you ever have to work on cases where the patient elected not
15 to have any anesthesia for a procedure?

16 A Yes.

17 Q Tell us about that.

18 A There was, in the year and a half that I was
19 there, I would say at least 10 to 12 patients actually come
20 in, they opt not to have anesthesia for one reason or another.
21 And the procedure, the doctors would encourage them to have
22 anesthesia for it, but they were set that they were not.

23 And they were explained to at that time that if it
24 come to any time that they were to become uncomfortable with
25 the procedure, they needed to stop, then they would have to

1 stop and they would have to go either reschedule or have to
2 administer anesthesia, and they did verbalize they understood
3 that.

4 Q All right. And could you explain to us --
5 you've already over-viewed for us on direct exam what occurs
6 in the procedure room normally. What would be different --
7 what would be different in the procedure room when you had
8 patients who elected not to have anesthesia? Who was doing
9 those?

10 A They were mostly on colonoscopies, and they were
11 braver than me.

12 Q You got that right.

13 THE COURT: On that note, let's take a break. Ladies
14 and gentlemen, we're just going to take a quick recess. We're
15 going to take a little bit of a later lunch, around 1:00
16 o'clock today to -- for juror accommodation.

17 During this real quick break you're reminded not to
18 discuss the case, read, watch or listen to any reports of or
19 commentaries on anything relating to the case, and not to form
20 or express an opinion on the trial. Notepads in your chairs.
21 Follow the bailiff through the rear door.

22 (Jurors recessed at 11:52 a.m.)

23 THE COURT: And ma'am, if you need a little, you
24 know, restroom break, you can take that, but don't discuss
25 your testimony with anybody else. Okay.

1 THE WITNESS: Thank you.

2 (Court recessed at 11:53 a.m. until 12:00 p.m.)

3 (Jurors reconvene at 12:06 p.m.)

4 THE COURT: All right. Court is now back in session,
5 and Ms. Stanish, you may resume your cross-examination.

6 CROSS-EXAMINATION (continued)

7 BY MS. STANISH:

8 Q We left off at the very interesting topic of
9 what's different in the procedure room when you have a patient
10 who elects not to have anesthesia. Explain to us what the
11 various roles would be of the people in the room.

12 A Well, the only subtraction is the nurse
13 anesthetist is not in the room.

14 Q Will they be on standby somewhere?

15 A If they leave the room, I don't know where they
16 go. And so as the RN, I actually monitor the vital signs and
17 the airway of the patient, and make sure that there is no drop
18 in the pressures. If there is any drop in the pressures
19 during the insertion of the scope, I do call that to the
20 physician's attention, or if there's a change in the EKG
21 itself.

22 Q And am I right to assume somebody has to hold
23 down the patient, or what's going on with that?

24 A Strangely to say, the patient lays on their left
25 side and they're very calm. The ones that I've seen that went

1 through it without anything, they didn't move, they did not
2 flinch. It was like it was drinking water for them.

3 Q All right. Now, I don't want to have that drink
4 of water. I just want to go back a bit to your training. And
5 I understand you also fulfilled the role of trainer for new
6 staff nurses, correct?

7 A Yes.

8 Q Where did you first learn about aseptic
9 technique?

10 A Nursing school.

11 Q And the -- when you -- when you are training
12 other nurses, do you generally have to train them on aseptic
13 technique, or is that something that they -- you expect them
14 to know?

15 A First question, no. You shouldn't have to train
16 them, but if you see that there is a problem, then you do.
17 You're not only a nurse, but you're an educator when you're
18 the preceptor.

19 Q Preceptor. And in your role as preceptor in the
20 gastro center, did you ever have to correct any staff member
21 on how to use correct aseptic technique?

22 A [No audible response.]

23 Q I'm sorry. You got to speak louder.

24 A No, ma'am.

25 Q Are you all right?

1 A No, ma'am.

2 Q You don't want water either now after

3 [inaudible.]

4 A No. I drink my water.

5 Q The -- is it a fair statement that your
6 colleagues, fellow nurses were experienced and did -- were
7 experienced and knew what they were doing?

8 A Yes.

9 Q With respect to going back to the procedure room
10 now, let me just skip over some of this. Let me talk about
11 your -- when working with Dr. Desai. You -- how would you
12 describe his procedures --

13 Well, let me back up to say this: Prior to working
14 in the gastro center, had you any experience with providing
15 nursing services during colonoscopy or upper endos?

16 A No, ma'am.

17 Q And so this was your first experience?

18 A Yes.

19 Q And you observed the various doctors and how
20 they did their procedures, correct?

21 A Yes.

22 Q And you observed how my client, Dr. Desai, did
23 his procedures, correct?

24 A Yes.

25 Q And did you note differences on how the various

1 doctors did their procedures?

2 A There's always a little bit of variance and
3 differences, but basically it was done the same.

4 Q And with respect to Dr. Desai, you would
5 describe his procedure to be quicker than some of the doctors?

6 A Yes.

7 Q And when -- in your experience, did -- did you
8 observe doctors having difficulty inserting scopes in patients
9 at times?

10 A Yes, there was times.

11 Q And does that occur -- did that occur in your --
12 based on your observations, is that something that most of the
13 doctors would encounter during the procedures?

14 A Occasionally every doctor had difficulty.

15 Q And what would happen in those instances?

16 A Well, if you were having a -- and the patient is
17 sedated, sometimes we can -- you could put your hands on them
18 and they're doing the scope, the colonoscopy, that's where the
19 difficulty come in.

20 And people have different things that are wrong with
21 them. They have scar tissue. They have other things that are
22 going, and you have to go through these different areas and
23 sometimes just putting your hands in certain places on the
24 stomach can help put the scope through without causing damage.

25 Q And who would -- who would primarily assist the

1 doctors in, you know, pressing on the stomach to help the
2 procedure move forward?

3 A Usually the GI tech.

4 Q The -- am I right to understand that you only
5 had recalled this one instance with Dr. Desai having this
6 encounter with Ms. Hubbard that you described?

7 A It's the only one I recall.

8 Q By the way, educate me on this if you will.
9 Based on your observations, have you ever witnessed, besides
10 this one instance and besides the 10 to 12 strong souls who
11 chose to opt out of anesthesia, have you ever seen patients
12 move about while they're under anesthesia?

13 A Yes.

14 Q Would you please elaborate on that.

15 A Well, some patients you can't just look at their
16 size of how much anesthesia they need, and some people have
17 different tolerances to the medicine. And regardless if
18 they're there and everyone is still different, and some
19 patients do move under anesthesia and we have to keep them
20 safe.

21 Q So even though they are asleep, they're moving;
22 is that what you're saying?

23 A Some of them do. Some do. Some lay there like
24 nothing and others, they move through the whole thing.

25 Q And when these patients are moving through the

1 whole procedure, does the attending staff do anything
2 differently?

3 A We will make sure that the patient is staying on
4 the stretcher, and we will put our hands on them and sometimes
5 have to hold to make sure that they're not bouncing off.
6 Because the stretchers are kind of narrow, and so we want to
7 make sure that they don't come off from them.

8 Q And am I right to assume that one of the
9 guardrails is down so the doctor can do the procedure, so you
10 have to be mindful of a moving around patient; is that
11 correct?

12 A Correct.

13 Q And are you positioned in the room so that if
14 needed you can move to that station and -- to protect the
15 patient?

16 A If I am needed, I will leave my paperwork and I
17 will walk over about 8 to 10 feet that I will assist them to
18 hold the patient to keep them safe.

19 Q In the procedure room, we're dealing with
20 colonoscopies here, so I can -- I imagine it's a dirty
21 business so to speak; fair statement?

22 A Well, there's other jobs that are dirtier, but
23 it is dirty sometimes. It can get that way.

24 Q And educate us a bit. Is -- is the colonoscopy
25 procedure room considered a sterile environment?

1 A No, ma'am. It's considered clean.

2 Q And educate us a bit about the difference
3 between sterile and clean.

4 A Sterile is absolutely no germs, everybody would
5 wear a mask, everybody would be covered and so we're not
6 breathing on the patient. Clean is that you would wear
7 protective equipment, but you would go ahead and like you'd
8 wash your dishes, your dishes are clean. They're not sterile.

9 Q And when you're in the procedure room, is the
10 room cleaned in between patients?

11 A The floors are not mopped, if that's what you're
12 saying. But the tables and the equipment that is used is --
13 while we are doing -- everybody had their different tasks, and
14 there would be a GI tech that would change out the equipment
15 for us while we were doing -- taking the patient to recovery.
16 There was actually a GI tech that was assigned to change out
17 the equipment. That would include the scope and the blue pads
18 and all that was needed for the next procedure.

19 Q And when you're in the procedure room, if you
20 observed a GI tech not properly clean the areas of the room
21 that you described, what would you -- what would you do?

22 A It did happen, and I approached the GI tech and
23 educated him on how the proper procedure was and told him what
24 needed to be done, and assisted him in cleaning it at whatever
25 it was.

1 Q And if -- did -- based on your observations, did
2 you observe that some staff members were disgruntled while
3 others were diligent?

4 A Disgruntled, what do you mean?

5 Q Well, lazy, how about that?

6 A Well, in all forms of wherever you work you have
7 your worker bees and you have your ones that do so-so, and you
8 have the ones that you need to pump up to do a better job.

9 Q In your encounters and observations of Dr.
10 Desai, did he treat people who the -- what you described as
11 people who needed to be pumped up versus the worker bees, did
12 he treat them differently?

13 A I don't see that per se was treated differently.
14 But yes, if you are -- as a leader or a supervisor, sometimes
15 you have to do things a little more rough or sound a little
16 more rough than others and to get them to do what you need
17 them to do.

18 Q And based on that explanation, is that what you
19 observed Dr. Desai to do while you were employed at this -- at
20 the gastro center?

21 A I would say that would be the easiest way to
22 describe it.

23 Q Did Dr. Desai ever tell you to do something that
24 you considered to be unsafe?

25 A The only encounter that we had that we had a

1 disagreement on is the way I was putting the patient names in
2 the chart at the beginning of there. But I also followed up
3 on that with my chain of command, and I went back to Dr. Desai
4 and informed him of what I was told why we were doing it that
5 way and we had no more problem.

6 Q Dr. Desai respected you as a professional?

7 A The way he come across to me, yes.

8 Q Vice versa?

9 A As far as I know, yes.

10 Q I meant you towards him.

11 A For me towards him?

12 Q Yes.

13 A Yes.

14 Q And did you feel that way about the other
15 doctors in the gastro center?

16 A Yes.

17 Q Did you feel that way about the other RNs in the
18 gastro center?

19 A Yes. I treated them as professionals.

20 Q When the outbreak occurred, when you were
21 notified that the clinic that you worked at was the site of a
22 hepatitis C outbreak, what was your reaction?

23 A I was at home. And when we heard about it, it
24 was whenever I got my call that it was closed. I did talk in
25 depth with my husband back and forth, and we just kind of

1 threshed it out and we had our comments at that time.

2 Q Were you surprised by it?

3 A Yes.

4 Q Why? Why were you surprised by it?

5 A Because I did not see any reason how anyone
6 could transmit it, hepatitis from one person to the other
7 until the things come out and to -- about the reuse of
8 syringes and stuff.

9 Q Okay. I'm not sure I understood something you
10 said and I want to follow up on it. You were there when the
11 CDC inspectors were present, correct?

12 A I was there whenever we were told the inspectors
13 were in the facility. I do not know if they were the CDC or
14 what their title was, but we had two different inspections
15 while I was there and I was told that they were inspectors.

16 Q And that's what I wanted to follow up with you
17 on. You were there when there were two inspections going on?

18 A Yes.

19 Q And so one of those is obviously the CDC visit,
20 correct?

21 A Yes.

22 Q What is -- can you tell us, give us a little
23 foundation if you can recall, when was the other, the second
24 inspection that you referred to while you were there?

25 A Well, there was one inspection that we were told

1 that we would be having strange people coming into the clinic
2 that were inspectors, and that I would say that was the latter
3 part of the summer of 2007 to the first part of September,
4 October, somewhere in that time period they were there. And
5 then the second group come in, I think it was in January of
6 2008.

7 Q And January of 2008, were the health inspectors
8 in connection to the hepatitis C investigation?

9 A I really don't know which one was which.

10 Q And the other one you said occurred in the
11 latter part of 2007, and you called them --

12 A Well, it was right at the end of summer to the
13 first part of the school year, somewhere in that time period.
14 So I don't really recall exactly, but it was hot. It was the
15 end of August or September, October, right in that period.

16 Q All right. And you've said those were strange
17 people. By that did you mean strangers as opposed to some
18 weirdoes?

19 A Well, they were people that were not commonly in
20 the unit and in there that was going to be watching us do
21 procedures and stuff, and that they were letting us know that
22 it was okay for them to be in there. Normally we would not
23 allow strangers in the procedure room.

24 Q Do you know what the purpose of that inspection
25 was?

1 A No, ma'am.

2 Q Do you know what agency or business those
3 inspectors were from?

4 A No, ma'am.

5 Q And at -- at this time frame in 2007, was it
6 your understanding that gastro center was going to open a new
7 facility?

8 A Yes.

9 Q Do you know if this inspection that occurred in
10 the hot months of 2007 had anything to do with the expansion
11 of the organization?

12 A I do not know why they were there. I didn't
13 know if it was a yearly or if it was for the opening, or what
14 exactly why they were there.

15 MS. STANISH: The Court's indulgence.

16 THE COURT: All right.

17 (Pause in proceeding.)

18 MS. STANISH: For counsel, I'm referring to page 458
19 of the deposition.

20 MS. WECKERLY: Thanks.

21 BY MS. STANISH:

22 Q Ma'am, if you would just review your deposition
23 to yourself. I'll draw your attention to page 458, kind of at
24 the top. But if you need to read a bit before it or after to
25 give it context, feel free to do so.

1 A [Complies.]

2 Q Does reviewing that document refresh your memory
3 on the 2007 inspection?

4 A As I documented there, that I thought that was
5 the time before the accreditation for the opening of the other
6 one and they were just inspecting, or according to the
7 inspectors for that, I think that's what was told to us.

8 Q So they were inspecting the Shadow Lane facility
9 in anticipation of the --

10 A Opening the --

11 Q -- opening --

12 A -- Spring Valley.

13 Q I meant to follow up on this earlier. With
14 respect to the encounter with Ms. Hubbard and Dr. Desai, was
15 Dr. Desai -- did he instruct Ms. Hubbard not to give anymore
16 propofol because he was about to end his procedure?

17 A At this time I do not recall exactly what the
18 conversation was over.

19 Q Is that something that you would observe between
20 doctors and CRNAs, communicating on when to -- communicating
21 that hey, I'm about to end the procedure, don't give anymore?

22 A Not all of the physicians did communicate on
23 their completion or not.

24 Q Would there be communications though, about not
25 to give additional propofol because they were -- the procedure

1 was about to end?

2 A The only one I do recall is doctors telling him
3 that he would be on his way out whenever.

4 Q And when -- let me see if I can find that real
5 quick. After they had their meeting, their meeting between
6 Ms. Hubbard and Dr. Desai, they came back and went right back
7 to work as normal?

8 A Yes, ma'am.

9 Q Is it a fair statement to describe Ms. Hubbard
10 as somebody who would express her opinions loudly?

11 A She will on occasion.

12 Q And speaking of the other personnel, can you
13 tell us who Rod Chaffee is?

14 A He was one of the nurses at the facility.

15 Q And can you give us a bit of foundation for
16 that? When did he work there?

17 MS. WECKERLY: Can we approach, Your Honor?

18 THE COURT: Sure.

19 (Off-record bench conference.)

20 THE COURT: All right. Go on, Ms. Stanish.

21 BY MS. STANISH:

22 Q What was Mr. Chaffee -- is that how you
23 pronounce it?

24 A I think that's the way he pronounced it.

25 Q What was Mr. Chaffee's position in the clinic?

1 A When I started there in August, he had just come
2 back from leave from where he had lost his wife, and he within
3 a week or so there that he told us that he was going to be --

4 MS. WECKERLY: Objection. Hearsay.

5 MS. STANISH: I don't want you to -- just if you --

6 THE COURT: Don't get into anything --

7 MS. STANISH: Right. I just want you to describe
8 your observations of him.

9 BY MS. STANISH:

10 Q So he was there when you were hired, correct?

11 A A week after.

12 Q And he -- he was a nurse?

13 A Yes.

14 Q And did you observe him conduct himself in a way
15 that you thought was unprofessional ever?

16 A I thought it was unprofessional that he was
17 having the emotional breakdowns in front of the patients and
18 talking to the patients about what happened with that. But
19 other than patient care, it did not interfere with any patient
20 care.

21 Q And when -- foundation-wise, do you know when it
22 was he -- you said he would break down?

23 A He would break down in uncontrollable emotional
24 state.

25 THE COURT: Are you talking about crying --

1 MS. STANISH: Crying?

2 THE COURT: -- weeping? What do you mean?

3 THE WITNESS: Crying, weeping, just --

4 BY MS. STANISH:

5 Q Would he do this in the procedure room?

6 A I did walk in on the procedure room that he was
7 in that state when I -- he had relieved me for lunch and I
8 come in to relieve him to go back.

9 Q And can you estimate for us time-frame-wise when
10 this incident occurred?

11 A That was the beginning of my employment there.

12 Q So that would have been in around August--

13 A About early -- I started on August the 9th, so
14 August, September, October, right in that area.

15 Q And did you observe him breaking down and crying
16 and such in other areas of the facility?

17 A I saw him doing it in the recovery room when I
18 would come out to give report.

19 Q And was it the same thing, that he would be
20 emotional in front of the patients --

21 A Yes.

22 Q -- and talking to the patients?

23 A Yes.

24 Q About his emotional issues?

25 A Yes.

1 Q Did there come a time when you observed that
2 Mr. Chaffee no longer worked at the clinic?

3 A Yes.

4 Q Can you estimate for us what that time period
5 was?

6 A I can give you the date.

7 Q Pardon me?

8 A I can give you the date.

9 Q Give it to me.

10 A April the 19th of 2007.

11 Q If I ask you why you remember that, could you
12 tell us without getting into hearsay, what other people told
13 you?

14 A No. I can tell you why. Because that's the day
15 my mother had her stroke.

16 Q Oh, I'm sorry. Thank you. That is memorable.

17 Going to the time frame when the inspectors came to
18 the facility in early 2008, do you recall attending a meeting
19 where you were informed that there was a suspected outbreak
20 and that inspectors were going to observe?

21 A Yes.

22 Q And can you tell us who attended that meeting?

23 A The medical staff attended. We were called to
24 Tonya Rushing's office and was informed at that time.

25 Q And what was the -- what was the -- what was the

1 purpose of the meeting? Was there any instructions given to
2 you?

3 A The purpose of the meeting was to inform us that
4 it was under inspection, that they were inspecting and that we
5 were going to have to all submit lab samples to -- have blood
6 draws.

7 Q Did you have the understanding that you were --
8 you had to cooperate with the CDC or the inspectors?

9 A If they had asked me.

10 Q And they did in fact -- you were actually
11 observed by inspectors, correct?

12 A No, ma'am. I didn't say that.

13 Q Oh, okay.

14 A I said they were in the procedure room. They --
15 their backs were to me, so I wouldn't say they were
16 observing me.

17 Q Okay. You -- describe where you're standing
18 relative to the inspectors, please.

19 A They were between me and the stretcher of the
20 patient, for the patient.

21 Q All right. So you couldn't see what they were
22 doing, they were not watching you?

23 A No, ma'am.

24 MS. STANISH: The Court's indulgence, please.

25 THE COURT: That's fine.

1 (Pause in proceedings)

2 MS. STANISH: I have nothing further. Thank you.

3 THE COURT: Okay. Mr. Santacroce, do you have any
4 questions?

5 MR. SANTACROCE: Yes.

6 CROSS-EXAMINATION

7 BY MR. SANTACROCE:

8 Q Good afternoon, ma'am.

9 A Hi.

10 Q I represent Ron Lakeman. Do you know Mr.
11 Lakeman?

12 A Yes.

13 Q Worked with him in the past?

14 A Yes.

15 Q I want to go back to your testimony about what
16 you did in the preop area. I believe you testified that you
17 worked in the preop area for a period of time, correct?

18 A Yes.

19 Q And you also testified that you trained other
20 nurses in that area?

21 A Yes.

22 Q Did you train a Lynette Campbell?

23 A I don't remember all the nurses, sir. I might
24 have, but I don't remember.

25 Q Okay. And you trained them -- what did you do

1 as far as training them?

2 A I showed them the paperwork of what the
3 questions we would ask the patients, whenever and how we would
4 review the chart, and showed them that -- and far as skills,
5 the nurses come in with the skills.

6 Q So you wouldn't train them as to the
7 administration of heplock or flushing saline, would you?

8 A No.

9 Q They would be expected to know that?

10 A Yes.

11 Q You testified as to what your procedure was in
12 administering the heplock and the saline flush. And I believe
13 you testified that you flushed the heplock with saline,
14 correct?

15 A Right.

16 Q That saline was multi-dose, correct?

17 A Yes.

18 Q And that saline was used on other patients,
19 correct?

20 A Yes.

21 Q You testified that you carried your supplies in
22 a utility box.

23 A Yes.

24 Q So you would carry that from one patient to
25 another within the preop area?

1 A Yes.

2 Q And what was in the utility box?

3 A In the utility box you had the 30 cc vial of
4 normal saline that you needed to pull up for the flush. You
5 would have the syringes in their prepackaged package that's
6 the syringe and the needle together. You would have a
7 tourniquet. You would have alcohol preps. You would have the
8 heparin lock, the little cap. It's in its prepackaged there.

9 You would have your Tegaderm, which is the sterile
10 dressing that you put over the top of after you make sure that
11 it's working. And you would have your tape. And then you
12 would have an -- and on the wall in different areas you had
13 gloves so you can get your gloves to put on.

14 Q And would you wear gloves every time you
15 administered a heplock?

16 A Yes.

17 Q So you wouldn't carry the gloves in the utility
18 box?

19 A No.

20 Q Now, the 30 cc bottles of saline, I believe you
21 testified that you would flush 5 cc?

22 A Three.

23 Q Three? So that one bottle could be used
24 theoretically on ten people?

25 A Right.

1 Q When you used the needle and syringe, would you
2 put that back in the utility box until you could dispose it,
3 or would you dispose it right away?

4 A You dispose it right away.

5 Q So there were sharps containers located
6 throughout the preop area?

7 A Yes, sir. And there is also a sharp container,
8 I don't remember if it was on the tray or that we carried it.
9 There's one of the small ones that is about 4-by-4 inches and
10 about 6 inches tall. That's a small one that we would carry,
11 and so we could just, when there was not a sharps containers
12 within arm's reach.

13 Q And that sharp container would be also in the
14 utility box?

15 A I don't recall it being in there, but we would
16 take it with us so we would have a place to put the needle so
17 we're not carrying sharps across the room.

18 Q Okay. Now, you testified that when you would
19 insert the heplock there would be some sort of blood backflow;
20 is that correct?

21 A Yes. It's in the Jelco. There's a little
22 splice in the Jelco, and with the blood backflash that's into
23 that, you can tell that you're in. And then you insert the
24 cannula all the way, and then you hold your finger over the
25 tip end where the tip of the cannula would go into the vein so

1 it's not bleeding back all over you or all over the patient
2 until you can get the heplock. And then you, with the
3 manipulation, you would hold it with your finger and your
4 thumb. You could hold the hub of it and hold your finger down
5 here, that way you're not bleeding back and getting
6 everything, and put the cap on.

7 Q But the tip of the cannula would come in contact
8 with the blood?

9 A The tip of the cannula is in the patient and
10 you're to push in your finger over the end of the patient.
11 Here's your vein here. You put your cannula in on this part,
12 and you put your finger down here because that's where the end
13 of the cannula, even though the hub is back here [indicating].
14 So you're not bleed -- so you're holding the vein so you're
15 not bleeding back all over the patient and yourself.

16 Q Okay. Did that ever happen?

17 A Sometimes they still bleed out a little bit, but
18 we had -- a lot of times we would put a blue pad underneath
19 them so it would catch that blood, so it's not going out and
20 contaminating. So when the patient leaves, we always move the
21 pad and everything. I forgot about the blue pad. But we put
22 a blue pad under.

23 Q You forgot about what?

24 A It's a Chux. I don't know what you want to call
25 it; blue pad, Chux, granny square. I've heard all kinds of

1 things call it. But it's a safety pad that goes underneath,
2 and you have the patient and lay their arm on that. And then
3 if it does bleed back, it will bleed on that pad that's
4 disposable.

5 Q And what would you do with the pad?

6 A The pad goes into the trash.

7 Q Now, the reason for those aseptic practices is
8 what?

9 A Prevent contamination to the patient or
10 yourself.

11 Q Or other people?

12 A Yes.

13 Q And you recognize that that is a potential
14 mechanism for transmitting disease?

15 A Yes.

16 Q Are you aware of the CDC study in 2008 that
17 identified an outbreak of hep C due to saline flushes?

18 A I did not hear about that.

19 MS. WECKERLY: I'm going to object. That assumes
20 facts not in evidence.

21 MR. SANTACROCE: I asked her if she heard of it.

22 THE COURT: Say again.

23 MS. WECKERLY: Okay.

24 THE COURT: Wait. I asked Mr. Santacroce to repeat
25 his question.

1 MR. SANTACROCE: I asked if she had heard of the CDC
2 study which identified an outbreak of hep C through saline
3 flushes.

4 THE WITNESS: I did not hear of that.

5 THE COURT: That's sustained.

6 BY MR. SANTACROCE:

7 Q Did you train Jeff Krueger?

8 A No.

9 Q Do you know Jeff Krueger?

10 A Yes.

11 Q And would it be fair to say that Mr. Krueger
12 also flushed the heplocks with saline?

13 A Yes.

14 Q So basically, your observation of the technique
15 most of the -- not all of the nurses used the flush in the
16 preop area?

17 A I would say all the nurses, because that was one
18 of the protocols, was to make sure that the heplock was patent
19 before we sent the patient into the procedure room.

20 Q Now, you also testified that you, if not you,
21 the nurses would in the morning take flats of propofol into
22 the procedure room, correct?

23 A Yes.

24 Q You would check them out to the CRNAs; is that
25 fair?

1 A Yes.

2 Q And these flats contained 25 bottles of propofol
3 approximately?

4 A Twenty-five come in a case, yes.

5 Q And you would check out a case in the morning to
6 each CRNA?

7 A Right.

8 Q And the CRNA would sign your book?

9 A Yes.

10 Q And those bottles of propofol in the morning
11 were unopened bottles, correct?

12 A Right.

13 Q And each flat went into each procedure?

14 A Yes.

15 Q So the CRNA in Room 1 would use that flat of
16 propofol and the CRNA in Room 2 would use his flat, correct?

17 A Right.

18 Q You had testified in the procedure room that you
19 didn't really see the CRNAs do their procedures; is that fair?

20 A Right.

21 Q And that was because your back or their back was
22 turned to you?

23 A They were -- I was -- it was their back towards
24 me, because they were at the head of the patient by the
25 patient. I was at least 8 to 10 feet away under a little

1 spotlight.

2 Q And would that be the procedure for most nurses?

3 A Yes.

4 Q In the same position?

5 A Yes. Because we would dim the lights when the
6 procedure was being done, and there was a very small dim light
7 that we could get under to see our paperwork. Otherwise we
8 could not see what we were writing.

9 Q So you can't testify as to how the CRNAs
10 administered the propofol?

11 A No.

12 Q You testified that the CRNAs would stay in their
13 own rooms throughout the day except for lunch breaks and a
14 possible potty break; is that correct?

15 A Right.

16 Q And when there was three CRNAs, one would
17 relieve the other one for lunch. When there was two CRNAs,
18 one of them would relieve the other one, correct?

19 A Right.

20 Q As far as you know, when they relieved the other
21 one, they would still use the propofol that was in that
22 particular room, correct?

23 MS. WECKERLY: Objection. Calls --

24 THE WITNESS: I do not know.

25 MS. WECKERLY: -- for speculation.

1 THE COURT: Well, she said she doesn't know, so.
2 BY MR. SANTACROCE:
3 Q Okay. You don't know?
4 A I don't know.
5 Q Now, I want to talk to you a little bit about
6 the dates for -- of the infection, where it's alleged that the
7 infection occurred. And I'm going to show you what's been
8 marked State's Exhibit 156. Let me know when you -- is that
9 visible to you? Can you read that?
10 A When you're moving it, I sure can't.
11 Q No, I know. I'm sorry. Okay. How about now?
12 A All right.
13 Q Let me see if I have that one right. Hold on.
14 Maybe I'm going to have to adjust it a little bit. Bear with
15 me. Okay.
16 A What form is this?
17 Q This is a form prepared by the State.
18 A Oh.
19 Q Okay. And it's an exhibit that's already been
20 admitted into evidence. Now I should ask you a couple
21 questions about it. Do you see on the top line it has
22 patient, and then as you go across it has doctor, the nurse,
23 technician and the CRNA, correct?
24 A Yes.
25 Q And on this September 21st date of 2007, you'll

1 notice that the first patient of the day Dr. Carrol did, and
2 it purports to say that you were the nurse in that room; is
3 that correct?

4 A Yes.

5 Q And Keith Mathahs was the CRNA?

6 A Yes.

7 Q And in fact, you did one, two, three, four,
8 five, six, seven, eight, nine, ten procedures before we get to
9 Kenneth Rubino, correct?

10 A Okay. I can't count them, but okay.

11 Q Okay. Well, you see where Kenneth Rubino's name
12 appears?

13 A Yes. I got that.

14 Q You were the nurse that was in the room when
15 Dr. Carrol performed the procedure, correct?

16 A Yes.

17 Q And the CRNA was Mathahs, correct?

18 A Yes.

19 Q And then it says Linda McGreevy was in the room
20 for one procedure. Were you also in the room? Because I
21 believe you testified you were training her.

22 A But that was that chart that we seen, it looked
23 like that I was training her that day.

24 Q Okay. And the CRNA was Keith Mathahs.

25 A Then we would be in the same room.

1 Q Okay. You and Keith worked together most of the
2 time, correct?

3 A We worked together, but I wouldn't say most of
4 the time.

5 Q Well, on this particular day?

6 A On that day, yes, I worked with him.

7 Q Okay. And then the next one down is Rodolfo
8 Meana, and you saw his chart.

9 A Yes.

10 Q And the district attorney showed you that chart,
11 right?

12 A Yes.

13 Q And you were the nurse and Keith Mathahs was the
14 CRNA, correct?

15 A Right.

16 Q Then we go down a couple more and there's two
17 names for nurses there, a Sherry -- can you read that? I
18 can't read it.

19 A Where are you talking about?

20 Q Number 27. Patient 27.

21 A Okay. It's someone I was training, because if
22 there's two of us in there, there was -- I was training
23 somebody.

24 Q Okay.

25 THE COURT: Mr. Santacroce, I'm going to stop you

IN THE SUPREME COURT OF THE STATE OF NEVADA

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SEP 02 2014 09:07 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DIPAK KANTILAL DESAI,)	CASE NO. 64591
)	
Appellant,)	
)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	
_____)	

APPELLANT'S APPENDIX VOLUME 21

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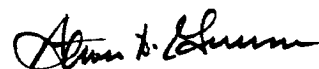
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TRAN



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C265107-1,2
)	CASE NO. C283381-1,2
vs.)	DEPT NO. XXI
)	
DIPAK KANTILAL DESAI, RONALD)	
E. LAKEMAN,)	
)	
Defendants.)	TRANSCRIPT OF
)	PROCEEDING

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 25

THURSDAY, MAY 30, 2013

APPEARANCES:

FOR THE STATE:	MICHAEL V. STAUDAHER, ESQ. PAMELA WECKERLY, ESQ. Chief Deputy District Attorneys
FOR DEFENDANT DESAI:	RICHARD A. WRIGHT, ESQ.
	MARGARET M. STANISH, ESQ.
FOR DEFENDANT LAKEMAN:	FREDERICK A. SANTACROCE, ESQ.

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1 LAS VEGAS, NEVADA, THURSDAY, MAY 30, 2013, 9:46 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: This morning he may be coming through the
5 door, and is as we speak -- where's Ms. Stanish?

6 MR. WRIGHT: Right behind me.

7 THE COURT: They're all here, so start as soon as
8 you're ready. Is the witness here?

9 MR. WRIGHT: Yes. Sitting in the hallway.

10 THE COURT: Mr. Staudaher, do you want to just get
11 the witness and bring him in?

12 (Witness resumes the stand.)

13 (Pause in proceeding.)

14 (Jurors reconvene at 9:50 a.m.)

15 THE COURT: Court is now back in session. The record
16 should reflect the presence of the State through the deputy
17 district attorneys, the presence of the defendants and their
18 counsel, the officers of the court, and the ladies and
19 gentlemen of the jury.

20 And sir, you are still under oath. Do you understand
21 that?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Mr. Santacroce, did you have any more
24 questions for this witness?

25 MR. SANTACROCE: No, Your Honor.

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1 THE COURT: All right. Ms. Weckerly.

2 RALPH McDOWELL, STATE'S WITNESS, PREVIOUSLY SWORN

3 REDIRECT EXAMINATION

4 BY MS. WECKERLY:

5 Q Good morning, sir.

6 A Good morning.

7 Q What is the entity that licenses CRNAs?

8 A I believe it's the same -- in the state of
9 Nevada, I believe that the nursing board -- I think the
10 nursing board does both, because they both -- they gave me
11 licenses that looked exactly the same, so I assume it's them.

12 Q And each state has their own nursing board that
13 licenses the profession?

14 A Yeah. Well, some states, I mean, I think all
15 states have boards that license nurses. There are some states
16 that do not license CRNAs. I don't recall what they are
17 offhand.

18 Q Okay. And my recollection, from your testimony
19 on cross-examination yesterday, was that the CRNAs from the
20 endoscopy clinic voluntarily surrendered their licenses
21 knowing that they were going to be taken if you didn't; is
22 that fair?

23 A Well, I suppose you could use the word
24 "voluntarily." So voluntarily under much --

25 Q Voluntary in quotes.

1 A -- under much duress, yes.

2 Q Right. And the -- to your knowledge, has anyone
3 of the group petitioned to get their license back?

4 A To my knowledge, no. And I know I haven't.

5 Q Okay. And the nursing board is not -- it's not
6 the CDC, right? That's a federal agency.

7 A Well, no. The nursing board is strictly, as I
8 understand it, a state agency.

9 Q And it's not the Southern Nevada Health
10 District; it's separate from that?

11 A No, no, no. I don't think so.

12 Q Now, you mentioned on cross-examination that
13 towards the end of the existence of the clinic, that Linda
14 Hubbard came over to the Burnham facility.

15 A Yes, I did.

16 Q So that was in the last few weeks or months that
17 the clinic was open?

18 A In the twilight of the clinic, yes.

19 Q Were you in charge of observing her or
20 supervising her?

21 A [No audible response.]

22 Q Sorry. But you have to say yes or no for the
23 record.

24 A Oh, no. I'm sorry. No, I...

25 Q Did you see anyone supervising her?

1 A No. Probably because she would have been in
2 another room and I wouldn't have been in there at the time.

3 Q But did you see any extra attention given to her
4 or any extra observation just from your vantage point and
5 your --

6 A I can't say. I really wasn't paying much
7 attention, so.

8 Q Now, you were asked about this meeting where
9 Dr. Desai meets with the CRNAs and proposes using the saline
10 with the propofol. Now, I think you said -- were sort of
11 discussing that this meeting took place in the last part
12 of 2007.

13 A Yes.

14 Q Do you remember saying that?

15 A I guess -- it was at least within the boundaries
16 of a year and a half, perhaps a year. I mean, it wouldn't
17 have been far out. I mean, it was fairly close to -- the
18 reason I know that is because sometime after that for some
19 reason or other our bonuses were discontinued --

20 Q Okay.

21 A -- and -- okay. Go ahead.

22 Q Well, let me ask you that. When were your
23 bonuses discontinued?

24 A Well, it was fairly close. I would say probably
25 within -- within at -- for sure no more than six months. And

1 the reason I remember that is because after they were
2 discontinued, I went to see Tonya Rushing at Shadow and I
3 said, Well, you know, they started me out at a certain amount
4 and plus bonus, and now without the bonus I'm back down to my
5 original amount, so can I have a raise. So she gave me a
6 raise, which effectively brought me up to the same level as if
7 I had the bonus.

8 Q And when you got your raise, how -- when was
9 your raise in relationship to the clinic closing?

10 A Oh, to the best of my knowledge, maybe no more
11 than six months.

12 Q Okay.

13 A A few months. I mean, it wasn't -- I don't
14 think it was as much as a year or anything.

15 Q And your recollection is that the meeting about
16 the saline was around the time you asked for your raise, or
17 before or after, or --

18 A I think the meeting about the saline took place
19 before the announcement of the discontinuance of -- of the
20 bonuses.

21 Q Okay. So it was before the bonus or before you
22 got your raise?

23 A Yes.

24 Q And your recollection is that you got that at
25 around six months at least before the clinic closed?

1 A Yeah, well -- yeah. Yeah, something like that.

2 Q Is it -- is it fair to say you don't have a

3 pinpoint memory of when this was?

4 A It's fair to say that I don't have a pinpoint

5 memory for just about anything.

6 Q Okay. You discussed yesterday on

7 cross-examination that Mr. Mione would bring opened or

8 partially used vials of propofol to your room to use, but you

9 wouldn't use them.

10 A No.

11 Q And I think you were asked like what time in the

12 day, the workday that that would occur.

13 A It probably would have been around the time that

14 he was leaving.

15 Q And do you remember what hours he worked?

16 A Well, that varied. I mean, sometimes -- it was

17 rare to work less than eight hours. I mean, and sometimes I'd

18 finish first, sometimes he would finish first. I mean,

19 assuming we stayed in our own rooms. But, you know, the

20 average day would -- most of the time I don't think it would

21 have been any less than eight hours. It frequently went well

22 over that.

23 Q Do you know what time he started? Like what --

24 A In the morning?

25 Q Yeah. Mm-hmm.

1 A Well, we generally started at 7:30 in the
2 morning. That was when the first patient -- I mean, I would
3 be there maybe 6:45, 7:00, but the first patient was wheeled
4 into the room at 7:30.

5 Q And so the last procedures of the day, when
6 would they typically start?

7 A Well, it could -- well, that's -- it depends on
8 how many patients were on the roster. I mean, I've seen
9 patient, you know, procedures start as late as 4:30, 5:00
10 o'clock and, you know, there's a couple of times we ran over
11 quite late.

12 Q So if he were doing this, or on the occasions
13 when he did this, it would obviously be when you still had
14 patients?

15 A Oh, yeah. Yeah.

16 Q Now, did it ever occur earlier in the day, where
17 he would bring something -- would bring the partially used
18 vials over to you?

19 A I can't honestly say that it didn't. But I
20 mean, my memory tends to be that it was toward the time when
21 he would be leaving and -- because if it were earlier in the
22 day, there'd be no reason for him to bring it to me because
23 he'd be using it himself.

24 Q There's a shelf life or a time when you can use
25 propofol though, right? It goes bad?

1 A Well, once you pop that -- like I say, once you
2 have popped that plastic cap and broken through that seal,
3 regardless of whether [unintelligible] or sterile or what,
4 it -- I haven't really read the literature in detail, but I
5 suppose frequently you begin to see the thing look pretty
6 yucky at about four hours. But like I say, my cutoff time was
7 about an hour. I wouldn't even go anywhere near four hours.

8 Q So you couldn't have a vial, a partially used
9 vial, assuming you used sterile technique, you couldn't use
10 that like one from the morning in the afternoon?

11 A Well, no. I -- to just to look at it nobody
12 would dream of using it, I wouldn't think, no. If it had been
13 opened, you know.

14 Q Right. And if I understand you correctly, there
15 was one occasion when you brought him an opened vial?

16 A Yes. Yeah, that I recall. Yeah.

17 Q When you would cover his room during the lunch
18 hour, I think you said yesterday that there was -- there were
19 partially opened vials --

20 A Mm-hmm.

21 Q -- is that correct?

22 A Yeah.

23 Q But you didn't use them?

24 A Most of the time I would clear out the space and
25 just throw them away.

1 Q What would use instead?

2 A Mine.

3 Q And --

4 A Or I mean, if he had some there I would, you
5 know, open his or -- I mean, if -- there was a couple of time
6 I remember my bringing over a couple of unopened vials myself
7 just to be sure that I had them, and not have to run back in
8 case he didn't have them.

9 Q So you actually brought your own vials from your
10 own room into his room --

11 A On occasion, yeah.

12 Q -- to cover him? On occasion.

13 A Or I would -- if I -- if I had reason to believe
14 he had his own there that were unopened, I would use that.

15 Q The conversation that you had with Dr. Desai
16 after the CDC outbreak --

17 A Yeah.

18 Q -- I think you said Dr. Mason was there.

19 A Yes.

20 Q And this took place at Burnham?

21 A At Burnham in Room C. Here's A, B, C
22 [indicating].

23 Q Okay. And this was an only occasionally used
24 room?

25 A Yes.

1 Q Was anyone else present?

2 A Dr. Desai, me and Dr. Mason. I don't believe.
3 Just the three of us that I recall.

4 Q Okay. Was the room door open or closed, do you
5 remember?

6 A It was probably closed. I don't think they
7 wanted to invite anybody in to listen.

8 Q Okay. Was it a secret meeting?

9 A Well, I mean, I don't know that it was designed
10 to be necessarily, but I mean, I think the purpose of them was
11 to talk to me, not to anybody else.

12 Q And do you know why? Why would you be singled
13 out?

14 A Well, I don't -- maybe they did this to the
15 others too. I don't know. I mean, at the time I assumed that
16 they were probably doing this to the others. Dr. Mason at the
17 time made the statement as though --

18 MR. WRIGHT: I want to object to hearsay.

19 THE COURT: That's sustained.

20 MS. WECKERLY: Okay.

21 BY MS. WECKERLY:

22 Q As you sit here now, do you know why you were in
23 that meeting?

24 A Well, I -- probably for the reason that, you
25 know, Dr. Desai was to inform us of what was going on, and

1 then --

2 Q But didn't you already know by then?

3 A Yes, I did. But he --

4 Q Okay. He told you that there was an outbreak at

5 Shadow, but you knew that, right?

6 A Yes.

7 Q And that there were a cluster of cases or at

8 least more than one case, but you knew that?

9 A Yes.

10 Q And he said that if you had done something like

11 that your license would be at stake?

12 A Yes.

13 Q I would assume you knew that?

14 A Yes.

15 Q And that if you did something like that you

16 wouldn't be able to work anywhere in the world?

17 A Yes.

18 Q Did you know that?

19 A Well, not that I -- I've been to other places in

20 the world and, you know, in some places you can work just

21 about no matter what. But I mean, in general, yes, I knew

22 that.

23 Q You knew there was a lot at stake; is that fair?

24 A Yes. Yes. That's the point, yes.

25 Q Okay. And you didn't need him to tell you that,

1 right?

2 A No.

3 Q Okay. He told you that people would be coming
4 unannounced and they'd ask you questions?

5 A Yes.

6 Q Did you know that?

7 A No. Well, I might have surmised it, but I mean,
8 I didn't know that specifically, no.

9 Q And then he told you that -- how to answer the
10 questions, right?

11 A Yes.

12 Q And the answer was going to be one needle, one
13 syringe, one vial per patient, then I throw everything out?

14 A Right. Yes.

15 Q Okay. Is there a reason why you would need
16 instruction on how to answer investigators?

17 A Me? Well, no, because that's the way I do --
18 well, no, that isn't the way I did things. I mean, I was --
19 in other words -- okay. That was the new policy of the
20 company.

21 Q Right.

22 A So having announced that that was the new policy
23 of the company and him being the head man, it was probably
24 appropriate that he came over and visited us. That was my
25 impression, that we had an official visit after all this

1 broke, because that would be the appropriate thing to do.

2 Q Right. But you were the only CRNA there, right?

3 A In that meeting?

4 Q Yes.

5 A In this particular meeting, yes.

6 Q Yeah. And the memo had already come out, hadn't
7 it?

8 A Yes.

9 Q So you're in this meeting that you think is --
10 now you think is about an official policy, but you were the
11 only CRNA there?

12 A Yes.

13 Q And did it -- I guess, was there a reason why
14 you would have trouble answering investigators that he would
15 need to tell you how to handle the questions?

16 MR. WRIGHT: Objection.

17 THE WITNESS: No.

18 MR. WRIGHT: Calls for speculation.

19 THE COURT: Well, unless there's some problem he had
20 himself, then he can answer.

21 Don't guess what they were thinking but, you know --

22 THE WITNESS: Oh. Well, could you rephrase the
23 question?

24 MS. WECKERLY: Sure.

25 THE WITNESS: I'm sorry.

1 BY MS. WECKERLY:

2 Q Is there something like that about you that
3 would make it hard for you to answer questions by
4 investigators, where you'd sort of need coaching beforehand on
5 what to say?

6 A Well, I hope not.

7 MR. WRIGHT: Objection. Objection to the question.

8 THE WITNESS: I don't think so.

9 THE COURT: Well, he said I hope not, so.

10 THE WITNESS: Yeah.

11 BY MS. WECKERLY:

12 Q I mean, you would be able to answer questions by
13 yourself?

14 A Yes.

15 Q Okay. And the other thing he told you to say
16 was multi-use vial, never heard of it?

17 A Well, what's that.

18 Q Or what's that actually. And that was going to
19 be an answer that you were to use if someone asked you
20 questions?

21 A Yes.

22 Q But you had heard of a multi-use vial?

23 A May I comment on that?

24 Q Sure.

25 A Okay. Up until yesterday, when I believe Mr.

1 Wright was questioning me, my first impression would have
2 been, well, he's telling us to at the very least obfuscate the
3 issue if not just outright misrepresent the issue. But in
4 light of what Mr. Wright brought up there, I could see where
5 now that would just be a nuance way -- or a very colloquial
6 way of saying, well, no.

7 Q Okay.

8 A In other words, if you're -- because everybody
9 obviously knows that we know what that kind of vial is to --
10 if I were to say, Well, what's that; that's equivalent, you
11 know, in standard English to saying, Well, no, rather than --

12 Q And so it was in your view now today that it was
13 just merely an announcement of a new policy?

14 A Well, yes, I guess you could put it that way.

15 Q Okay. Did you think that investigators who were
16 investigating an outbreak that occurred several months earlier
17 would be asking about a policy that just came into existence?

18 A Well, gee, that's a tough question. Say that
19 again. I'm trying to --

20 MR. SANTACROCE: And I'm going to object to
21 speculation anyway. He's speculating as to what they would
22 do.

23 THE COURT: Well, I think it's only relevant as to --
24 what he thinks now in hindsight really isn't relevant. At the
25 time what did he think, if he thought about that at all.

1 MS. WECKERLY: Okay. When you --

2 THE WITNESS: That's a very good point.

3 THE COURT: Thank you. The lawyers never agree with
4 my point, so at least someone does.

5 BY MS. WECKERLY:

6 Q In your opinion, would investigators want to
7 know about the current propofol policy, or the one that
8 existed when the outbreak occurred?

9 MR. SANTACROCE: Again, calls for speculation.

10 THE COURT: Yeah. That's sustained.

11 BY MS. WECKERLY:

12 Q Let me ask you this: When you spoke to the
13 police, you relayed this conversation, correct?

14 A Between Dr. -- you mean the one in the -- in the
15 room that we're talk -- yes. Yes, I believe I did.

16 Q And do you remember how you characterized this
17 information when you told it to them?

18 A I have my copy here, if you can tell me what
19 page.

20 Q Yeah. It's at page 61.

21 A Sixty-one?

22 Q Mm-hmm.

23 A First interview?

24 Q Yes.

25 THE COURT: And just read that quietly to yourself.

1 THE WITNESS: Oh, okay.

2 MS. WECKERLY: And I'm looking at the bottom of
3 page 60.

4 THE WITNESS: Sixty-one. All right.

5 Okay. You mean I actually talk like this?

6 This is --

7 BY MS. WECKERLY:

8 Q You told the police before you explained this
9 conversation, you said, There's something very important --

10 MR. WRIGHT: Objection. The question is did that
11 refresh his recollection.

12 THE COURT: Right. And then --

13 MS. WECKERLY: Okay. Does it refresh your
14 recollection as --

15 THE COURT: -- if it's -- as to what he said. And
16 then if it does --

17 THE WITNESS: Yes. Yeah.

18 THE COURT: Okay.

19 BY MS. WECKERLY:

20 Q And you characterized it as what, the
21 information before you said it?

22 A I'm not -- I don't understand.

23 THE COURT: I think your question's a little
24 confusing.

25 MS. WECKERLY: Okay.

1 THE COURT: So maybe you can ask it a different way.

2 BY MS. WECKERLY:

3 Q Before you told the police about this
4 conversation --

5 A Yes.

6 Q -- how did you describe it? What did you say
7 about it before you explained it?

8 A What did I say about the conversation?

9 Q Mm-hmm. Did you say it was very important on
10 page 61?

11 A Oh, yeah, I believe. Yeah, I believe. Yeah, I
12 did.

13 Q Why? Why did you regard this conversation as
14 very important for the police to know about?

15 A Well, for the very fact that it took place, that
16 Dr. Desai was there and he made statements and the statements
17 were not just statements in passing. They were in the wake of
18 something really momentous that had happened. So and they --
19 they, you know, they had questioned me about other
20 conversations I may have had, so I thought it was certainly
21 important to bring this up.

22 Q And how did you characterize his statements to
23 you? Those statements, how did you characterize them?

24 A Dr. Desai's statements?

25 Q Mm-hmm.

1 A You mean the word "ambiguous"?

2 Q Yes.

3 A Yeah.

4 Q They were ambiguous, right?

5 A Yeah.

6 MS. WECKERLY: Thank you.

7 MR. WRIGHT: Done?

8 MS. WECKERLY: Yes.

9 RECROSS-EXAMINATION

10 BY MR. WRIGHT:

11 Q And then you characterized it right after that,
12 correct?

13 "I mean, basically what came out of -- the most
14 important thing for me was, uh, just from now on don't use
15 vials of propofol on more than one patient, because now this
16 is the policy and they're going to come around and check, and
17 when they check, they had better see you doing only what I'm
18 telling you to do now," correct?

19 A Yes.

20 Q Okay. And that was talking about one vial, one
21 patient, one syringe, throw in the trash --

22 A Right.

23 Q -- right?

24 A Right.

25 Q And why would they -- why would -- now, Dr.

1 Mason was the medical director of Burnham.

2 A Yes.

3 Q And he was present?

4 A Yes.

5 Q Okay. Did you think he was there in a secret

6 meeting obstructing justice and telling you to lie to people?

7 A No.

8 Q Okay. And Dr. Desai is there. Dr. Mason's

9 there. And why would they be talking to you? Well, what had

10 just happened on January 30, when BLC came in?

11 A When BLC came in, you mean the meeting where the

12 lady talked to me?

13 Q Right.

14 A Yeah.

15 Q What were you doing?

16 A I was in my room sitting at my table giving

17 anesthesia.

18 Q And you were doing what with the propofol vial?

19 A Well, I was using -- I had maybe two or three

20 opened, which on my -- in my workspace.

21 Q Okay. And she said, What are you going to do

22 with those?

23 A Yes.

24 Q And you said, I'm going to use those on the next

25 patient, right?

1 A What she did was ask me are you going to throw
2 those away, and I said no.

3 Q Okay. But you were multi-using, right?

4 A Yes.

5 Q And she was writing like crazy, correct?

6 A Right.

7 Q And did you see the report that came out of that
8 BLC visit that's called "The Trip Report," I think?

9 MR. WRIGHT: Is that what it's called?

10 MS. WECKERLY: It's not.

11 MS. STANISH: I don't think so.

12 MR. WRIGHT: Or is that --

13 MS. WECKERLY: That's the CDC report.

14 MR. WRIGHT: That's CDC. Was the --

15 MS. STANISH: The BLC report.

16 MR. WRIGHT: The BLC report.

17 BY MR. WRIGHT:

18 Q Did you see the BLC report that talked about the
19 multi-use guy?

20 A If it's included within this big fat thing that
21 came off of the CDC, then yes, I did, because I read the whole
22 thing.

23 Q Okay. Well, it was talking about -- the BLC
24 report talked about that incident that day, correct?

25 A The BLC report?

1 Q Yes.

2 A Well --

3 THE COURT: Did you see a --

4 MR. WRIGHT: Do you recall?

5 THE COURT: -- in some report, someone relaying the
6 incident that occurred with you, whether it's the ABC report
7 or the QRC report or whatever?

8 MR. WRIGHT: BLC.

9 THE COURT: In some report, did you see or do you
10 remember seeing that incident relayed?

11 THE WITNESS: Yes.

12 THE COURT: Okay.

13 BY MR. WRIGHT:

14 Q Okay. And in the -- did you see the BLC report,
15 Ralph McDowell multi-using propofol vials, plan of action,
16 response by clinic, won't do that again? Do you recall that?

17 A No, I did not with my name, no. No.

18 Q Okay. It had a number that was attributed that
19 you understood was you --

20 A Right.

21 Q -- in the BLC report; in other words, not --
22 like CRNA number such and such?

23 A Well, they were using those designations though.

24 Q In the BLC report. Okay.

25 A In the BLC report.

1 Q Right.

2 A Okay.

3 Q You saw yourself by number rather than name?

4 A I would -- what I saw I probably surmised was

5 talking about me whether it used my name or not.

6 Q Okay. And it was known to management, Dr.

7 Desai, Dr. Mason, that you had -- when BLC came in, you had

8 been multi-using, correct?

9 A Yes.

10 Q Okay. And I understand it had not been

11 communicated to you.

12 A The new policy, yes.

13 Q Correct.

14 A That's correct.

15 Q And thereafter it was communicated to you,

16 right?

17 A That's correct. Yeah.

18 Q And then after those events BLC comes in, BLC

19 report, BLC plan of correction, they then have a meeting with

20 you, meaning Mason and Desai, correct?

21 A Yes.

22 Q And at that time, as your best understanding of

23 the purpose of the meeting was to confirm that going forward

24 you fully understood the policy, correct?

25 A Yes.

1 Q And that you would be implementing that for the
2 protection of yourself and the clinic, correct?

3 A Yes. That's --

4 Q I mean, is that a fair characterization of that
5 meeting?

6 A Yes.

7 Q Now, when Linda Hubbard came over towards the
8 end to Burnham because of whatever transgression at Shadow
9 Lane, she was in a different room, correct, procedure room?

10 A Yes.

11 Q And you understood through the gossip that she
12 was there because of wrongdoing and to be supervised; is that
13 right?

14 A That was my understanding, yes.

15 Q Okay. And who would be in the room with her
16 when she is conducting procedures at Burnham?

17 A Well, it would probably have been -- I -- I
18 don't know who was in there, but I would guess that it would
19 be another anesthetist or perhaps the nurse administrator
20 possibly.

21 Q Okay. And that would be --

22 A Possibly both.

23 Q And that would be Jeff Krueger?

24 A Yes.

25 Q Okay. And also would the doctor performing the

1 procedures be in the room?

2 A Oh, well, yes, of course.

3 Q And that would be whom?

4 A Well, whatever doctor was working that day. I
5 mean, we had a variety of doctors that came through there.

6 Q Okay. Now, on the date of the saline flush
7 efficiency report meeting, do you know what I'm talking about?

8 A The saline flush -- yes. You mean the one at
9 Shadow about the --

10 Q Correct. All the CRNAs but one met.

11 A Yes.

12 Q And this is when the entire plan to save on
13 propofol was explained by Dr. Desai?

14 A Yes.

15 Q Okay. Now, on the date, your written memorandum
16 back in July 15, 2008, that's K-1, Proposed K-1 --

17 A In the latter part, yeah.

18 Q Okay. Latter 2007.

19 A Yes.

20 Q Okay. And do you recall when you told -- when
21 you were interviewed by the metropolitan police department a
22 number of years ago --

23 A Yeah.

24 Q -- they asked you, or you told them the date of
25 that meeting? Do you recall that, what date you used? And

1 I'll point you through.

2 A No, I don't recall it offhand. Can you direct
3 me to the page?

4 Q Yes, sir. Look at page -- I'm on the 7/16/08
5 statement until July 2008. I'm on page 32.

6 A That's the first meeting?

7 Q Yes. Yes, sir. Starting halfway down.

8 A All right. Okay.

9 THE COURT: Someone needs a break, so let's just
10 while we're looking for that --

11 MR. WRIGHT: Okay.

12 THE COURT: -- go ahead and just take a quick recess.

13 And ladies and gentlemen, during the quick recess,
14 you're reminded you're not to discuss the case or anything
15 relating to the case with each other or with anyone else.
16 You're not to read, watch, listen to reports of or
17 commentaries on the case, person or subject matter relating to
18 the case, and please don't form or express an opinion on the
19 trial.

20 Notepads in your chairs. Follow the bailiff through
21 the rear door. And I know there were complaints that the
22 breaks are too short. The bailiff doesn't bring you back
23 until he's aware that everyone's had enough time for the
24 break, so.

25 I do that for the lawyers.

1 MS. STANISH: Thank you.

2 (Jurors recessed at 10:20 a.m.)

3 MS. STANISH: You can sit if you want. We're just
4 standing because we're sick of sitting for 30 days.

5 THE COURT: When -- if you guys need a break, just
6 take a break.

7 MS. STANISH: Thank you.

8 (Court recessed at 10:21 a.m. until 10:27 a.m.)

9 (Outside the presence of the jury.)

10 THE COURT: This is the juror with the kindergarten
11 graduation and the school's over there. It's not far away.

12 (Pause in proceeding.)

13 MR. WRIGHT: Look at the top of 32. I told you the
14 bottom.

15 THE WITNESS: The top of 32?

16 MR. WRIGHT: No wonder I couldn't find it.

17 MS. STANISH: That's why we need to someday get into
18 the computer age, so we can look things up with a find
19 function. Maybe next trial.

20 (Pause in proceeding.)

21 (Jurors reconvene at 10:32 a.m.)

22 THE COURT: Court is now back in session. And
23 Mr. Wright, you may resume your cross-examination, or your
24 recross-examination.

25 RECROSS-EXAMINATION (continued)

1 BY MR. WRIGHT:

2 Q Yes. Ms. Weckerly had asked you about the dates
3 of the CRNA meeting with Dr. Desai, and then also I'm going to
4 get to the dates of no more bonuses and you got a raise.
5 Okay. So for the date of the CRNA meeting, to go back to your
6 July 2008 interview with the police department, that would
7 have been six months after the events, correct?

8 A When was the interview?

9 Q That would have been six months -- about six
10 months after the event?

11 A Yes. Yes.

12 Q Okay.

13 A Oh, yes. Yes.

14 Q Okay. And so at that time, I asked you to look
15 at page 32, at the top as to when you believe the meeting was.

16 A Yes.

17 Q And does that refresh your recollection?

18 A Yes.

19 Q And when was it?

20 A At the -- well, it would be the end of 2007.

21 Q Okay.

22 A Which is what --

23 Q And did you state, The end of last year,
24 November, December? Look at the top of page 32.

25 A Yeah. Yes.

1 Q Okay. And it was fresher in your mind at that
2 time than here today years later?

3 A Yes.

4 Q Okay. Now, when you -- when the bonuses got
5 canceled --

6 A Yes.

7 Q -- and you got a raise, okay?

8 A Yeah.

9 Q Look at page 129 of your same interview, 129 of
10 the big first day, and look down at the bottom.

11 A One, twenty-nine?

12 Q Yes, sir.

13 A Okay.

14 Q Read the bottom --

15 A Bottom paragraph?

16 Q Bottom paragraph, and over through the first
17 half of the next page to yourself.

18 A Okay. Okay.

19 Q Okay. And does that refresh your recollection
20 as to when it was?

21 A Yes. Well, I'm taking what I said there as
22 pretty much the truth, yeah.

23 Q Okay. I mean, at the time you were being
24 truthful about everything back then, right?

25 A Yes, yes.

1 Q And so it was in December 2007 --

2 A Yes. Right.

3 Q -- approximately, correct?

4 All bonuses had been stopped for CRNAs?

5 A Right.

6 Q And you understood, and I'm getting this from
7 your interview --

8 A Yeah.

9 Q -- that there was too much grumbling about
10 bonuses and who got what.

11 A That was my understanding. Now, this -- there
12 was no meeting that this was announced at. I mean, this came
13 to me through the atmosphere, you know, through the grape
14 vine.

15 Q Okay. And so in lieu of bonuses, your salary
16 was increased the equivalent of what the bonuses had been
17 to 130,000?

18 A Yes. I was given a \$20,000 raise, yes.

19 Q Okay. Now, one -- one final question. Look at
20 K-1, Exhibit K-1 in your --

21 A This one here?

22 Q Yes, sir. You can put that away now.

23 A Okay.

24 Q K-1 is what you wrote out for your lawyer right
25 prior to your interviews with the police, correct?

1 A Okay. Right.

2 Q Would you look at page 4 -- no. Page 3.

3 A Three?

4 Q Yes. I think there is a typo. Okay. But I

5 want you to explain [inaudible].

6 A Okay. Where is that?

7 Q The time -- we're talking about anesthesia

8 times, and what you called your force -- read that shortly

9 sentence.

10 A Out loud?

11 Q Or to yourself.

12 A Yes. Yes.

13 Q Okay. Now, is that correct?

14 A Yes.

15 Q Okay.

16 A As I recall it, yes.

17 Q Okay. "Shortly after we were informed of the

18 hepatitis C outbreak at the Shadow Lane facility --

19 A Yes.

20 Q "-- I was told that Time A, the anesthesia

21 ending time." Look up above at what A is.

22 A Yeah. That must have been a confusion then,

23 because A is not the ending time. A is the beginning time.

24 Q Okay. Didn't you mean D?

25 A Yes. Sorry. That is -- I hadn't noticed that,

1 but you're right. That's right.

2 Q Okay. So the -- why don't you take and put D
3 where that --

4 A Is this the exhibit? Can I do it on the
5 exhibit?

6 Q Sure.

7 A [Complies.]

8 Q Okay. And so it -- and now that reads
9 correctly, this was the last anesthesia time change that was
10 implemented, correct?

11 A That's correct.

12 Q And it said from now on, it's anesthesia time is
13 going to be from the start time to -- wait. I'm not saying
14 that right. State what the last --

15 A Well, A --

16 Q The final instructions.

17 A A is the time -- is the start time for
18 anesthesia, when I come into attendance with a patient. B and
19 C are procedure times. D is the anesthesia ending time.

20 Q Okay.

21 A Which would now coincide with C.

22 Q So from now on, procedure times are anesthesia
23 times?

24 A Yes.

25 Q Okay. Thank you.

1 MR. WRIGHT: And no further questions.

2 THE COURT: All right. Mr. Santacroce, do you have
3 any questions?

4 MR. SANTACROCE: Just a couple.

5 RECROSS-EXAMINATION

6 BY MR. SANTACROCE:

7 Q Mr. McDowell, you worked at the clinic from 2002
8 to 2008, correct?

9 A February of 2002 until closing time 2008.

10 Q So in that six-year period, you can only
11 remember a couple of times where you brought propofol from
12 your room to Mione's room when you relieved him for lunch;
13 isn't that correct?

14 A When I relieved him for lunch; in other words,
15 full -- full vials. Well, it -- whether it was a couple of
16 times or more than a couple of times, I mean, it wasn't --
17 my -- again, it would depend on how much he had there. I
18 mean, if I had some reason to believe that he didn't have
19 enough and that I was going to need more, then I'd bring mine.

20 Q So would you go look in the room and see if he
21 had enough?

22 A Well, I probably was just guessing based upon,
23 you know, whatever at the time. But I did do that, yes, at
24 times.

25 Q But it's fair to say that that was infrequent;

1 isn't that true?

2 A Probably, yeah, infrequent.

3 Q And in that six years you can only remember one
4 time where you brought a used bottle to Mr. Mione at the end
5 of the day when you were leaving; isn't that correct?

6 A That's all I can remember, yes.

7 Q I'm going to show you what's been marked as
8 State's Exhibit No. 156. Can you read that? Can you see, is
9 it on your monitor?

10 A Yeah. On this one? Yeah.

11 Q Yeah.

12 A It's a little blurry. I mean, one --

13 THE COURT: It's small.

14 BY MR. SANTACROCE:

15 Q Do you want me to zoom in on it?

16 A Yes, I think so.

17 Q Tell me when it's clear.

18 A Well, it's fairly clear. Now, what is it you
19 want me to...

20 Q I want you to look at who the CRNA was. And
21 I'll represent and show you that this is for the -- what's
22 alleged to be the infection date is September 21, 2007. Do
23 you see the CRNA column?

24 A CRNA column, yes.

25 Q And this is for the procedures at Shadow?

1 A Shadow.

2 Q Do you see your name anywhere on these
3 procedures?

4 A No. No, I don't. Keep going. No.

5 Q So you didn't do any procedures at Shadow Lane
6 on September 21, 2007, correct?

7 A Evidently not, no.

8 Q And I want to show you now what's been marked as
9 State's 157. This is for the alleged infection date of
10 July 25, 2007. And do you see the CRNA column?

11 A CRNA column. Mm-hmm. Yes.

12 Q Do you see your name anywhere on here?

13 A Keep going. More.

14 Q I'll get to the end here.

15 A No.

16 Q So you didn't perform any procedures on July 25,
17 2007, correct?

18 A Correct.

19 Q So you cannot testify as to what the CRNAs did
20 or didn't do on July 25, 2007, or September 21, 2007, correct?

21 A At Shadow, no. Of course not, no.

22 Q And you can't testify whether propofol was moved
23 from room to room on those dates, can you?

24 A At Shadow, no.

25 Q You can't testify as to what the injection

1 practices were of the CRNAs on those dates, can you?

2 A No.

3 MR. SANTIACROCE: I have no further questions.

4 THE COURT: Ms. Weckerly.

5 MS. WECKERLY: No other questions. Thank you.

6 THE COURT: All right. I have a juror question up
7 here. A juror wants to know, do you know if the propofol
8 manufacturer had any kind of pamphlet that they sent
9 expressing how they labeled their bottles or talked about
10 single use versus multiple use?

11 THE WITNESS: There is a -- inside of each -- should
12 I speak to the jury here?

13 THE COURT: Yeah. It's to them.

14 THE WITNESS: All right. Inside of each -- let's
15 see. I'm trying to think. When the propofol comes in, say
16 it's in a box with 24, there's usually a flyer in there
17 which is -- gives a lot of information about the tests that
18 have been done on propofol and the results, all the studies
19 that have been done. And there's a lot of very small print
20 that I rarely if ever read simply because I don't have the
21 patience to read it. That's like reading the telephone book.
22 So whether they talked about labeling on there, I really
23 couldn't say.

24 THE COURT: Okay. And that packet -- that pamphlet
25 you're talking about, that typically comes with all drugs,

1 correct?

2 THE WITNESS: Yes. It's a flyer. I mean, I wouldn't
3 even call it a pamphlet. It's a single -- it's a single page
4 thing that's about this long [indicating] when you unfold it.

5 THE COURT: And it talks about drug interactions --

6 THE WITNESS: Yeah.

7 THE COURT: -- and studies and things like that?

8 THE WITNESS: Yeah. All sorts of things that --

9 THE COURT: But you didn't read that in the --

10 THE WITNESS: No.

11 THE COURT: -- case of the propofol?

12 THE WITNESS: No. Well, I mean, I remember
13 occasionally glancing at it, but the area -- basically what it
14 said, that -- anything on there that interested me was stuff
15 that I already knew.

16 THE COURT: Okay. And did you assume that the single
17 use was because of a lack of preservative in the vial, or did
18 you think about it at all?

19 THE WITNESS: Well, yes. I think -- you mean if the
20 label was on there that way?

21 THE COURT: Right.

22 THE WITNESS: Yeah. Okay. Yeah, there was a very
23 good reason for a label, for it saying single use patient over
24 and above any considerations of contamination, which is what
25 I've already explained to the -- to the counsels here who

1 questioned me.

2 And that is once that vial, once you remove the blue
3 cap and you put anything through that rubber stopper, whether
4 it be sterile or unsterile, then for reasons that I don't
5 quite understand, I only know the results, that -- whether
6 it's because air comes in contact with it or what, the
7 solution begins to deteriorate.

8 And you can notice that -- you can notice after maybe
9 four or five hours that it looks like something that you
10 wouldn't want to inject into a patient. I personally drew the
11 line at about an hour, which is way within the boundaries of
12 safety. I mean, I certainly didn't wait until four or five
13 hours and then sit there and look at it and wonder, well,
14 should I give this or shouldn't I give it.

15 I preferred to err on the side of safety, so my
16 cutoff time was about an hour. I mean, if something had been
17 opened and I knew it was there for more than an hour, then I
18 discarded it.

19 THE COURT: Okay. And it's a glass vial, so you can
20 see the liquid in the vial?

21 THE WITNESS: Oh, yes. Yeah.

22 THE COURT: And you said it turned cloudy or what? I
23 mean visually how could you tell it was past the expiration
24 time?

25 THE WITNESS: Well, part of it was white and then

1 part of it looked like kind of a yellowish watery substance.

2 THE COURT: So it changed color?

3 THE WITNESS: Yeah. Yes.

4 THE COURT: Okay. And then another juror wants to
5 know, when you worked at the Shadow Lane office, did you share
6 bottles of propofol, or did you observe anyone else share
7 bottles of propofol at the end of the day like you did, or
8 like you observed at the Burnham office?

9 THE WITNESS: Share open bottles of propofol?

10 THE COURT: Right. From one CRNA to another --

11 THE WITNESS: Okay.

12 THE COURT: -- did you observe that, or did you
13 yourself do that at the Shadow Lane clinic?

14 THE WITNESS: At the Shadow Lane clinic?

15 THE COURT: Right.

16 THE WITNESS: No. I never observed it and I never
17 did it there.

18 THE COURT: Okay. And then Dr. Desai told you that,
19 quote, you're the most expensive CRNA. What did you do to cut
20 down on your use of propofol, if anything?

21 THE WITNESS: Probably nothing, because I -- what I
22 was doing I considered to be a safe procedure and I continued
23 doing that. Except for the trial use of the saline of course.
24 I mean, which again, I -- I tried to use that. I couldn't
25 convince myself after awhile that it was really working any

1 more than I could convince myself that a placebo I took was
2 really working, so I simply discontinued doing that.

3 THE COURT: All right. Mr. Wright, do you have any
4 follow-up to that last round of juror questions?

5 MR. WRIGHT: No, Your Honor.

6 THE COURT: Mr. Santacroce, do you have any
7 follow-up?

8 MR. SANTACROCE: No.

9 THE COURT: Ms. Weckerly, do you have any follow-up?

10 MS. WECKERLY: No, Your Honor.

11 THE COURT: Do we have any other juror questions?
12 No. All right. Sir, there are no other questions. Thank you
13 for your testimony. Please don't discuss your testimony with
14 anyone else who may be a witness in this case.

15 THE WITNESS: Your Honor.

16 THE COURT: Yes.

17 THE WITNESS: May I ask a question? If I don't ask
18 you this, my wife is going to kill me. Am I finished
19 testifying for this -- for this event?

20 THE COURT: He's excused.

21 And I don't believe the defense expects to recall
22 you, so this should be it.

23 THE WITNESS: Okay. All right. Thank you.

24 THE COURT: Yes. Thank you.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: You're free to leave. You're free to
2 leave the jurisdiction --

3 THE WITNESS: It has been an honor participating in
4 your court.

5 THE COURT: -- of the State of Nevada.

6 State, who is your next witness?

7 MS. WECKERLY: Peggy Tagle.

8 THE COURT: All right.

9 PEGGY TAGLE, STATE'S WITNESS, SWORN

10 THE CLERK: Can you please state and spell your first
11 and last name for the record.

12 THE WITNESS: Peggy Tagle. It's P-e-g-g-y,
13 T-a-g-l-e.

14 THE COURT: Thank you. Ms. Weckerly.

15 DIRECT EXAMINATION

16 BY MS. WECKERLY:

17 Q Good morning, ma'am. Did you work as a nurse at
18 the Endoscopy Center of Southern Nevada?

19 A Yes.

20 Q Do you recall the year or the day that you
21 started?

22 A August 9, 2006.

23 Q And how long did you work there?

24 A Until they closed and we got the letter for the
25 termination day as March 7, 2008.

1 Q So a little over -- well, about two years,
2 right?

3 A A year and a half.

4 Q A year and a half. What is your educational
5 background that allows you to work as a nurse?

6 A I'm an associate's degree RN.

7 Q Where did you go to nursing school?

8 A Bremerton, Washington, at Olympic College.

9 Q And did you work as a nurse prior to coming to
10 the Endoscopy Center?

11 A Yes.

12 Q Where was it that you worked, just briefly?

13 A The last one before then was I worked at St.
14 Rose Dominican Hospital in the ICU.

15 Q And that's down in Henderson?

16 A Henderson.

17 Q Okay. Was that the only other place that you
18 worked in Las Vegas prior --

19 A No.

20 Q Oh. Where else did you work in Las Vegas?

21 A I also worked at Sunrise Hospital. I worked at
22 both of them at the same time.

23 Q Oh, okay. And at St. Rose it was in the
24 intensive care unit?

25 A And so was at Sunrise.

1 Q For both of those places, I understand you were
2 working at the same time, what was the total number of years
3 that you worked at those two hospitals?

4 A St. Rose is 13 years, and I worked a year and a
5 half -- a little over a year at Sunrise.

6 Q And can you describe how it was that you came to
7 learn about the nursing position at the Endoscopy Center?

8 A It was -- I learned about it on a follow-up
9 patient visit.

10 Q And you applied? Did you apply or did you call?
11 How did --

12 A I was asked to go by and talk with the manager
13 at the Endoscopy Center.

14 Q Do you remember that person's name?

15 A Not right offhand. I can't tell you.

16 Q Do you know the name Tonya Rushing?

17 A Yes.

18 Q And do you think that was who you interviewed
19 with?

20 A That's who I interviewed with, but that wasn't
21 who I was told to talk to.

22 Q Oh, okay. Jeff Krueger or Katie Maley?

23 A No, ma'am.

24 Q None of those. Okay. Well, let's move then to
25 who you interviewed with. You interviewed with Ms. Rushing?

1 A Yes.

2 Q And I assume during the interview you explained
3 your background and where you'd worked?

4 A Yes.

5 Q How long after your interview do you think it
6 was that you actually started working?

7 A The next day.

8 Q So right away?

9 A Yes.

10 Q When you worked at the clinic, you're an RN,
11 correct?

12 A Yes.

13 Q What areas were you -- over the time you were
14 there, what areas of the clinic did you work in?

15 A Primary and the procedure room.

16 Q And did you work in the preop area at all?

17 A I did. Occasionally in the preop, occasionally
18 in the recovery, occasionally in discharge.

19 Q Okay. But if I understand you correctly, the
20 bulk of your time was in the procedure rooms themselves?

21 A Yes.

22 Q Do you have any recollection of like the
23 percentage of time you were in the procedure room?

24 A About 80 percent of the time.

25 Q 80 percent. When you worked in preop, can you

1 tell the members of the jury what your responsibilities would
2 have been as a nurse in preop on the few occasions when you
3 did work there?

4 A You were the first nurse that actually would
5 look at the chart. You would check the chart for -- first for
6 a history and physical. You would check also the chart to see
7 if there -- the preop was signed by the patient, and you would
8 ask the patient what prep they did take and which one -- which
9 procedure they were there to have.

10 Q And would you also administer their IV or their
11 heplock?

12 A We would start their IV and have it ready for
13 going into the procedure room.

14 Q And can you tell the members of the jury what
15 process, what steps you went through to administer an IV?

16 A First you obtain your equipment. You need an --
17 which we had the equipment on a tray. It was -- we call it
18 the IV tray. It was an open tray with pockets that held the
19 equipment. You would need a tourniquet. You would need the
20 IV injection, which is called an intercatch [phonetic] or a
21 Jelco.

22 You would need a 3cc syringe. And it had come with a
23 syringe and a needle that was already intact, and they come
24 prepackaged already. And you would need alcohol, a
25 tourniquet, and you would need a two-by-two. And you would

1 need what's called a Tegaderm, which is a sterile dressing
2 that goes over the top of it.

3 Q And a two-by-two is?

4 A A gauze.

5 Q Okay. And how would --

6 A And you would also need what's called a heplock
7 that goes on the cap that the -- it's a little cap that goes
8 on the end of the IV after you get it in.

9 Q And I assume the tourniquet goes around the
10 person's arm?

11 A It goes on the arm. You clean the arm and you
12 put the tourniquet on the arm, and you pick the best IV --
13 allow the IVs to dilate, and you pick the best site that would
14 be proper for the procedure. You pick your inner cannular
15 that you're going to use. You go ahead and get your saline
16 drawn up in a 3cc syringe, have it ready for when you do get
17 it in, so you can flush.

18 And soon as you get the line in, you remove the sharp
19 part of the inner cannular and you put it in the sharp
20 container that's near you, and then you will -- it's usually
21 right in arm's reach so you're not having to go away from the
22 patient, you're still holding on to the IV. You will take the
23 heparin cap, put it on the end, and you would tape it
24 securely.

25 And then you would take the alcohol prep and wipe the

1 end of the -- the end of the heplock and flush it with the
2 normal saline. It flushes good, then you will continue to
3 tape the needle down with the tape and put the sterile
4 dressing over the top to keep it clean.

5 Q Now, it sounds like one of the last steps is to
6 flush the heplock with the saline?

7 A Yes.

8 Q What size syringes, if you recall, were used for
9 the saline flush?

10 A 3 cc.

11 Q 3 cc. And --

12 A They come with a pre-connected 22 gauge needle
13 on them already, come from the factory like that.

14 Q The needle's on the syringe, but you have to
15 draw up your own saline?

16 A Yes.

17 Q Now, the saline that you would use at the
18 clinic, was that a multi-use saline container?

19 A It's a multi.

20 Q And so if you were practicing aseptic technique,
21 could you access that saline more than once with the same
22 syringe and needle?

23 A Not the same.

24 Q Okay. When you do the flush, have there ever
25 been occasions where you would have to flush the heplock more

1 than once with saline?

2 A No, ma'am. If it cannot be flushed with once,
3 then it's not ready to be used and you start all over.

4 Q Get all the stuff all over again?

5 A Get new stuff.

6 Q Okay. What's the purpose of doing the flush?

7 A It's to make sure that the IV can be --
8 medication can be administered, and it also clears the blood
9 out of the IV. Whenever you start it, it has blood in it,
10 because it backs up into the needle part that's put into the
11 sharp container. And you want to clear the blood because it
12 could clot off before you use it, and the saline keeps it, as
13 we call, patent, ready to use.

14 Q So it -- in layperson's, it keeps the vein open
15 for the medication?

16 A It makes the line ready to be used.

17 Q Okay. And as a nurse, you would have been
18 trained and you were familiar with universal precautions that
19 you should take with using injection needles or safe injection
20 practices?

21 A Yes.

22 Q When you were in your training and in your work,
23 have you ever used a syringe more than one time after you have
24 tapped a patient with it?

25 A No.

1 Q And I think you said that the sharps container
2 that you had put the used syringes and needles in was right in
3 that little area?

4 A Yes, ma'am. It was a small box about
5 four-by-four and maybe 6 to 8 inches high. It's a standard
6 sharps container that we put the sharps in. And one thing I
7 left out is -- that we do, I have to wear gloves to do it
8 with.

9 Q Okay. And if I understood you correctly, if it
10 doesn't flush or it doesn't work, you start all over again
11 with all new materials?

12 A Right.

13 Q That was the procedure that you followed as an
14 RN at the Endoscopy Center?

15 A Yes.

16 Q On the occasions that you were in the preop
17 area, did you ever have the opportunity to see other RNs like
18 yourself go through that process of administering the heplock
19 into a patient?

20 A Yes. I trained.

21 Q Oh, okay. So you were the trainer. Did you
22 ever see anyone violate these safety precautions of only using
23 one syringe and one needle on a patient and then throwing it
24 away?

25 A No, I didn't.

1 Q If you had seen something like that, what would
2 you have done as the trainer?

3 A I would have stopped the nurse.

4 Q After the IV is administered, does that end the
5 responsibilities for the RN in preop?

6 A Yes.

7 Q And where -- the patient after that goes into
8 the actual procedure room?

9 A No, ma'am.

10 Q Oh.

11 A The tech would escort the patient to the
12 stretcher that was in the recovery room waiting, because that
13 would be an empty stretcher for the patient, and then they
14 would roll the patient into the recovery room.

15 Q Okay. When you worked in the procedure room,
16 which I understand is where you said about 80 percent of your
17 time was spent?

18 A Yes.

19 Q So you were in the procedure room a lot during
20 the years or year and a half that you worked there?

21 A Yes.

22 Q What were your responsibilities then?

23 A In the procedure room you also review the chart.
24 Usually you had to wait for the nurse anesthetist to finish
25 their review. And then you would verify with the patient,

1 with you looking at the patient, the name and their date of
2 birth, and you would make sure that that was the information
3 that was correct in the computer for the procedure that was
4 going to be done, make sure that they had taken their prep and
5 had followed the instructions on giving -- on the prep.

6 And then you would go to the computer and you would
7 type in the medical record number that they had assigned them
8 for that procedure, and you would type that in there. It
9 would pull up their name. You make sure the spelling of the
10 name was correct, their -- all information that was in there
11 was correct, if the right prep was -- the right procedure was
12 up there. Sometimes you would have to change it to the right
13 one that was being done.

14 And then you would -- in the meantime, the GI tech
15 would be putting the monitor on the patient, the monitor
16 leads, and putting the cuff on the patients and the oxygen.
17 And by that time you would have your first vital signs and you
18 would record that on the preop paper.

19 Q So the chart that goes with the patient out of
20 preop, the first person who looks at it in the procedure room
21 is the anesthetist, the CRNA?

22 A I didn't catch what you said.

23 Q The chart that has the patient's paperwork on
24 it, that goes from preop. But once they're in the procedure
25 room, the first person who would look at it is the CRNA?

1 A Yes.

2 Q And then as the nurse, you get the chart after
3 that?

4 A Right.

5 Q And I think you said that you pull up the
6 patient's file on a computer?

7 A Yes. It's a computer that would be the one that
8 the pictures that -- where the patient is being taken, the
9 doctor is taking the pictures during the procedure. There's
10 two screens in there. One screen is in front of the -- in the
11 doctor where he's watching during the procedure, and there's a
12 monitor behind him that actually records the pictures that is
13 being taken.

14 And then the -- whenever he is completely finished
15 with the procedure, then he would type up his report on --
16 with the heading of the -- that I had already put in there as
17 far as the nurse, the doctor, the nurse anesthetist and the
18 tech.

19 Q Was it always the case in your experience that
20 the nurse would be the one to pull up the medical record or
21 the file on the patient on that computer in the procedure
22 room?

23 A It wasn't always.

24 Q What were the variations that you recall?

25 A When I first started to work at the clinic,

1 either the physician did it or the GI tech did it. We were
2 having occasions where there was -- the errors was not caught
3 that was typed in or mistyped or something, and in order to
4 make sure that we were getting that, they put that on the RN
5 too, put that in. And then there was still physicians that
6 would enter some of the information.

7 Q So it used to be the GI techs did it, but then
8 the policy was that the procedure room nurse would pull up the
9 computer file?

10 A Yes.

11 Q But sometimes the doctors would do it
12 themselves?

13 A Yes.

14 Q Do you remember which doctors it would be that
15 would typically do it themselves?

16 A Dr. Desai would do it himself, sometimes Dr.
17 Carrol would, and sometimes Dr. Carothers.

18 Q When they pull up the computer file, or in the
19 instances where they did, that wouldn't -- I mean, would that
20 impede your work, or it just meant the file is up and they
21 could start taking the pictures that would ultimately go in
22 the file?

23 A I'm not sure what your question --

24 Q Well, if they pulled it up, did you need to do
25 anything to the file before the procedure started?

1 A Usually, no.

2 Q So once the procedure is going, what are your
3 responsibilities, you know, once the patient is under the
4 anesthesia and the procedure is started?

5 A I monitor the vital signs. I position myself so
6 I can also see the EKG strip that was going across. I also
7 watch the vital signs. I am standing where I can see where
8 the pictures are being taken. Sometimes the pictures would
9 not -- from where they took the picture, would not go to the
10 monitor. I could call that to the doctor's attention. And
11 mine was to primary fill out the chart and make sure that that
12 was there. And I fill out all the lab sheets that went to the
13 lab.

14 Q If there was a biopsy or something?

15 A If there was a specimen.

16 Q After the procedure is done and the leads are
17 taken off the patient, is the procedure room nurse done with
18 your responsibilities, or what do you do at the end of the
19 procedure?

20 A After the end of the procedure, the nurse
21 anesthetist would hand me their record of what they -- of
22 where they charted and I would get the vital sign strip from
23 the nurse anesthetist. Most of the time they would hand it to
24 me. If they didn't, I would go over and get it myself. And I
25 already have the rhythm strip from initially when we did the

1 first vital signs, I already had that on my chart.

2 And I would finish out finishing all my paperwork
3 there, then I would take it out to the recovery room and one
4 on one would give the recovery room nurse a nurse to nurse
5 report on what went on in the patient.

6 Q Did you see the CRNAs come out at all into the
7 recovery area?

8 A Occasionally.

9 Q And can you define occasionally? Like would
10 that be an everyday occurrence, or less than that, or...

11 A I would say a rare occasion. Generally they
12 are -- the other patient has already been rolled in and they
13 start asking -- have already got the chart and start asking
14 questions. If they have one that was a difficult case, they
15 would follow them out to the recovery and check on them in
16 between patients also.

17 Q But if I'm understanding you, more often than
18 not another patient has come in while the first one went out
19 to recovery?

20 A Yes, while I was giving them a report.

21 Q Now, did you work in recovery at all?

22 A I worked in recovery very rarely.

23 Q Okay. And in recovery, on the rare occasions
24 that you did it, what were your responsibilities?

25 A Well, you would receive the report. Then you

1 would go check the patient and make -- and check, see what the
2 vital signs. By that time the patient would be waking up.
3 You would start talking to the patient and letting them know
4 what was going on for them. As the recovery room nurse, you
5 would also review the chart and make sure that everything was
6 documented.

7 You would check the specimens and make sure that that
8 was filled in, and that would be turned in to there. And if
9 they had a specimen, there was a paper filled out to make sure
10 that there was a return for the patient to get the results of
11 that specimen when it would come in.

12 Q Now, when you were in the -- well, did you ever
13 work in discharge?

14 A Occasionally.

15 Q And what was in that regard? Were your
16 responsibilities to sort of let the patient know the results
17 of the --

18 A Then you would repeat what the recovery room had
19 notes, because sometimes some of the people are a little
20 slower to be awake enough to understand what is being said.
21 And in the recovery -- in the discharge area you also had the
22 family member there. You would have the family member to come
23 in with the -- if it was okay with the patient, and the family
24 member would come in and listen to what you had for discharge
25 instructions with the patient.

1 Q I want to go back to when you were in the
2 procedure room, which is where you spent most of your time.
3 When you were in the procedure room, did you have an
4 unobstructed view of the CRNA?

5 A No. Most of the time their back was towards me.

6 Q Could you ever see their work area at all, what
7 it looked like?

8 A When the lights were on you could see their work
9 area.

10 Q Okay. Did you -- when you were in the procedure
11 room, were they -- I mean, were they something that you paid a
12 lot of attention to, or how would you describe where your
13 attention was focused during the procedures?

14 A During the procedure my attention was either
15 focused on filling out the chart, I would glance up at the
16 monitors, the vital sign monitor, the screen and the monitor
17 where it's being recorded, and continue filling out my
18 paperwork.

19 Q Did you ever see the vials of propofol that they
20 used on patients?

21 A I see the propofol when we hand it to them that
22 morning, and occasionally I will see a bottle or two sitting
23 on the table ready for them to use that's still capped.

24 Q Okay. So it would already still be in its
25 packaging?

1 A It wouldn't be opened.

2 Q Did you -- I mean, could you see them in during
3 procedures drawing up propofol to administer to a patient, or
4 was your view obstructed by that?

5 A I could see that they were in the act of drawing
6 it up, but I could not actually see the draw-up myself.

7 Q During your time at the center, what hours did
8 you typically work?

9 A I worked -- when I started to work there, I
10 worked the late shift and that was only for about three
11 months. Then I went to the 7:00 to 3:30 shift, and I worked
12 that until the close.

13 Q And as 7:00, I would assume you were the -- one
14 of the first nurses there?

15 A Yes.

16 Q What time did procedures usually start?

17 A At 7:00. So we would always get there usually
18 around 6:30 in the morning to make sure that everything was
19 ready to start at 7:00.

20 Q When the procedures started at 7:00 in the
21 morning, would both rooms be going at the same time?

22 A Yes.

23 Q And were there two doctors or --

24 A It would be two doctors and two nurse
25 anesthetists and two procedure room nurses. There would be

1 one in each room.

2 Q Had you ever worked there when there was just
3 one doctor in the morning?

4 A Yes, I had.

5 Q In those instances how would the work flow go?

6 A There would still be two nurse anesthetists.
7 One would be in each room. And they would stay in their room,
8 and it would just give it a little slower for waiting on the
9 doctor to finish in the other room before they could come into
10 this room.

11 Q So the doctor would go back and forth between
12 the procedure rooms?

13 A Yes.

14 Q Did you ever see the CRNAs take like a lunch
15 break or anything like that?

16 A Yes. The CRNAs did take a lunch break.

17 Q What happened in terms of covering the procedure
18 rooms on those occasions?

19 A There were a large amount of procedure -- the
20 time, there was actually a third CRNA that would come in about
21 11:00 o'clock in the morning, and one of the CRNAs that come
22 in at 7:00 to start their procedures would go to lunch. That
23 one would relieve them for lunch. The other CRNA that was
24 still there from 7:00 o'clock would -- when the first one come
25 back from lunch, would relieve the second one that had been

1 there since 7:00.

2 And sometimes they either -- the three of them stayed
3 there all day and they would rotate through the rooms, or the
4 second one that was staying for the late lunch waiting on the
5 other one to come back, they would go home early.

6 Q And do you have any recollection of what they
7 would do when there was just two CRNAs for the whole day?

8 A When there's two CRNAs for the whole day, one
9 would go to lunch, and during that time the CRNA that was left
10 on the floor would actually have to cover both rooms. They
11 would do one procedure, then walk to the other room and do the
12 other procedure, and back and forth until each one was
13 relieved for lunch.

14 Q Did you ever see the CRNAs take a break other
15 than lunch? I mean, did they ever step out of their rooms
16 just for a couple minutes?

17 A I would say occasionally they stepped out for a
18 few seconds, but I don't know where they went.

19 Q When you were working, did you ever see them
20 pre-fill syringes of propofol?

21 A I didn't see it.

22 Q Did you know where they threw the propofol away?

23 A No, ma'am.

24 Q Were the nurses in charge of taking any waste or
25 any discarded sharps or vials of propofol out of a room in

1 between procedures, sort of like cleaning up the room, or was
2 that the GI techs who did that?

3 A Well, I understand that the propofol, since it
4 was in a glass bottle, it had to go in the sharps container.
5 And the sharp containers were like a 13 gallon trash can with
6 the sharps. So they didn't remove them out until they're
7 full, and then you close them up according to protocol.

8 Q But were you ever responsible for taking those
9 out?

10 A No, ma'am. I never took them out.

11 Q For the nurses, how were lunch breaks done?

12 A They would actually, the first nurses that come
13 in, in the morning, they would actually make a list of who had
14 to go to lunch at which time. And there would be a nurse that
15 would have to come in to the procedure room where I was and
16 actually relieve me to go to lunch. And as soon as I come
17 back, either I relieved the other procedure room nurse, or I
18 went -- they told me to go back in there, they had someone to
19 relieve them.

20 Q Have you as a nurse ever left in the middle of a
21 procedure, or maybe not in the middle, but after a procedure
22 had started?

23 A Not after it had started. I have left before
24 the doctor had arrived.

25 Q Okay. So the patient might be in there but the

1 doctor isn't in there yet?

2 A That's right.

3 Q And you might have left or gotten called
4 somewhere else?

5 A Yes.

6 Q In those instances, would another nurse come in
7 and take your place?

8 A Yes.

9 Q Have you ever gone into a procedure room while
10 another nurse is finishing up a procedure?

11 A Yes, I have.

12 Q Was that pretty common, because you're all
13 moving around quite a bit?

14 A Well, when we were there, we wait -- whoever's
15 doing the case and if the case had already started, in other
16 words, the doctor had already started the procedure, that
17 nurse has to stay until that procedure was complete. And --

18 Q How would -- oh, go ahead.

19 A And then, then you would take the next patient.

20 Q Okay. So I mean, a doctor wouldn't leave in the
21 middle of a procedure?

22 A No.

23 Q How would you describe the pace of work at the
24 clinic while you were there?

25 A Continuous.

1 Q Were there a lot of patients?

2 A Well, I can't judge. To me it was a lot.

3 Q And was that based on, you know, your comparison
4 in the intensive care unit?

5 A It's a different type of nursing.

6 Q Do you have any estimate or recollection of how
7 many procedures might have been done in each room each day, or
8 did you keep track like that?

9 A I did not keep track of it.

10 Q You know that the primary anesthesia used at the
11 clinic was propofol?

12 A Yes.

13 Q Have you -- as a nurse, are you allowed to
14 administer that?

15 A No.

16 Q You said though, that you checked it out in the
17 mornings?

18 A We would check out a box of it, which come in a
19 25 vials in a box, to the nurse anesthetists, each nurse
20 anesthetist.

21 Q And so in your experience, if you were the
22 person who was checking out the propofol in the morning, would
23 each CRNA come and check some out from you?

24 A We would actually take the book with them and --
25 to them and a lot of times one CRNA would sign for both, both

1 of the 25s, and hand the other one to the other.

2 Q Okay. Do you remember how big the -- or the
3 volume of the vials of propofol were?

4 A When I first started to work there, you had one
5 that was about that high [indicating], and then you got one
6 about this high [indicating].

7 Q Okay. Smaller to bigger?

8 A Yeah. Two sizes.

9 Q Two sizes, but the first --

10 A And then it changed just to the small size.

11 Q Okay. So it went small, then there was a time
12 when there was bigger ones, and then small again?

13 A It was both of them at the same -- at first.
14 And then they got away with the big one, it was just the small
15 one.

16 Q Okay. And do you know when that change was,
17 when it -- that last one, when it went back to just small?

18 A I don't recall exactly when [unintelligible].

19 Q If you were the person who checked out the
20 bottles of propofol in the morning, what would happen to the
21 bottles that -- or the vials that weren't used at all during
22 the day and weren't opened?

23 A I was not there at the close, so I cannot tell
24 you. I do not know what they did with them.

25 Q So you never were the person who received them

1 back or anything like that?

2 A No.

3 Q During your time in the -- at the clinic, had
4 you worked with Dr. Desai, or did you have the opportunity to
5 work with Dr. Desai?

6 A Yes, I did.

7 Q Did you work with him pretty frequently?

8 A If he was doing procedures.

9 Q Okay. Did you have the opportunity to observe
10 how he did procedures versus other doctors?

11 A And what do you mean by that?

12 Q The length of time of the procedure, or any
13 different he'd have for doing the procedure.

14 A I never worked in a GI clinic before, so I
15 basically went with what I could see. I didn't see anything
16 that was initially unsafe to it. I do not know what is the
17 standard time period for a colonoscopy. I seen that he was a
18 little -- when I was recording the times, was a little faster
19 than some.

20 Q Okay.

21 A And but that's as much as I can give you on
22 that.

23 Q Okay. Did you ever work with Linda Hubbard?

24 A Yes, I did.

25 Q Did you ever witness an argument between Linda