IN THE COURT OF COMMON PLEAS

OF LAKE COUNTY, OHIO

CAROL A. ZOELBEL, Executrix of the Estate of Lorna Moeller,
Plaintiff,

vs Case No. 01CV001107

LAKE EAST HOSPITAL, et al.,
Defendants.

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DEPOSITION OF JULIA ANN HENG, MD

Wednesday, July 17, 2002

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Deposition of JULIA ANN HENG, MD, a Witness herein, called by counsel on behalf of the Plaintiff for examination under the statute, taken before me, Lorraine J. Klodnick, a Registered Merit Reporter and Notary Public in and for the State of Ohio, pursuant to notice and stipulations of counsel, at the offices of Reminger & Reminger Co., LPA, The 113 St. Clair Building, Cleveland, Ohio, commencing at 2:20 p.m., on the day and date above set forth.

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APPEARANCES:

On behalf of the Plaintiff:
Becker & Mishkind, by
JEANNE M. TOSTI, ESQ.
660 Skylight Office Tower
1660 West Second Street
Cleveland, Ohio 44113
(216) 241-2600

On behalf of Defendant Lake East Hospital and Lake Hospital Systems:
Reminger & Reminger Co., LPA, by
COLLEEN PETRELLO, ESQ.
DAVID KRAUSE, ESQ.
The 113 St. Clair Building
Cleveland, Ohio 44114
(216) 687-1311

On behalf of Defendants Kessler, Oh and Heng:
Reminger & Reminger Co., LPA, by
P.J. MALNAR, ESQ.
The 113 St. Clair Building
Cleveland, Ohio 44114
(216) 687-1311

On behalf of Defendant Eastwood Residential Living, Inc.:
Moscarino & Treu, by
STEVEN FORBES, ESQ.
The Hanna Building
1422 Euclid Avenue, Suite 630
Cleveland, Ohio 44115
(216) 621-1000

(Attorney Petrello is in attendance for Mr. Krause.)

JULIA ANN HENG, MD, of lawful age, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

EXAMINATION OF JULIA ANN HENG, MD

BY MS. TOSTI:

Q. Doctor, would you please state your full name for us.

A. Julia M. Heng, MD.

Q. What is your home address?

A. 7630 Hobbyhorse Lane in Concord, Ohio. 44060.

Q. Who is your current employer?

A. Prime Health, Incorporated.

Q. Your current business address?

A. 6270 North Ridge Road, Madison, Ohio, 44057.

Q. In February of 2000 was your employer Prime Health, Incorporated?

A. Yes.

Q. When did you first become employed by Prime Health?

A. In 1996.
Q. The business address you just gave me, was that also your business address in February of 2000?
A. Yes.
Q. Now, the address that you gave me, the 6270 North Ridge Road address, did you see patients at that office and location?
A. Yes.
Q. In February of 2000?
A. Yes.
Q. Did you see patients at any other offices besides that office?
A. No.
Q. Have you ever had your deposition taken before?
A. Yes.
Q. How many times?
A. Once.
Q. Has your deposition ever been taken in a medical negligence proceeding?
MS. MALNAR: Objection. You can answer.
A. I guess that would have been -- are you talking about the last one that I had?

Q. The deposition that you just told me you had taken prior to this one, was that in a medical negligence proceeding?

A. You know, I don't know. It wasn't against me. It was against another physician. I'm assuming it was.

Q. You were not a defendant in that case, though?

A. No.

MS. MALNAR: Wait until she finishes her whole question before you start to answer. That way it's easier to get it taken down.

Q. I'm going to review some of the ground rules for a deposition. I'm sure defense counsel has had some chance to talk with you a little bit about this. This is a question and answer session. It's under oath. It's important that you understand my questions. If you don't understand my questions, let me know. I'll be happy to repeat the question or to rephrase the question. Otherwise, I'm going to assume that you understood my question and that you're able to answer.

If at any point in time you wish to look at medical records that have been provided

to you by defense counsel, please feel free to do so. Also, during the course of this deposition, defense counsel may choose to enter an objection. You're still required to answer my question unless defense counsel instructs you not to do so.

It's also important that you give all of your answers verbally because our court reporter can't take down head nods or hand motions.

Do you understand those directions?

A. Yes.

Q. In February 2000, did you hold any corporate titles with Prime Health, Incorporated?

A. No.

Q. Were all of the physicians at Prime Health in February of 2000 family practice physicians?

MS. MALNAR: If you know.

A. Repeat that question again?

Q. Yes. The physicians that were at Prime Health, Incorporated in February of 2000, were they all family practice physicians?

A. No.

Q. Okay. What other specialties were

represented that you are aware of?
A. Pediatrics, internal medicine, OB-GYN and family practice.
Q. And how many, if you know, family practice physicians were employed at Prime Health at that time?
A. Six.
Q. Do you currently render professional services for any other entity besides Prime Health?
A. No.
Q. And was that also true in February of 2000?
A. Yes.
Q. Have you ever been named as a defendant in a medical negligence case?
A. No.
Q. Have you ever acted as an expert in a medical negligence case?
A. No.
Q. Now, doctor, did you happen to bring a copy of your curriculum vitae with you today?
A. No, not with me.
Q. Okay. I'm going to ask you some questions in regard to your background. Could

you tell me where you went to medical school?
A. Case Western Reserve University.
Q. And what year did you complete that program?
A. 1990.
Q. After completing your medical school training, did you serve a residency?
A. Yes.
Q. And where did you serve a residency?
A. In Pueblo, Colorado.
Q. What specialty area was that?
A. Family practice.
Q. Let me finish my question and then you answer, because our court reporter is going to have trouble taking us both down.
So you completed a residency in family practice --
A. Yes.
Q. -- is that correct?
Did you go into your residency immediately after completing medical school in 1990?
A. Yes.
Q. How long was your residency?
A. Three years.

Q. Did you have any additional training beyond your residency?
A. No.
Q. After you completed your residency, what did you do in regard to practice?
A. I joined a group out in Madison.
Q. What was the name of that group?
A. Bill Stoerkel, S T O E R K E L, Incorporated, DO.
Q. How long did you work with that practice?
A. Three years.
Q. The reason that you left that practice?
A. Contract expired.
Q. And after your employment with Bill Stoerkel, Incorporated, what did you do?
A. I joined Prime Health.
Q. That was in 1996?
A. Yes.
Q. You are licensed in the State of Ohio, is that correct?
A. Yes.
Q. When did you receive your license?
A. In 1993.

Q. In February of 2000 you had an Ohio license, is that correct?
A. Yes.
Q. Are you board certified in any area of medicine?
A. Yes.
Q. What area?
A. Family practice.
Q. When did you receive that board certification?
A. In 1994.
Q. Did you pass that on the first attempt?
A. Yes.
MS. MALNAR: Objection.
(Attorney Krause entered the conference room to replace Attorney Petrello.)
(Discussion off the record.)
BY MS. TOSTI:
Q. In February of 2000, what hospitals did you have privileges at?
A. Lake East Hospital and I'm not sure, perhaps Geauga Hospital.
Q. And were those admitting privileges?
A. Yes.

Q. Where do you currently have privileges?
A. Lake East Hospital.
Q. Have you ever had your hospital privileges called into question, suspended or revoked?
MS. MALNAR: Objection.
A. No.
Q. Has your medical license ever been called into question, suspended or revoked?
MS. MOLNAR: Objection.
A. No.
Q. Have you ever been licensed in any other state besides Ohio?
A. Yes.
Q. What other states?
A. Colorado.
Q. Do you still maintain that license?
A. No.
Q. Have you ever authored or coauthored any medical journal articles or textbook chapters?
A. Yes.
Q. Any of them dealing with the subject matter of bowel obstruction?

A. No.
Q. How many articles have you authored or coauthored, or textbook chapters?
A. I would have to take a look at my CV. I don't know offhand.
Q. Do you have a curriculum vitae that's been prepared?
A. I did not bring one today, but there should be one that I sent you.
MS. MOLNAR: But you have one that's prepared? You have one?
THE WITNESS: Yeah.
MS. MOLNAR: You wouldn't have to make one up?
THE WITNESS: No.
MS. TOSTI: I would like to request a copy of the doctor's CV.
BY MS. TOSTI:
Q. Have you ever taught or given a formal presentation on the subject of bowel obstruction?
A. No.
Q. Tell me what you've reviewed in preparation for this deposition today.
A. My hospital charts, the hospital charts and the medical records.

MS. MOLNAR: She saw the hospital admission from 2-1 to 2-2 and the notes from her office.

Q. Have you referred to any textbooks or medical journal articles in preparation for this deposition?

A. No.

Q. Have you reviewed any records from Eastwood Residential Living other than those that may be contained in your office chart?

A. No.

Q. Have you reviewed any records from UHHS Memorial Hospital of Geneva?

A. No.

Q. Any Ohio Department of Mental Retardation and Developmental Disability records?

A. No.

Q. How about the death certificate?

A. No.

Q. Since the filing of this case, have you discussed this case with anyone other than counsel?

A. No.

Q. Have you ever met Dr. Amdur or Dr. Jeromin?

A. Yes.
Q. When is the last time you met with Dr. Amdur?
A. It would have to have been in passing. He works in the same building, prior to him leaving. I don't know how long he's been gone.
Q. How about Dr. Jeromin, when is the last time you met with him?
A. Probably at a medical staff meeting at the hospital.
Q. Now, in February of 2000, Dr. Oh and Dr. Kessler were members of your professional group practice, is that correct?
A. Yes.
Q. Are they both still members of Prime Health's practice group?
A. No.
Q. Is Dr. Kessler still there?
A. Yes.
Q. Is Dr. Oh still there?
A. No.
Q. And when did Dr. Oh leave the practice, approximately?
A. Perhaps last year. I'm not sure. I think it's been a year.

Q. And what is your understanding as to why Dr. Oh left?

MS. MOLNAR: Objection. You can answer if you know.

A. I don't know.

Q. How long have you worked with Dr. Kessler?

A. Two years. I don't remember when he came on. I think it was -- I'm not sure.

Q. How long did you work with Dr. Oh?

A. Perhaps three or four years.

Q. Aside from what is in the Prime Health medical records, do you have any personal notes or personal file on this case?

A. No.

Q. Have you ever generated any personal notes or kept a personal file on this case?

A. No.

Q. Is there a textbook in your field of practice, family practice that you consider to be the best or most reliable?

A. No.

Q. Is there any particular text that you refer to from time to time to guide you in your practice?

A. No.
Q. Are there any publications as you sit here today that you feel have particular significance for the issues in this case as you understand them?
A. No.
Q. Have you ever participated in any research dealing with the subject matter of bowel obstruction?
A. No.
Q. Do you limit your practice to any particular population of patients?
A. No.
Q. Do you see patients of all ages?
A. Yes.
Q. And do you see patients in the hospital as well as in the office setting?
A. Yes.
Q. Now, at Prime Health, do you have a panel of patients for which you are the major provider of primary care services?
A. Yes.
Q. How does a patient come to be on your panel of patients?
A. They pick my name out of their

insurance book.

Q. So it's selection by the patient?

A. Yes.

Q. In February of 2000, did Prime Health have any agreements, to your knowledge, for providing medical care services to residents at Eastwood Residential Living, Incorporated?

A. I don't know.

Q. Did you have any agreement with Eastwood Residential Living, Incorporated for providing professional services to residents of that facility?

A. I'm not sure what the question is. Are you talking about an actual contract?

Q. I'm inquiring as to any type of an agreement, whether written or unwritten, that you had with Eastwood Residential Living for providing professional medical services to residents of that facility?

A. I'm not sure whether there was an agreement. We saw their patients.

Q. How is it that those patients became patients on your panel?

A. I don't know. I just did.

Q. Do you know how you were selected for

particular patients at the group home?
A. No.
Q. Aside from Lorna Moeller, have you provided care to other residents of Eastwood Residential?
A. Yes.
Q. Can you tell me approximately how many patients you had from Eastwood from February of 2000?
A. Not offhand. I don't know how many women there are in Eastwood.
Q. Was it more than just Lorna Moeller at that time?
A. Yes.
Q. I'd like you to describe for me in general terms your professional practice schedule as it was in February of 2000. How many days a week you were in the office, what hours you were there, if there was hospital time, that type of information.
A. Office hours were from 9 to 5 except on Wednesdays. Those are my days off. And then there were also office hours on Saturday from 9 to 12.
Q. Now, did you also have regular

hospital time that you made rounds at the hospital?

A. Yes.

Q. When did you usually make hospital rounds?

A. Within our group of six, we rotated through the hospital every sixth week.

Q. I'm sorry, I didn't hear what you said.

A. In our group of six, we rotated through the hospital every sixth week.

Q. Now, I'd like you to tell me a little bit more about the hospital coverage. If a patient was in the hospital and was a patient on one of the family practice physicians' panel of patients, who would take care of that patient in the hospital?

A. Person who was rounding at the hospital.

Q. And how long would you be responsible for rounds? Would it be a week at a time?

A. Yes.

Q. And so any patients in the practice that were in the hospital from the family group of physicians would be covered by that particular

physician that had responsibilities in the hospital for that week?

A. Yes.

Q. Now, in February of 2000 did Prime Health have an on call system in place whereby another physician would cover for your patients when you had scheduled time off or you were not available?

A. Yes.

Q. Would you explain to me what the system was as to how that coverage was worked out?

A. Call in the evenings would begin around 4:30 and then would continue until 9:00 the next morning.

Q. And how was the rotation between the physicians worked out? How many days would people be on call?

A. It was pretty much every sixth night evening call-wise.

Q. You'd be on call for like one night?

A. Yes.

Q. And when you were on call, would you be on call for all six physicians that were in the family practice group?

A. Yes.
Q. And what were your duties and responsibilities when you were on call?
A. Answer pages. The answering service regarding calls from patients.
Q. Would the calls come in through the answering service and then they would contact you?
A. Yes.
Q. Did you have a beeper or would you be called at home with a cell phone? How did that work?
A. For me personally, a beeper.
Q. Then you would return the call?
A. Yes.
Q. To the answering service?
A. No. Directly to the patient.
Q. Now, when you would be notified by the answering service that a call had come in, did you make any record of the calls when you answered them?
A. Yes.
Q. What type of record did you make?
A. Either written on a little note pad that you placed in the chart or dictated.

Q. And if you took a call on another physician's patient, did you have any procedures for informing the physician about the call that you took?

A. Depending on the urgency.

Q. And if you could explain what you mean by that?

A. If it was a call regarding a patient appointment the next day, we would call the office and notify the secretary to try to get this patient in, or if it was a call from an emergency room or hospital, they just wanted to let the physician, PCP know, we'd notify them. If it wasn't urgent, they would get the note via written dictation.

Q. If it was something urgent, would you contact the physician, the primary care provider if you were notified of an urgent situation with a patient that wasn't yours when you were on call?

A. No.

Q. When would you provide that information to the primary care provider?

A. I'm not sure about -- repeat the question.

Q. If you were on call and received information about an urgent situation with a patient that was not yours, when would you provide the primary care physician the information about that call?

A. After the situation was dealt with.

Q. Would it be by the next morning?

A. Yes.

Q. Would you be the decision-maker on an urgent call or would you have to consult with the primary care physician?

A. No, I would be the decision-maker.

Q. So if there's a question about hospitalization of a patient or something, you would take care of those situations?

A. Yes.

Q. Tell me what bowel obstruction is.

A. Bowel obstruction is when either the large bowel or the small bowel can become obstructed, either with foreign matter or mechanically or by adhesions.

Q. And how often in your practice do you see patients with bowel obstruction, either that you suspect is bowel obstruction or that you've confirmed is bowel obstruction?

A. Rarely.
Q. Have you seen any in the last month?
A. Last month, no.
Q. Any in the last year?
A. Yes.
Q. How often would you say you've seen it in the last year, just approximately?
A. Maybe twice.
Q. Are there any factors that would increase the risk for the development of bowel obstruction?
A. Yes.
Q. Okay. Let's talk about mechanical obstruction. What factors would increase the risk for mechanical obstruction?
A. If the patient happens to have some type of illness or disease that slows down the transit time of the colon.
Q. Anything else?
A. No.
Q. If a patient had hypothyroidism, would that increase the risk for bowel obstruction?
A. What type of --
Q. Hypothyroidism.
A. It's a possibility.

Q. What about diverticulosis, or history of diverticulitis, does that increase the risk for bowel obstruction?

A. Possibly.

Q. What are the signs and symptoms that would raise your suspicion for bowel obstruction?

A. Nausea, vomiting, abdominal pain, distention. Those would be the major symptoms.

Q. Is the pain associated with obstruction typically intermittent and a cramping type pain?

A. It can be.

Q. Is that typical?

A. Yes.

Q. Would you agree that it's difficult to determine based on physical signs and symptoms alone whether an obstruction is in the small bowel or the large bowel?

A. Yes.

Q. And isn't it also true that the signs and symptoms of bowel obstruction depend to some extent on the degree of obstruction as well as the duration of the obstruction?

A. Yes.

Q. Doctor, isn't it true that diarrhea

can sometimes be a sign of bowel obstruction?
A. Yes.
Q. Now, is abdominal distention less common when the obstruction is in the small intestines as compared to the large intestines?
MS. MOLNAR: If you know, doctor.
A. I'm not sure.
Q. Do you know whether abdominal distention is a later finding in intestinal obstruction rather than an early finding?
A. It can occur either time.
Q. When a bowel obstruction occurs, is it still possible for the patient to evacuate stool distal to the obstruction for a period of time?
A. Yes.
Q. Doctor, in regard to bowel obstruction, what's the significance of fecal emesis?
A. I'm assuming it would mean that there is backup of GI contents.
Q. In a patient presenting with abdominal pain, would the development of fecal emesis raise the level of concern for bowel obstruction?
A. Yes.
Q. Would you agree when a patient with

recurrent abdominal pain and vomiting has evidence of fecal emesis, it should require immediate medical evaluation?

A. Yes.

Q. How is bowel obstruction diagnosed?

A. With physical exam and x-rays.

Q. And would you agree that bowel obstruction cannot be completely ruled out on the basis of a single abdominal x-ray series?

A. Possibly.

Q. If it's an early onset, the bowel may not be obstructed to the point where gas and fluid collections occur, correct?

A. Yes.

Q. Are there complications associated with unrelieved bowel obstruction?

A. Yes.

Q. What type of complications?

A. The most serious would be injury to the bowel, death to the bowel.

Q. Can perforation occur?

A. Yes.

Q. Necrosis of the bowel?

A. Yes. That's right.

Q. Can unrelieved bowel obstruction cause

fluid and electrolyte imbalances?

A. Yes.

Q. And can patients that develop bowel obstruction go into shock?

A. Yes.

Q. And would you agree that unrelieved bowel obstruction in some instances can lead to life-threatening fluid electrolyte imbalances?

A. Yes.

Q. Would you agree the risk for fluid electrolyte imbalances increase with the duration of the bowel obstruction?

A. Yes.

Q. Are there any general guidelines you recommend to patients as to when they should seek medical attention for recurrent vomiting?

A. If they have recurrent vomiting and can't keep anything down, such as fluids, that they should seek a physician's help.

Q. Over what period of time would you recommend that they come in and see a physician after that problem, what duration of time with the problem where they couldn't keep fluids down would you tell them to come in to see a physician?

A. It would depend on how often they're vomiting.

Q. What would you consider to be a serious problem with vomiting that would require a patient to come in and see a physician?

A. If they were vomiting continuously or perhaps every hour.

Q. Are there complications associated with recurrent vomiting?

A. Yes.

Q. Is one of those complications fluid and electrolyte imbalances?

A. Possibly, yes.

Q. And can recurrent vomiting result in life-threatening complications?

A. Yes.

MS. MOLNAR: I'm sorry, could you say that again? I missed that. Did you say fluid and electrolyte imbalance or --

MS. TOSTI: I said can recurrent vomiting result in life-threatening complications and fluid and electrolyte imbalances.

BY MS. TOSTI:

Q. In your practice, doctor, have you personally confirmed the diagnosis of bowel

obstruction in a patient?
A. Yes.
Q. When is the last time you did that?
A. Several months ago.
Q. How did you confirm bowel obstruction?
A. A physical, by physical exam and x-rays.
Q. Did the patient survive?
A. Yes.
Q. Have you ever referred a patient to another physician with a diagnosis of possible or suspected bowel obstruction?
A. Yes.
Q. When is the last time you did that?
A. Several months ago.
Q. Do you have an independent recollection of Lorna Moeller as you sit here today? Do you recall her?
A. Yes.
Q. Either from your recollection or what you've had an opportunity to review in the records, when is the first time that Lorna Moeller came under your care?
A. The day I saw her in the hospital.
Q. And if you would like to look at the

records, I believe that date was February 1st of 2000?

A. It would have been February 2nd.

Q. I'm sorry, February 2nd? So it was the second day she was in the hospital, the day after.

Had you ever seen her in the office for a patient visit?

A. No.

Q. And you indicated that in your practice the family practice physicians rotated through the hospital responsibilities. Did Lorna Moeller come under your care on February 2nd because that was your week to cover the hospital?

A. Yes.

Q. Now, how is it that you learned that Lorna Moeller was in the hospital and that you were to see her?

A. I received sign-out by Dr. Kessler.

Q. What does that mean, received sign-out?

A. Means he was on call the previous night. We will telephone each other in the morning regarding any new admissions or changes in the existing patients in the hospital.

Q. So Dr. Kessler called you in this instance?
A. He may have called me or I called him.
Q. That would have been in the morning before you made your rounds in the hospital on February 2nd?
A. Yes.
Q. Do you have any recollection of what Dr. Kessler told you in regard to Lorna Moeller?
A. Yes.
Q. Okay. What did Dr. Kessler tell you about Lorna Moeller?
A. Just that she had been transferred from the walk-in clinic to ER for rule out obstruction with -- the ER physician thought this was more a picture of gastroenteritis.
Q. Okay. And what was her understanding as to what brought Lorna Moeller to the hospital? Why did she come to the urgent care in the first place?
A. Due to abdominal pain and vomiting.
Q. What is your understanding as to why she was admitted to the hospital?
A. For the same reasons.
Q. Why did that require admission?

A. It required admission for fluid hydration and to control her nausea.

Q. Now, when you went to see Lorna Moeller on February 2nd, aside from what Dr. Kessler told you, did you have any other history on Lorna Moeller?

A. Only the records from the ER.

Q. What's your understanding as to how long she'd been having the abdominal pain and the vomiting prior to her admission?

A. Approximately one day.

Q. Were you aware that she had a history of diverticulitis when you saw her?

A. No.

Q. Were you aware of any condition affecting her thyroid?

A. No.

Q. Now, I believe that she had a set of abdominal films when I think she was in the urgent care. Did you view the abdominal films when you saw her?

A. No.

Q. What was your understanding of what the abdominal films showed?

A. What the radiologist had interpreted

them to be.

Q. What was that?

A. That was essentially no signs of bowel obstruction.

Q. Did you have a report at the time that you saw Lorna Moeller on February 2nd?

A. A verbal report, yes.

Q. You spoke to the radiologist?

A. No. They have verbal reports over a dictaphone line at the hospital that is exactly what it will come out on hard copy.

Q. I believe these records, I'm sorry, these films were done at the urgent care. Would they have been then interpreted at Lake Hospital?

A. Yes.

Q. Do you recall what the radiologist's verbal report was?

A. Exactly what's on the hard copy.

Q. Now, approximately what time did you see Lorna Moeller on February 2nd of 2000?

A. At 11:30.

Q. Did you just see her the one time?

A. Yes.

Q. And when you saw her at 11:30, did you obtain any additional history aside from what

we've already talked about? Did she give you any more history or anybody else give you any more history on her?

A. No.

Q. I'm sorry, I didn't hear your answer.

A. No. Sorry.

Q. When you saw Lorna Moeller on February 2nd of 2000, was there anyone else present with her?

A. No.

Q. You did not have any contact with any Eastwood Residential care-givers on February 2nd in regard to Lorna Moeller, did you?

A. No.

Q. When you saw her on February 2nd, did you do an assessment of Lorna Moeller?

A. Yes.

Q. When you did your assessment, was part of that a physical examination?

A. Yes.

Q. Were there any deviations from normal that you found on your physical exam that you felt were significant?

A. No.

Q. Doctor, didn't you find that her

abdomen was diffusely tender?
A. Yes.
Q. You didn't consider that to be a significant deviation from normal?
A. Not for somebody who had been vomiting the day before. You can get muscle tenderness from vomiting or retching.
Q. And was it your understanding or was it your assessment that the abdominal tenderness that she had was due to retching?
A. Yes.
Q. Didn't you also find that there was a questionable left lower quadrant mass that you felt maybe retained stool?
A. Yes.
Q. Would that be a deviation from normal?
A. No.
Q. Normally you can't palpate stool in people's abdomen, can you?
A. Yes, you can.
Q. Now, when you described the pain in her abdomen as diffuse, did that mean that the pain wasn't localized in any specific area?
A. Yes.
Q. And was the pain that you elicited on

palpation a new finding, something that she hadn't had before?

A. No.

Q. Did the emergency room physician find that there was pain when he palpated her abdomen?

A. Yes, according to the ER physician, diffuse upper discomfort.

Q. Does it say upon palpation?

A. When they dictate this physical exam, it's assumed it's on palpation. This isn't part of the objective examination. This is part of her history when they do the physical exam. Abdomen soft. She has diffuse upper discomfort. There is no palpable mass, rebound or guarding.

Q. Didn't the emergency room physician also indicate that when he palpated for McBurney's spot and the Murphy sign, that those were negative?

A. Yes.

Q. And if you have diffuse pain on palpation, wouldn't you expect she'd also complain of pain when those areas were palpated?

A. Yes.

Q. And he didn't indicate that there was any discomfort when he palpated for those,

correct?
A. No.
Q. Now, you described her bowel sounds as being hypoactive, correct?
A. Yes.
Q. What does that mean?
A. To me, it means she still has bowel sounds that are present, but they may be a little hard to hear and they may not be as loud or as gurgly as you might hear on somebody else's abdomen.
Q. Would that be an indication of a person that may have constipation? Would they have hypoactive bowel sounds?
A. Not necessarily, no.
Q. Why do you think hers were hypoactive?
A. Due to the gastroenteritis.
Q. Now, you indicated that you thought that there was a possible left lower quadrant mass that was consistent with retained stool in the colon, correct?
A. Yes.
Q. Did you do a digital exam to check for fecal impaction while in the colon?
A. No.

Q. Why not?
A. It had supposedly been done previously in the ER.
Q. The day before?
A. Yes.
Q. When you saw her on February 2nd, what was within your differential diagnosis when you completed your assessment?
A. Viral gastritis and constipation.
Q. What indications did you find for viral gastritis?
A. She had the nausea, she had the vomiting, she had the abdominal pain.
Q. Those would all be consistent with obstruction or partial obstruction of the bowel also, correct?
A. That's a possibility, yes.
Q. And what clinical indications did you find for constipation?
A. No clinical indications.
Q. You found a mass in the left lower quadrant that you felt possibly retained stool, correct?
A. And it was verified on x-ray.
Q. So you had x-rays as well as the mass

that you palpated?
A. Yes.
Q. Wouldn't you consider those to be clinical indications for constipation?
A. Yes.
Q. You also found hypoactive bowel sounds. Would that be a clinical indication for constipation?
A. Not necessarily.
Q. If a patient's bowel is hypoactive, wouldn't they be at increased risk for constipation?
A. Not necessarily.
Q. If the contents of the bowel is not moving at the normal rate, isn't it more likely that the stool will dry out and the person could become constipated?
A. Depends how long this goes on for.
Q. Now, the x-ray or abdominal series indicated that there was a considerable amount of stool appreciated on the x-ray, correct?
A. Yes.
Q. When you saw Lorna Moeller, did you know that just two days before she was admitted to the hospital she was having diarrhea and that

the Eastwood personnel were treating her with antidiarrheal medication?

A. No.

Q. Would that be important for you to know as a physician, knowing that she now has a large amount of stool appreciated on her x-ray?

A. Possibly, yes.

Q. Knowing that she had had diarrhea just a day or two prior to admission and knowing the results of those x-rays, would that raise the index of suspicion for bowel obstruction?

MR. FORBES: Objection to the form.

A. No.

Q. Would the fact that she had diarrhea two days before she was hospitalized with abdominal pain, vomiting and now your diagnosis of constipation heighten the suspicion for bowel obstruction?

MR. FORBES: Objection to the form.

A. No.

Q. When you saw her on February 2nd, were you able to rule out bowel obstruction?

A. Yes.

Q. On what basis?

MR. KRAUSE: Keep going.

(Mr. Krause left the deposition suite.)

THE WITNESS: Would you repeat the question, please?

MS. TOSTI: Would you please read it back.

(Record read.)

A. Based on the x-rays and the -- my exam compared to the ER's exam.

Q. What in particular in regard to your exam told you that she didn't have bowel obstruction?

A. Her abdomen was not distended. It was soft. There was nothing acute. There was no rebound or guarding. She still had bowel sounds and the x-rays were negative.

Q. Now, when you saw her on February 2nd, she had abdominal pain on palpation, correct?

A. Yes.

Q. You thought she had constipation, correct?

A. Yes.

Q. She had nausea, correct?

A. Not at that time, no.

Q. Do you know whether she was medicated

for nausea on February 2nd?

A. I know she had been medicated when she first came on the floor at 10 p.m. the previous night.

Q. What was she medicated with?

A. Phenergan.

Q. I believe if you look at the medication and treatment record, you'll find that she received Phenergan at 5:45 in the morning and she also received it at 10:00 in the morning, an hour before you saw her.

MS. MOLNAR: Do you have a copy of the MAR sheet with you?

MS. TOSTI: You should have a copy of it in the medical records.

MS. MOLNAR: I don't. It's not here. There isn't a copy of the MAR sheet here.

BY MS. TOSTI:

Q. Doctor, did you take any steps to relieve her constipation before she was discharged from the hospital?

A. Yes.

Q. What is it that you did?

A. Gave her some Milk of Magnesia.

Q. And do you know if she had any bowel

movements before she was discharged from the hospital on February 2nd?

A. No.

Q. If her abdominal x-rays were positive for stool and constipation and you felt what you thought was retained stool in her abdomen, and she was still complaining of at least abdominal pain on palpation, wouldn't it have been reasonable to clean out her colon while she was in the hospital to see if that resolved the problem?

A. No.

Q. Why not?

A. Constipation can be treated as an outpatient.

Q. Wouldn't it have been just as simple, though, to give her some cleansing enemas while she was in the hospital, considering this was a retarded patient who had some limitations on her ability to manage her own health needs?

MS. MOLNAR: Objection.

MR. FORBES: Objection to the form.

MS. MOLNAR: You can answer.

A. Not necessarily so.

Q. You've ordered cleansing enemas for

patients in the hospital, correct?
A. Yes.
Q. Have you ordered oil retention enemas followed by cleansing enemas to clean out a colon?
A. No.
Q. Have you ordered saline enemas to clean out a colon?
A. No.
Q. What type of enemas have you ordered?
A. Fleet's enemas.
Q. Have you ordered any x-rays that required the colon to be cleaned out?
A. Yes.
Q. Doctor, if Lorna Moeller received Phenergan at 10:00 in the morning and you saw her at 11, assuming that to be true, would you agree that there would be no way to tell if her nausea and vomiting had resolved or whether it was just being suppressed by the Phenergan at the time that you saw her?
A. What was the question?
MS. TOSTI: Read my question back, please.
(Record read.)

A. Yes.
Q. Now, when you saw Lorna around 11, was she eating and drinking to a level that you felt was acceptable?
A. Yes.
Q. What's your understanding as to her intake prior to the time that you saw her?
A. According to nurse's notes, she had taken almost 500 ccs of oral liquids through the night without any notes from the nurse that she brought it back up or complained of any increasing abdominal pain.
Q. After 6:00 in the morning, do you know whether she had any type of oral intake?
A. She did not eat any breakfast. And I think it was because they had brought her solid food.
MS. MOLNAR: Do you want the nurse's notes?
THE WITNESS: Just the vital signs. What type of diet?
BY MS. TOSTI:
Q. Let me move on to something here.
Doctor, Lorna's admission orders were for a bland diet. And at the time that you saw

her, you discontinued those orders at 11:00; changed her diet. Why did you change her diet order?

A. Because she did not want any solid foods, so I switched her over to a liquid diet.

Q. Did the nurses tell you that she had taken nothing at breakfast?

A. I was able to get that from the nurse's notes.

Q. What change in diet did you order?

A. I ordered a clear to full liquid diet. Clear diet. Full liquid diet.

Q. What is full liquids?

A. Includes not only clear liquids like ginger ale or 7-up, but also Jello, soups.

Q. Doctor, doesn't full liquid refer to liquids that are fully nutritious such as milk, milk products, those types of things?

A. We don't give milk products when someone has a gastritis.

Q. Doesn't full liquids, when you order full liquid diet, doesn't that include milk, ice cream, cream soups, those types of things? Isn't that full liquid?

A. Yes.

Q. Clear liquids includes tea, Jello, correct?
A. Uh-huh.
Q. There's a difference when you order a full liquid diet as opposed to clear liquid diet, correct?
A. Yes.
(Mr. Krause entered the deposition suite.)
Q. And full liquid diets are considered to be fully nutritious for a patient where a clear liquid diet doesn't contain all of the proteins and that that would normally be necessary to sustain a person, correct?
A. Not necessarily.
Q. Is it your understanding that a full liquid diet is not -- can't be a balanced diet?
A. A full liquid can be a balanced diet, yes.
Q. Can a clear liquid diet be a balanced diet that meets all the nutritional needs?
A. Depending on the clear liquids.
Q. How do you get proteins into a clear liquid diet?
A. Granted, you're not going to get any

proteins.

Q. So a clear liquid diet is not a fully nutritious balanced diet; can we agree on that?

A. Yes.

Q. And you ordered her bland diet discontinued and you wanted her to be given full liquids and then also include clear liquids too, correct?

A. Yes.

Q. Now, in your progress note that I believe you wrote at 11:30?

A. Uh-huh, yes.

Q. You included under the second last line that the disposition of patient, if patient tolerates a full liquid lunch, you would discharge her to home, correct?

A. Yes.

Q. And why did you want her to tolerate full liquids prior to being discharged?

A. So she can tolerate full liquids, she can continue that to home.

Q. Your note here says full liquids, correct?

A. Yes.

Q. Now, if she didn't tolerate a full

liquid lunch, was it your intention to keep her in the hospital until you were satisfied she was able to keep down full liquids?

A. Yes.

Q. And do you know whether Lorna Moeller tolerated full liquid lunch before she was discharged?

A. Yes.

Q. Okay. What's your understanding?

A. I called the nurses; the nurses said she was able to eat Jello. She had no nausea or any vomiting. No increase in abdominal pain.

Q. Doctor, Jello is clear liquids, correct?

A. Yes.

Q. She didn't tolerate a full liquid lunch, correct?

MR. KRAUSE: Objection.

MS. MOLNAR: Objection.

A. I'm not sure what was on her plate.

Q. Well, according to the nurse's notes, the only thing she had for lunch was Jello. Assuming that's true, all she had was Jello at lunch, you'd agree that she didn't tolerate a full liquid lunch, correct?

MR. KRAUSE: Objection.
A. True.
Q. Would you agree that Lorna did not demonstrate that she could keep down full liquids before she left the hospital?
MR. KRAUSE: Objection.
A. I guess so.
Q. Doctor, you also wrote in your orders push fluids, correct?
A. Yes.
Q. What does push fluids mean?
A. Just to encourage the patient to take oral fluids.
Q. And what did you consider to be an adequate 24-hour fluid intake for Lorna Moeller? How many ccs of fluid?
A. We like to see individuals take at least close to a litre of fluid.
Q. Would 1000 ccs in a 24-hour period be enough to keep her hydrated?
A. Yes.
Q. Isn't normal fluid intake for an adult usually around 2000 ccs of fluid a day?
A. That's what you like people to drink. Not everybody drinks that.

Q. When a person becomes dehydrated, doesn't it increase the risk for constipation because the stool dries out and then it becomes more difficult to pass?

A. Yes.

Q. Now, the admission orders, which I believe Dr. Kessler gave and you countersigned, calls for Lorna Moeller to be on intake and output, correct?

A. Yes.

Q. Okay. And the intake and output records for Lorna Moeller indicates that between 6 a.m. and 3:30 p.m., when she was discharged, which is about nine and a half hours, she had a total oral intake of 120 ccs of 4 ounces. Was 4 ounces of fluid over a nine-and-a-half-hour period consistent with your orders to push fluids?

MR. KRAUSE: Objection.

A. Repeat the time that this was taken?

MS. TOSTI: Would you read my question back, please?

(Record read.)

MR. KRAUSE: Note my objection. And to form.

A. No.

Q. Doctor, assuming that she had a total of 120 ccs from 6 a.m. to 3:30 when she left the hospital, would you agree that Lorna Moeller never demonstrated that she could take in sufficient amounts of fluid by mouth to sustain her hydration before she was discharged?

THE WITNESS: Repeat the question again.

(Record read.)

A. Yes.

Q. Now, doctor, the Tri-County Ambulance record, those were the transporters that transported her back to Eastwood Residential, picked Lorna up around 3:30 p.m. and the ENTs did an assessment on Lorna at the time they picked her up. And it indicated at that point in time that Lorna was still complaining of abdominal pain and that she was nonambulatory due to the pain in her abdomen. Did the nurses inform you that at the time of discharge, Lorna was having pain in her abdomen so severe she was unable to get up?

MS. MOLNAR: Objection.

MR. KRAUSE: Objection.

A. No.
Q. Is that something you should have been informed about by the nurses?
MR. KRAUSE: Objection.
MS. MOLNAR: Objection.
A. Yes.
Q. I'm sorry, I didn't hear your answer.
A. Yes.
Q. Had you known that she was having pain to the degree that she was nonambulatory, would you have cancelled her discharge?
A. Yes.
MR. KRAUSE: Objection.
MS. MOLNAR: Objection.
Q. Doctor, isn't it true that with bowel obstruction the pain can come and go with waves?
A. Yes.
MS. MOLNAR: I'm going to need like about five minutes. Is now a good time to do that?
MS. TOSTI: Sure.
(Recess had.)
BY MS. TOSTI:
Q. Doctor, your discharge order was that Lorna Moeller was to follow up with you in one

week after the discharge, correct?
A. Yes.
Q. Considering the fact that she still was constipated when she was discharged, she hadn't demonstrated that she could take a full liquid diet, that she had only taken in 120 ccs for the nine-hour period on the day that you saw her and that she was still being medicated for nausea on the day of discharge, why did you feel that she could wait a week before she saw you in the office?
MS. MOLNAR: Objection.
A. I was going to see her specifically in a week just as a routine follow-up. When I discharged, at that time I felt her gastritis had resolved. She was able to tolerate fluids. She received plenty of IV fluids.
Q. Well, doctor -- go ahead.
A. As far as the nurse's notes, they noted that she had not had any vomiting. She did not complain to me of any abdominal pain.
Q. Why do you say her gastritis had resolved?
A. Because that was my ongoing diagnosis.
Q. I'm asking you what the basis was for

the fact that you said her gastritis had resolved?

A. She was no longer vomiting, no longer having abdominal pain.

Q. Doctor, if she was medicated for nausea at 5:45 in the morning and again at 10:00 in the morning, can you say that her nausea and vomiting had resolved?

A. I can only see the 5:00 medication. I don't have the 10:00. At that point the medication would have been out of her system. That would have only lasted three to four hours.

Q. 5:45, 10:00. Now, if you saw her at 11:00 and she had just been medicated with Phenergan at 10:00, would you agree that probably the Phenergan was suppressing any nausea that she had?

MR. FORBES: Go ahead. I'm sorry.

A. That's a possibility, yes.

MR. FORBES: Since you're referring to documents I didn't know where that came from, can we mark what we're referring to?

MS. TOSTI: No, because this is out of my record. You could have this in the medical records from the hospital.

MR. FORBES: I don't have a copy of what you're looking at. You didn't describe it in any way.

MS. TOSTI: I'm looking at the medication record from the 2-1-2000 hospital admission, which indicates Phenergan 25 milligrams IV or P/O Q4 hours PRN, that the nurses have signed off at 0545 hours and also at 10 a.m. on the day shift.

MR. FORBES: Thank you.

BY MS. TOSTI:

Q. Doctor, considering she only took in 120 ccs from 6 a.m. to 3:30, wouldn't you agree that there would be concern that she wouldn't be able to maintain her hydration?

A. Possibly. But she'd also received plenty of IV fluids.

Q. Well, that's what she had in the hospital. I'm talking about after she leaves the hospital to maintain her hydration. There would be a concern if she didn't demonstrate that she was able to take in sufficient fluids to maintain the hydration, correct?

A. Yes.

Q. If you knew that she only had 120 ccs

over that period of time, would you have cancelled her discharge until she was able to demonstrate that she could take in an adequate oral intake?

MR. KRAUSE: Objection.

A. No.

MR. KRAUSE: I'm sorry. I just didn't hear it. I don't mean to interrupt you.

A. No.

Q. Is that something that the nurses should have told you, that after you wrote your order for push fluids that she really didn't take anything in other than Jello at lunch?

MR. KRAUSE: Objection.

A. Yes.

Q. Now, when she was discharged from the hospital, were you assuming responsibility as her primary care provider?

A. No.

Q. Why is it then that you wanted her to come back and see you instead of going back to Dr. Kessler?

A. Most likely because I was the one who saw her in the hospital.

Q. You were just going to see her for

follow-up one time?
A. Yes.
Q. Would she then return to Dr. Kessler's panel of patients then?
A. Yes.
Q. Now, in Lorna Moeller's case how long do you think it was appropriate to wait before becoming concerned about lack of bowel movements?
A. Several days.
Q. She was discharged on the 2nd, so at what point would it become a concern?
A. Perhaps three, four days. If none of the therapies worked.
Q. Given her poor oral intake in the hospital and the fact that she was mentally retarded, should her fluid intake have been monitored for sufficiency after she went back to the group home?
A. Yes.
Q. And did you give any instructions that it be monitored?
A. Home-going instructions included continue to push fluids, continue all her medications and continue with liquids.
Q. Okay. But you told me before that

push fluids meant fluids. My question to you is whether the sufficiency of her fluid intake should have been monitored?

A. Yes.

Q. And that would mean keeping track of how much fluid she actually took in, correct?

A. Yes.

Q. Did you give any specific instructions to them to keep track of her fluid intake after she went back to the group home?

A. No. I would assume they would do that.

Q. Why would you assume that?

A. Because she's living in a group home that has their own dietician and nurses following these individuals.

Q. Did you have any conversations with any of the Eastwood care providers prior to the time she was discharged?

A. No.

Q. Or any time soon after the discharge?

A. No.

Q. After she was discharged, did you place any calls to Eastwood to find out how she was doing?

A. No.
Q. Did you provide any of her care-givers with instructions as to what they should do if she began vomiting again?
A. On discharge?
Q. Yes.
A. No.
Q. Would recurrent vomiting and continued lack of bowel movement warrant medical reevaluation?
A. Yes.
Q. Were you notified by anyone at Eastwood that Lorna Moeller had vomiting on the evening that she was discharged from the hospital?
A. No.
Q. Is that something that you should have been informed about, that she had vomiting on the evening she was discharged from the hospital?
MR. FORBES: Objection to the form. Foundation.
A. Yes.
Q. On February 3rd, the day after her discharge, were you notified by anyone at Eastwood that Lorna Moeller had recurrent

episodes of vomiting?
A. No.
Q. Assuming that she did, is that something that you should have been informed about?
A. Yes.
Q. Had you been informed that she was having recurrent vomiting, would you have requested that she be taken back to the hospital?
A. I would have requested that she be reevaluated either by a physician, walk-in clinic, urgent care or the ER, somebody.
Q. Doctor, in the Prime Health family practice records, I believe there's a telephone contact record dated February 3rd of 2000 in reference to Lorna Moeller and under the box for doctor it has your name in it. I'll show you the one that I'm speaking of. It's this particular message.
A. Yes.
Q. Did you receive a message on February 3rd regarding Lorna Moeller?
A. No.
Q. Now, when messages are taken, would this message have been taken by the regular

office staff during the day --

A. Yes.

Q. Let me finish my question -- or would it be answering service? Who would make out this type of slip that we're looking at?

A. Our office staff.

Q. Okay. I'm going to mark this as Plaintiff's Exhibit 1. We'll attach this particular exhibit to the record.

So this would have been a call that was taken during regular office hours from the way it's written?

A. Yes.

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(Thereupon, Plaintiff's Exhibit 1 was marked for purposes of identification.)

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BY MS. TOSTI:

Q. Now, your name appears on this particular phone message. Why is it that your name was on this phone message?

A. Most likely because Julie said it was for me, the caller.

Q. And would this message then have been

given to you by the office staff at Prime Health?

A. Yes.

Q. Do you recall getting this message from anyone at your office?

A. No.

Q. Do you know of any reason why this information wasn't provided to you?

A. Yes. Most likely the call came in later in the afternoon as we were closing and since the message was not of an urgent matter, it wasn't pulled and it was not presented to me until the next day.

Q. Do you know whether Dr. Oh received this message as the on call physician and acted upon it?

A. No, she did not receive this actual paper message.

Q. Did she receive the information that Julie was calling and wanted an order for Dulcolax for this particular patient and that she then gave an order for Dulcolax?

A. I don't know that she did. I'm assuming she must have if she was on call. I don't know if Julie called her that night -- yeah, Julie must have called her that night after

office hours and received an order from her.

Q. But you did not give an order for Dulcolax for her?

A. No.

Q. You're unsure whether Dr. Oh did; is that correct?

A. I'm assuming she did, because there's a message below it that Dr. Oh had prescribed the suppository on 2-30-00.

Q. Did you ever talk to Dr. Oh about it?

A. No.

Q. Would there be any cause for concern that Lorna still hadn't had a bowel movement the day after she was discharged?

A. No.

Q. Now, on the morning of February 4th, did you receive a phone call from LPN Julie Warner at Eastwood regarding Lorna Moeller?

A. Yes.

Q. What time did you receive that call?

A. I don't know. I was making rounds at the hospital.

Q. What time do you normally start your rounds at the hospital?

A. Depends on how many people are in the

hospital. Usually anywhere between 8:30, 9:00, to whenever I get done.

Q. How is it that you were contacted by Julie Warner? How did that message come to you?

A. I think it had to have been over my pager.

Q. You think you returned a call to her then?

A. Yes.

Q. You talked to her directly then?

A. I talked to somebody at the home. I don't know whether it was Julie. I'm going to assume it was.

Q. And what information were you given regarding Lorna Moeller when you had that phone call?

A. The phone call that I had with her was that she was vomiting and that there was fecal matter in the vomiting.

Q. She told you that in the morning while you were --

A. Making rounds.

Q. Around 8:30, sometime close to that?

A. Yes.

Q. Did you talk to her more than once or

just that one time?

A. Just that once.

Q. Now, doctor, when you received the message that she was vomiting and that there was fecal matter in the vomit --

A. Or that smelled like fecal matter.

Q. Or that smelled like fecal matter, did you take any action?

A. I told her she had to be seen. She had to send her.

Q. So what directions did you give her at that point in time; that she was to bring her to the office? Take her to the emergency?

A. I told her anywhere. Again, I don't know what time it was, if the office hours were open. I said, take her back to the urgent care, walk-in clinic, ER. she needed to be seen.

Q. Okay. Did you consider it to be an urgent concern that she be seen right away?

A. Yes.

(Mr. Krause left the deposition suite.)

Q. Okay. Now, on Plaintiff's Exhibit 1, there is a message that is written here dated February 4th of 2000. It appears to be signed by

someone named J. Landis; is that a medical assistant in your office?

A. Yes.

Q. Says, Dr. Heng had phoned and said if patient still unable to move bowels after suppository, she suggests mag citrate?

A. Yes.

Q. Do you know what that notation is in reference to?

A. Yes. My office had paged me saying they had received a call from the Eastwood home. The suppository Dr. Oh had prescribed had not worked. That was the message they gave me. I called them back, if that didn't work, go with mag citrate.

Q. When did you receive that phone call from your office or your page from your office?

A. They're usually in the office after 8:30. They have to be in the office. It would have to be after 8:30. Again, I was making rounds.

Q. Did you receive the phone message from your office prior to the time that you talked to Julie Warner?

A. Yes.

Q. Then how much after you received that message did you speak with Julie Warner?
A. I don't remember. Could have been an hour or so. I honestly don't remember.
Q. At what time did you say that your office staff comes in?
A. They are supposed to be in at 8:30.
Q. So you would have received this message after 8:30 in the morning and that you would have also spoken with Julie Warner after 8:30 in the morning?
A. Yes.
Q. And you believe there was an hour between the time that you received this message and the time that you spoke with Julie Warner?
MS. MOLNAR: Objection.
A. I can't be exact. I don't know. I don't know how long.
Q. Doctor, when you heard she was having vomitus that had fecal material in it, were you concerned that she had a bowel obstruction?
A. Yes.
Q. Did you suggest that they call 911 to have her transported to the hospital?
A. Did I verbally tell them to call 911?

No. I just said she had to be taken right away.

Q. When you spoke with Julie Warner, did she request that Lorna Moeller be admitted to the hospital?

A. I don't remember.

Q. Do you ever recall telling her that Lorna Moeller didn't need readmission and that just try the mag citrate on her?

A. No, because that was an entirely different conversation.

Q. Did you ever speak to Julie Warner and tell Julie Warner that she should utilize mag citrate on Lorna?

A. No.

Q. So the suggestion for mag citrate was transmitted through your office, is that correct?

A. Yes.

Q. You never made that suggestion directly to Julie Warner or anyone else at Eastwood Residential?

A. No.

Q. So the only conversation that you had with anyone from Eastwood was the person that you spoke to that said that she was having this fecal type emesis, correct?

A. Yes.
Q. Now, the person that you spoke to, they told you that it smelled like fecal material?
A. Yes.
Q. When you spoke to Julie Warner, did Miss Warner inform you that Lorna Moeller's blood pressure had dropped down to 90 over 60 and that her skin was cold and clammy and that her temperature was slightly elevated?
A. No.
Q. If you were given that information, would that have caused you to give directions to have emergency transport to the hospital for this patient?
A. Yes.
Q. Doctor, when she was in the hospital when you saw her, I believe her blood pressure was running in the 140s to the 160 range systolic. Would a drop in blood pressure down to 90 over 60 cause a high level of concern for impending shock in this patient?
A. Would that be while she's in the hospital or out of the hospital or --
Q. No. Let me repeat my question.

When she was in the hospital, her blood pressure systolic was running about 140 or 160, correct?

A. Correct.

Q. Okay. After she was at the group home, if her blood pressure was reported to you to be 90 over 60 and her skin was reported as being cool and clammy, would that raise a high level of concern for impending shock?

A. Yes.

Q. And you have no recollection of anyone informing you that her blood pressure had dropped to that level, is that correct?

A. No.

Q. When you spoke with Julie Warner in the morning --

A. Yes, I have no recollection.

Q. -- no one informed you about a low blood pressure, is that correct?

A. Yes.

Q. You never denied a request to admit Lorna Moeller to the hospital, did you, any request made by anyone at Eastwood on the morning of February 4th?

A. What was the question again?

Q. On February 4th in the morning, did you ever deny a request to have Lorna Moeller admitted to the hospital?

A. Did I ever deny a request? No. I don't remember a request.

Q. After the phone conversation that you had with Julie Warner the morning of February 4th, what do you recall she told you besides that Lorna was vomiting fecal material? What else can you recall that you were told about?

MS. MOLNAR: Objection. What else does she recall that she wasn't told about?

MS. TOSTI: No. What else does she recall that she was told.

A. I just remember that she said she was vomiting, and that the vomit was sort of brown and smelled as if it had fecal material in. That's the only thing that stands out in my mind in that conversation.

(Mr. Krause entered the deposition suite.)

BY MS. TOSTI:

Q. In regard to Lorna's condition, was there any description as to what her condition was at that point?

MR. FORBES: Objection to the form.

A. No.

Q. Do you know if she was alert, if she was oriented, if she was responding when you received that call?

A. No.

Q. Did you ask?

A. No. It was bad enough she was having the type of vomit that she was.

Q. So your instructions at that point when you received the call was that she should seek immediate medical attention, correct?

A. She needed help.

Q. When Lorna collapsed on February 4th, did you receive any other notification? Let me rephrase that. That was not well stated.

How long was the conversation you had had on the phone with Julie Warner the morning of the 4th? How long did that conversation last?

A. Maybe 30 seconds to a minute.

Q. Okay. After you had that conversation, did you have any other contacts with anyone at Eastwood Residential that morning?

A. No.

Q. Lorna subsequently was taken by

emergency medical services to the hospital. Were you notified by anyone at Eastwood that she was being transported to the hospital?

A. No.

Q. Did you have any conversations with anyone at UHHS Memorial Geneva Hospital regarding Lorna Moeller once she arrived there?

A. No.

Q. When did you learn that Lorna Moeller had passed away?

A. When I got to the office.

Q. And when was that?

A. It had to be before 12 because I start seeing patients before 12:00.

Q. It was the morning of February 4th?

A. Yes.

Q. Who informed you?

A. I think it was my office staff.

Q. After you were informed that she had passed away, you had been informed that she had died at that point or only that she had gone to the hospital?

A. That she had gone -- I think they told me she had gone to the hospital and had died.

Q. After you had received that

information, did you speak to anyone at Eastwood about Lorna?

A. No.

Q. Now, it's my understanding Dr. Kessler spoke to some people at the hospital. Did you discuss with Dr. Kessler any of the events or circumstances leading up to Lorna Moeller's death?

A. No.

Q. Dr. Kessler didn't come to you and say, what was going on with her, what happened?

A. No.

Q. You've never had any conversations with him in regard to the events or circumstances leading up to her death?

A. No.

Q. Is there a point in time that you believe Lorna Moeller should have been returned to the hospital for evaluation other than when you received that call?

MR. FORBES: Objection to the form.

MS. MOLNAR: She hasn't seen the Eastwood records at all.

A. She should have been -- after she was sent home from the hospital, I would assume that

if she had continued to vomit, have any other problems that originally brought her into the hospital, that she should have been seen prior.

Q. So assuming that she had vomiting the night of the discharge from the hospital, is it your feeling that she should have then been reevaluated?

MS. MOLNAR: Objection. You can answer if you know.

A. It is dependent upon the amount of vomit and what type of vomit, how often or how many times or whether there was just gagging or dry heaves or...

Q. Do you have an opinion as to what caused Lorna Moeller's death?

MR. FORBES: Objection.

A. I can only go with what was written by Dr. Kessler on the notes. Something about aspiration.

MS. MOLNAR: All she wants to know is if you have an opinion what her cause of death was. I'll object. You can answer.

A. No.

Q. Doctor, when you last saw her in the hospital, do you have an opinion as to what her

reasonable life expectancy was at that time?
MR. FORBES: Objection.
MS. MOLNAR: Objection.
A. No.
Q. Have you ever spoken to any of Lorna Moeller's family at any time?
A. No.
Q. Would you agree that when you're providing care for a mentally retarded patient, there has to be a heightened vigilance for signs and symptoms of complications because of the patient's diminished mental capacity?
MR. FORBES: Objection to the form.
MR. KRAUSE: Objection.
A. No. Depends upon what their retardation level is.
Q. In regard to Lorna Moeller's retardation level, would you agree that in her case that there needed to be a heightened vigilance for signs and symptoms of complications because of her diminished mental capacity?
MR. FORBES: Objection to the form.
MR. KRAUSE: Objection.
A. No.
Q. Do you feel that Lorna Moeller had

sufficient mental capacity to look after her own health needs?

MS. MOLNAR: Objection.

A. Yes. According to her record she was only mildly retarded; she was able to converse with her caretakers and with the ER physician and express her wants and needs and complaints.

Q. Do you have any criticisms of Eastwood Residential personnel or its agents in regard to the care of Lorna Moeller in her last illness?

MR. FORBES: Objection.

MR. KRAUSE: Objection.

MS. MOLNAR: Objection. She hasn't seen any of those records.

A. What was the question again?

(Record read.)

MS. MOLNAR: Objection.

MR. FORBES: Objection to the form.

A. Normally I'd say I have no criticism with the staff there. They're very good. But in this case, if indeed the information that you gave me did occur, then I guess I'd say I would be upset they didn't call us sooner.

MS. TOSTI: Doctor, I don't have any further questions for you. The other defense

attorneys may have some

MR. FORBES: Unfortunately I do.

EXAMINATION OF JULIA ANN HENG, MD

BY MR. FORBES:

Q. Doctor my name is Steve Forbes. I represent Eastwood. First thing is if any of my questions are confusing, I don't make any sense, please ask me to clarify. If you answer a question, I'm going to assume you understood it. Is that fair?

A. Sure.

Q. The one conversation you had with folks from Eastwood in this matter was with Julie Warner on the morning of the 4th, correct?

A. I'm assuming it was Julie.

Q. The questions Ms. Tosti asked you, inserted somebody's name, it was from somebody from Eastwood?

A. Yes.

Q. That was the only conversation you had?

A. On the 4th?

Q. Yes.

A. Yes.

Q. That was the only conversation you had

with anyone from Eastwood regarding Ms. Moeller?
A. Yes.
Q. You never spoke with Dr. Oh about any conversations she had with anyone from Eastwood?
A. No.
Q. Did I get that right, is Dr. Oh a woman?
A. Yes.
Q. When you made your diagnosis, you basically diagnosed Ms. Moeller with the flu and with constipation, correct?
A. Yes.
Q. That was based upon --
MS. TOSTI: Can I interject here? I believe the diagnosis was gastroenteritis.
Q. Is the flu --
A. I guess it would be better termed stomach gastritis. The flu tends to indicate a particular virus like influenza.
Q. Allowing me to be a little colloquial --
A. Gastroenteritis, yes.
Q. Easier for you than me. Gastroenteritis is similar to the symptoms of the flu, correct?

A. No, not necessarily.
Q. Okay. The gastroenteritis she had caused her to vomit, correct?
A. Yes.
Q. You ruled out a small bowel obstruction?
A. While she was in the hospital, yes.
Q. And that was based upon your review of the x-ray?
A. Yes.
Q. Your --
MS. MOLNAR: Objection. She didn't look at the films. She heard the verbal --
Q. Thank you. Your review of the radiologist's read of the x-ray, correct?
A. Yes.
Q. It was also based on your clinical examination?
A. Yes.
Q. And in that clinical examination there was still bowel sounds?
A. Yes.
Q. There was what you referred to as rebound?
A. No rebound.

Q. There was no acute pain?
A. No localized pain or guarding.
Q. Given that presentation and the x-ray, would the fact of a history of diverticulitis or hypothyroidism have changed your diagnosis?
A. No.
Q. Would the fact that Ms. Moeller may have been vomiting, or excuse me, may have had diarrhea a couple days before her admission, would that have changed her diagnosis?
A. No.
Q. Did you have any difficulty communicating to Ms. Moeller when you treated her February 2nd, 2000?
A. No.
Q. What's your understanding of what Eastwood Residential Living is?
A. It's a group home for women who are mentally retarded. I'm not sure as to the severity. Most of them seem to be just mildly retarded. Some of them work; some of them don't. They're in a restricted environment. There's usually caretakers at the home. There's dietary at the home.
Q. The caretakers at the home, those are

not nurses, correct?
A. I don't know.
Q. You would distinguish Eastwood Residential Living from a nursing home, correct?
A. Correct.
Q. When you discharged Ms. Moeller, your discharge note has X discharged home, correct?
A. Yes.
Q. You could have discharged her to a skilled nursing facility or some other place, correct?
A. I could have. I see no reason why she needed to go to a skilled facility.
Q. She had gastroenteritis. She was an independent person so you discharged her to her home?
A. Right.
Q. In her case because she was mildly mentally retarded, her home was a place like Eastwood?
A. Right.
Q. Do you know how long she was being cared there by the folks at Eastwood?
A. No, I don't.
Q. Your discharge instructions, do you

know how those were communicated to anyone at Eastwood?

A. The nurses at the hospital would have talked to the caretakers over her or whoever came and picked her up.

Q. Would they be reading from the chart and then informing the individuals at Eastwood, based upon what you wrote in your discharge, or would they be communicating things you told them to tell the folks at Eastwood?

A. Both.

Q. Do you remember what you told the nurses to say to the individuals at Eastwood?

A. No, I don't.

Q. We can agree that on your discharge note it says, I think, Colace and fluids?

A. Yes.

Q. There are no other discharge instructions that you're aware of that you gave to the nurses to give to the individuals at Eastwood?

MR. KRAUSE: Objection. She said she couldn't recall.

MR. FORBES: I'll rephrase. I'll take that correction.

BY MR. FORBES:

Q. Based on your recollection as we sit here, do you specifically remember any other instructions other than what's in your discharge note?

MR. KRAUSE: Note my objection.

A. Other than what's in the nursing discharge sheet and on my discharge summary, no.

Q. What is in the nursing discharge sheet? Can you find that for me?

A. Patient home-going instructions. Liquid: Gatorade, ginger ale, Jello. Diet, activity.

MS. TOSTI: Go ahead and mark that and attach it to the deposition. Cross out plaintiff and put defendant.

MR. FORBES: If you could mark it A, that's fine.

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(Thereupon, Exhibit A was marked for purposes of identification.)

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BY MR. FORBES:

Q. Can you tell me what Exhibit A is?

A. Exhibit A is Lake Hospital System patient home-going instructions.

Q. In addition to those home-going instructions and the note you wrote at the bottom of your discharge sheet, were there any other instructions you know of or you can remember that were given to the nurses at Lake East or to the people at Eastwood?

A. No.

Q. Do you have any reason to believe that those instructions in your discharge sheet, had in Exhibit A, weren't followed at Eastwood?

A. What was the question again?

Q. Is it your understanding that the instructions you gave and the instructions that are contained in Exhibit A, were those instructions followed by the people at Eastwood?

MR. KRAUSE: Objection.

MS. MOLNAR: If you know.

A. I don't know if they were followed. I know they were given to them.

Q. Do you have any reason to doubt that they were followed?

A. No.

Q. With the diagnosis of gastroenteritis,

would you expect an individual to be vomiting?

A. That is one of the presenting complaints of gastroenteritis. When she was in the hospital, she had essentially resolved her vomiting. So I would assume that she would have no -- she would no longer be vomiting once we discharged her.

Q. Do you know if anyone at Eastwood was told, hey, she's got gastroenteritis but her vomiting has resolved, so you better inform us if she keeps vomiting?

A. I don't know.

Q. Do you know if anyone at Eastwood was told, hey, we've ruled out small bowel obstruction. We're going to discharge her after this one-day stay, but if there's problems with her bowel movements, let us know?

A. I don't know.

Q. Based upon the records, if they were able to review what was in the records and what was in the records was communicated to them, they would know that she was diagnosed with gastroenteritis and that the small bowel obstruction was ruled out as a potential problem, correct?

A. Right.
Q. And they would know the small bowel obstruction was not part of your differential diagnosis, correct?
A. Correct.
Q. And as care-givers in someone's home, which is fundamentally what they are, they have the responsibility and the right to rely on what the people in the hospital and what the physicians say when someone is discharged, correct?
MR. KRAUSE: Objection.
A. Phrase that question again?
Q. As care-givers in the home, the people at Eastwood, resident care-givers, the one LPN they have -- they can rely on what the hospital tells them about a patient's condition when that patient is discharged, correct?
A. Correct.
MR. KRAUSE: Objection.
Q. I butchered that question. Did you understand what I meant?
A. Yes.
Q. Long day.
Other than the dictaphone read of the

film that you listened to, have you ever talked to the radiologist about the read of the film of the abdomen on February 1st, 2000?

A. No.

Q. Do you know if that film has been read subsequent to February 1st, 2000?

A. No.

MR. FORBES: Thank you, doctor. I have no other questions.

EXAMINATION OF JULIA ANN HENG, MD

BY MR. KRAUSE:

Q. You referenced a mark of or somewhere around the number of 2000 ccs per day as far as P/O intake, liquid intake. I'm just trying to give you a frame of reference. Would that be within a 24-hour period?

A. Yes.

Q. So if it's been suggested that there was only 120 ccs P/O and the records reflect that it was 480 the day before and 120 on February 2nd, the P/O intake in that 24-hour period would be higher than 120, correct?

A. Right.

Q. When one of your patients is discharged, assuming that they have no mental

disability, they are commonly given the discharge instructions to take with them, correct?

A. Correct.

Q. In this case Miss Moeller was escorted by Tri-County Ambulance back to the Eastwood facility, correct?

A. I can only go by the records, yes.

Q. Based upon your review of the record?

A. Yes, that's what it says.

Q. If the home-going instructions were as printed up on Defendant's A, if that was all that was going to be communicated, that document could simply have been sent home with the ambulance back to Eastwood, correct?

A. Correct.

Q. But we know based on the bottom of the discharge instructions that that's not all that was done. There was a telephone call placed to Eastwood and instructions were called to a nurse at Eastwood, is that correct?

A. Correct.

Q. Mr. Forbes asked you a question about whether Eastwood could rely on the instructions given to them by the hospital. Clearly, the nurses or yourself would not be expected to

instruct the people at Eastwood on every event that might possibly happen, is that fair?

A. That's fair, yes.

Q. And clearly, although Eastwood could rely on information garnered from the hospital, they would not rely on that information to the exclusion of their own fund of knowledge, their own records, their own experience and their own, quote, unquote, standards, is that fair?

A. Yes.

MR. KRAUSE: End of questioning.

MR. FORBES: One thing before we close this depo out.

MS. TOSTI: I have a follow-up question too.

MR. FORBES: I would like to see, hopefully it won't produce any more questions, the run report before we end the deposition.

MS. TOSTI: I'm not going to give you my copy since I have it annotated, but I will provide you a copy of it tomorrow and send it to you.

MR. FORBES: I somewhat appreciate that position. Last thing I would want to do is drag Dr. Heng back.

MS. MOLNAR: We're not dragging Dr. Heng back.

MR. FORBES: I should restate it, attempt to. If there's things written on it, highlighting, we all can figure out what's important --

MS. TOSTI: I will produce it tomorrow. I'm not providing you with a copy I have now because I have it annotated.

MR. FORBES: I understand your position. I guess sort of in the idea of truth, justice and the American way, this should be a fully disclosed thing so we all have the same information, the truth should be out on the table. If it's highlighted, you know, that to me is irrelevant. If you have things handwritten on it, maybe we could white them out and the notary can do that so that there would be no disclosure of information, otherwise just on fundamental fairness grounds, I think you should cough it up, as we don't have it, didn't get it. I assume it was requested. To withhold it is just unfair. So that's my position.

Last thing I want to do is inconvenience Dr. Heng. It's not her fault and

we should resolve this now. It may result in no questions, but it may result in something which impacts my client.

MS. TOSTI: I will produce it to you tomorrow. I'm not sure that it wasn't produced to you before. I would look through the records, since I think it's probably in the hospital records even.

MR. KRAUSE: I'll join with Mr. Forbes. As counsel for the hospital, I'll represent it's not in any copy of the hospital records I have or I have not been able to find it in that I have also not gotten it from plaintiffs. We talked about it earlier in the deposition requests. I'll just join.

MS. TOSTI: I have a follow-up question for you, doctor.

EXAMINATION OF JULIA ANN HENG, MD

BY MS. TOSTI:

Q. I have a copy of a portion of the Eastwood Residential living records. I'm going to mark it as Plaintiff's Exhibit Number 2. It is entitled Supported Living/RFW Provider Consumer Incident Reporting Form, dated February 4th, 2000. There's one line in here I want to

ask you about.

In this particular form, it states "JW", which I want you to assume is Julie Warner, "talked to Dr. Heng to have LM", which I want you to assume is Lorna Moeller, "admitted to the hospital. Dr. Heng said to get magnesium citrate to clean her out."

Now, doctor, what I've just read to you, based on your recollection of the events that occurred, is that consistent with your recollection?

A. No.

Q. What is it that is not consistent with your recollection? I'll read it again. "JW talked to Dr. Heng to have Lorna Moeller admitted to hospital. Dr. Heng said to get magnesium citrate to clean her out."

A. I don't recollect that particular sentence because I gave the order for mag citrate to my office, according to our charts, who then referred or then talked to the nursing home. The only one time I talked to Julie Warner was about the vomiting. At that point, yes, she had to go to the hospital.

MR. FORBES: If we're going to mark

the document, she ought to see it.

MS. TOSTI: The sentence I'm referring to is right here.

MR. FORBES: The record will leave the impression that she reviewed it.

MS. TOSTI: We'll attach it to the deposition too. I have no further questions.

MS. MOLNAR: We'll read.

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(Thereupon, Plaintiff's Exhibit 2 was marked for purposes of identification.)

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(Deposition concluded at 4:44 p.m.)

(Signature was not waived.)

AFFIDAVIT

I have read the foregoing transcript from page 1 through 96 and note the following corrections:

PAGE/LINE REQUESTED CHANGE

_____
JULIA ANN HENG, MD

Subscribed and sworn to before me this _____ day of 2002.

Notary Public

My commission expires _____.

CERTIFICATE

State of Ohio,

SS:

County of Cuyahoga.

I, Lorraine J. Klodnick, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named JULIA ANN HENG, MD was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28 (D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 29th of July, 2002.

Lorraine J. Klodnick

Lorraine J. Klodnick, Notary Public
Within and for the State of Ohio

My commission expires July 20, 2007.

I N D E X