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1 State of Ohio,)
2) SS:
3 County of Cuyahoga)
4 ---
5 IN THE COURT OF COMMON PLEAS
6 ---
7 Naomi Kinzel, administratrix)
8 of the Estate of)
9 Kurtis Kinzel, et al.,)
10)
11 Plaintiffs,)
12)
13 vs.) Case No. 485871
14)
15 James H. Myers, M.D., et al.,)
16)
17 Defendants.)
18 ---
19 Deposition of James Myers, M.D., a defendant
20 herein, called by the plaintiffs for cross-examination,
21 pursuant to the Ohio Rules of Civil Procedure, taken
22 before Constance Versagi, Court Reporter and Notary Public
23 in and for the State of Ohio, at the offices of Reminger &
24 Reminger, 1400 Midland Building, Cleveland, Ohio, on
25 Thursday, April 3, 2003, commencing at 6:16 p.m.

Page 3

1 APPEARANCES:
2 On behalf of the Plaintiffs:
3 Laurel Matthews, M.D., Esq.
4 Charles Kampinski Co., LPA
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8 On behalf of the Defendant James Myers, M.D.:
9 Marc W. Groedel, Esq.
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14 On behalf of Defendants Serafin Garcia, Jr., M.D. and
15 Westlake Medical Associates:
16 Tracey S. McGurk, Esq.
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1 JAMES MYERS, M.D.
2 of lawful age, being first duly sworn, as hereinafter
3 certified, was examined and testified as follows:
4 CROSS-EXAMINATION
5 By Ms. Matthews:
6 Q Good evening, Doctor. My name is Laurel Matthews.
7 I'm here on behalf of the Estate of Kurtis Kinzel.
8 Could you please state your name and home
9 address for the record?
10 A Dr. James Myers. Home address is 1377 East Melrose
11 Drive, Westlake, Ohio.
12 Q Doctor, have you had your deposition taken before?
13 A I never had a deposition taken in a medical mal
14 case. I was deposed for a pharmaceutical company
15 based on a product liability suit.
16 Q So you know I have a series of questions for you?
17 A Right.
18 Q I ask if you don't understand one of my questions
19 you let me know so I can try to ask a better one,
20 all right?
21 A All right.
22 Q Is it reasonable for me to assume if you answer one
23 of my questions you understood it?
24 A Yes.
25 Q Fair enough. Can you run me through your

Page 5	Page 7
<p>1 educational background starting with high school, 2 please? 3 A Saint Ignatius High School, graduated 1968. John 4 Carroll University, Bachelor of Science, 1972. 5 Bowman Gray School of Medicine, Wake Forrest 6 University, graduated 1976. Internal medicine 7 training at the Cleveland Clinic from '76 to '89. 8 Specialist in endocrinology at the Cleveland Clinic 9 from '79 to '81. 10 Q From '76 to '79 -- I think you said '89, you meant 11 '79, right? 12 A '76 to '79. 13 Q Am I correct you took the internal medicine Boards 14 in 1980? 15 A Internal medicine Boards, Board certified '79 and 16 endocrinology -- whatever is on there. Let me look 17 at it. I can't remember exactly when the test 18 was '79 and '81. No, internal medicine specialty 19 Boards were '80. Board certified in endocrinology, 20 Board certified in '82. 21 Q Have you recertified in either of those 22 specialties? 23 A My license doesn't require mandatory 24 recertification. I've done voluntary 25 recertification, CME recertification.</p>	<p>1 Q It's not set up as an employee, it's a sole 2 proprietorship? 3 A Right. 4 Q Has it always been that way? 5 A Well, at one point I had partners. We had a small 6 group practice partnership. I've been on my own 7 private practice for five years or so. 8 Q Based on the records I have, it appears you first 9 saw Kurtis back in 1995; is that right? 10 A That's right. 11 Q Can you tell me how you came to be involved in his 12 care? 13 A Dr. Garcia, his family doctor, had referred him to 14 me for evaluation of an overactive thyroid. 15 Q There is a picture of Kurtis in your file, how did 16 that get there? 17 A Mother gave that to me after Kurtis had died. She 18 brought it to the office. 19 Q Was there some particular reason why she brought it 20 to the office? 21 A I'm not sure. I didn't ask for it. She thought I 22 would like to have it. 23 Q I see. So it's a postmortem addition to the file? 24 A Yes. 25 Q Do you know who completed this registration sheet</p>
Page 6	Page 8
<p>1 Q No retesting? 2 A Not required. 3 Q Is it available? 4 A They offer you recertification programs, which I've 5 done. I don't have to actually recertify for 6 license. 7 Q May I have that? 8 MR. GROEDEL: You may. 9 Q I now have a copy of your record. I've never seen 10 it before. Maybe we could just go through it. I 11 have seen parts of it. 12 Can you tell me how you first -- let's 13 start with your practice. Tell me what your 14 practice consists of. 15 A Clinical endocrinology. I'm solo practice, 16 suburban west side, practicing out of three 17 community hospitals. 18 Q Lakewood, Fairview and Saint John West Shore? 19 A Correct. 20 Q Are you an employee of a professional corporation? 21 A No. 22 Q Do you have a professional corporation? 23 A Yes. 24 Q What is the name of your corporation? 25 A James H. Myers, M.D., Inc.</p>	<p>1 that is in your file? 2 A What was the date on that? 3 Q December 14, '95 it looks like. 4 A I honestly don't remember which office girl would 5 have filled that out. One of the office girls. 6 Q How many of those are there? 7 A Well, I don't have the same people now that I had 8 then. Right now I have three girls working in the 9 office. Basically I've had three in the office at 10 any one time. 11 Q Let me ask you this, because I think it will answer 12 a number of my questions. There is a number of 13 forms that appear to have multiple parts to them, 14 are they always completed on the same day? 15 A You are talking about these forms? 16 Q For instance here dated 12-15-95 -- 17 A That is my initial visit form. That is filled out 18 by myself, other than stuff like the height, the 19 patient's weight and his age. 20 Q So, would everything on this what appears to be a 21 four part form been done on 12-15 of '95? 22 A Yes. 23 Q Was that your initial visit with Kurtis? 24 A It was. 25 Q Can you tell be basically what the history was,</p>

Page 9

1 what your findings and recommendations were?
2 A Yes. 16 year old young man, lost 15 pounds in
3 two-and-a-half months, shaky. Saw Dr. Garcia who
4 did some lab work. Did a T4 level, which is a
5 thyroid hormone level, which was high. It was
6 28.6. He did a thyroid nuclear scan, which is an
7 x-ray of the thyroid. He had a high thyroid uptake
8 at 67 percent. He had symptoms and blood work to
9 suggest he had an overactive thyroid. Mother
10 concerned he was hyperactive and restless, didn't
11 sleep well.
12 We did a physical exam on him which is on
13 this page. His resting heart rate was 90 to 100.
14 He had a slightly enlarged nontender thyroid
15 gland. He was a little bit tremulous.
16 He had clinical and laboratory findings of
17 what we call Graves' disease, hyperthyroidism.
18 Q I don't see anything under personal history, does
19 that mean that --
20 A It was all -- everything that I thought was
21 appropriate for a young man was recorded on this
22 page here.
23 Q So, I gather he didn't smoke or drink?
24 A Did not as far as I know.
25 Q So your recommendations at that time were what?

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1 A There was a letter which you have a copy of to
2 Dr. Garcia, December 15, 1995, typed.
3 Q I remember that, go ahead.
4 A We went over the findings. I summarized that
5 Kurtis had Graves' disease. We talked to the
6 family, actually the mother and Kurtis about
7 treatment options.
8 After going over the options, we decided to
9 initiate medical treatment, which consisted of
10 Tapazole, an anti-thyroid medicine, and a beta
11 blocker, Inderal. He was advised to have some
12 blood work in three weeks, return to see me for
13 follow-up.
14 Q You mentioned that the uptake was 67 percent on the
15 nuclear test?
16 A Right.
17 Q What is normal?
18 A It changes from year to year. Roughly up to 30
19 percent is normal. It's consistent with an
20 overactive thyroid.
21 Q So at that time you prescribed medical treatment,
22 including Inderal and Tapazole?
23 A Right.
24 Q When did you next see Kurtis?
25 A January, 9, 1996, a typed progress note.

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1 Q Okay. Got it. At that time Kurtis was living at
2 home?
3 A Yes, he was.
4 Q Do you know who was giving him his medicine?
5 A I don't know that. I assume he was taking them
6 himself.
7 Q That is a lot of medicine to expect a young man to
8 take on a regular basis, isn't it, Inderal three
9 times a day?
10 A 16 year old, no, I don't think it's an excessive
11 amount of meds.
12 Q So it's been your experience that 16 year olds are
13 generally compliant with a regimen like that?
14 A Most of them are.
15 Q Was Kurtis?
16 A At times. At times he wasn't. I would say
17 intermittently he was. Back at this point, as we
18 go through the records, there are some notations
19 about not taking the medication.
20 Q As far as '95 and '96, were there any indications
21 he wasn't taking his medicine?
22 A You want to move through?
23 Q We can go in order if you want.
24 A January '96, see what the blood test showed at that
25 time. January 9th his T4 was 17.6. It had come

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1 down about 10 points. There is some evidence he is
2 taking the medication at that point.
3 He was clinically improved. Heart rate was
4 slower, not as shaky, thyroid seemed a little bit
5 smaller. I made a note there clinically Kurtis
6 seemed to be improved. We did the blood work which
7 looked better.
8 We had another conversation about treatment
9 options, including continuing the anti-thyroid
10 medicine or radioactive iodine treatment. After
11 the discussion with the two of them, we decided to
12 continue medical treatment.
13 Q What were the reasons for that decision?
14 A I thought in a young man his age it was best to
15 continue him on medicine, try to get his thyroid
16 under control. Once he was under control, to have
17 another discussion about long term medical
18 treatment versus radioactive iodine treatment.
19 Q You agreed with the decision at that point not to
20 proceed with radioactive iodine treatment?
21 A Yes, I did.
22 Q You then saw him on January --
23 A February 16th.
24 Q February 16th.
25 A 1996.

<p style="text-align: right;">Page 13</p> <p>1 Q Okay.</p> <p>2 A Came in for follow-up, was feeling well, had gained</p> <p>3 9 pounds. Clinically less -- felt said he was less</p> <p>4 warm, less shaky. He said he was taking the</p> <p>5 Tapazole as prescribed and the Inderal.</p> <p>6 Clinically he looked better. Heart rate</p> <p>7 was slower. So clinically he looked better.</p> <p>8 We made a note that we were going to do</p> <p>9 some blood work, then try and taper off the</p> <p>10 medication.</p> <p>11 So, then we did the blood work, which was</p> <p>12 February 17th, and the T4 was a little better at</p> <p>13 16.9. He looked better. On exam his thyroid</p> <p>14 levels were still high.</p> <p>15 Clinical notation, February 19th, which</p> <p>16 would have been a phone call, Kurtis admitted to</p> <p>17 missing his Tapazole at times. We talked to him</p> <p>18 about the importance of taking it. Urged him to</p> <p>19 continue with 30 milligrams. Thought he was well</p> <p>20 enough we could start tapering the Inderal.</p> <p>21 Q Explain to me what was the reason for -- what is</p> <p>22 the date on this clinical note?</p> <p>23 A 2-19.</p> <p>24 Q Whose handwriting is that?</p> <p>25 A Mine.</p>	<p style="text-align: right;">Page 15</p> <p>1 he was being compliant with the medication.</p> <p>2 Then there is a note up above that,</p> <p>3 April 30th, Tapazole. We reduced him from 30 to</p> <p>4 20. That was a phone conversation. He was getting</p> <p>5 better.</p> <p>6 Q After the lab results?</p> <p>7 A After the labs.</p> <p>8 Q Did you have an explanation for the grades?</p> <p>9 A No. No, really if we're going to blame it on the</p> <p>10 thyroid, with him getting better I didn't think</p> <p>11 that was an explanation. Based on the blood tests</p> <p>12 and him getting better, we thought we could reduce</p> <p>13 his dose, see him back in a couple months.</p> <p>14 Q Does the school work of students suffer if they are</p> <p>15 hyperthyroid and not adequately treated?</p> <p>16 A It can. They have trouble concentrating.</p> <p>17 Q So then I see -- are these prescriptions -- this is</p> <p>18 a prescription?</p> <p>19 A Prescription called in for Tapazole. Then the next</p> <p>20 was July.</p> <p>21 Q July of '96?</p> <p>22 A Junior in high school. Working two jobs. Had no</p> <p>23 symptoms. Claimed to be taking the Tapazole. He</p> <p>24 was off the Inderal at that point.</p> <p>25 Examination, no evidence of</p>
<p style="text-align: right;">Page 14</p> <p>1 Q So what was the reason for the telephone call?</p> <p>2 A Because the blood test showed that he was higher</p> <p>3 than I thought he should have been if he would have</p> <p>4 been taking the medication.</p> <p>5 Q So even though it was better, you felt that it was</p> <p>6 higher than it should be?</p> <p>7 A Right. By experience, after a month or five weeks</p> <p>8 from the last visit, he should have come down more.</p> <p>9 Q Fair enough. So, you spoke to Kurtis, then you</p> <p>10 wrote this note?</p> <p>11 A Right.</p> <p>12 Q What happened next?</p> <p>13 A That was February. There is another typed note.</p> <p>14 April 29th there is a typed note. That was</p> <p>15 the next visit. Said he felt well. Mother was</p> <p>16 concerned about his grades, wasn't sure if it was</p> <p>17 related to his thyroid. Claimed to be taking the</p> <p>18 medication compliantly. Had no hyper symptoms at</p> <p>19 that time. He had gained up to 198 pounds. His</p> <p>20 weight was on the rise here. --</p> <p>21 Clinically he looked good. Really no</p> <p>22 findings of overactive thyroid. We suggested</p> <p>23 another blood test. At this time T4 came back</p> <p>24 normal, was down to 6.1. He was in the normal</p> <p>25 range now. So we assumed he was -- at this point</p>	<p style="text-align: right;">Page 16</p> <p>1 hyperthyroidism. Just a slightly enlarged thyroid.</p> <p>2 I made a note clinically he looked euthyroid, which</p> <p>3 means we thought he was under control. Ordered</p> <p>4 some blood work.</p> <p>5 Q The reason for these CBCs is the Tapazole or the --</p> <p>6 A Side effect of Tapazole, lowering the white count.</p> <p>7 Q There was no evidence of that?</p> <p>8 A No. So July '96 he had the blood test done and the</p> <p>9 T4 was 9. Still in the normal range. Range being</p> <p>10 5 to 12. So it seemed the lab corresponded with</p> <p>11 the fact that we thought he was doing okay.</p> <p>12 So we had a discussion at that point about</p> <p>13 radioiodine versus continuing medical treatment.</p> <p>14 We thought that he was responding to treatment.</p> <p>15 That because he was young, we would go ahead and</p> <p>16 continue the medical treatment for a year and a</p> <p>17 half or so.</p> <p>18 Q So then you saw him on 10-30 of '96, kind of out of</p> <p>19 order I think.</p> <p>20 A October 30, 1996, he had been on Tapazole, felt</p> <p>21 well, no symptoms, still in high school. Was on</p> <p>22 Tapazole 20.</p> <p>23 Exam, pretty much the same as before. No</p> <p>24 signs of hyperthyroidism. Clinically seemed to be</p> <p>25 under control, euthyroid. Same course of action,</p>

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1 recommended a blood test.
2 Q Was he still on Inderal at this point?
3 A No, he was off Inderal. I think April he had gone
4 off Inderal. He was on Inderal in July. We
5 tapered him off that once his thyroid levels were
6 normal.
7 Q As of 10-30-96?
8 A Blood tests were done, white count normal, T4
9 thyroid test were still normal.
10 Q So, how much Tapazole is he on? He was on 20?
11 A Right, we reduced him.
12 Q No Inderal?
13 A No Inderal.
14 Q What happened next?
15 A Looks like March of '97 was the next time back. He
16 was supposed to be coming in every three to four
17 months.
18 Q Wait. I don't have March of '97. It's here on the
19 front of -- okay.
20 A So he was late for follow-up. There was a note
21 February 24th he had an appointment, three month
22 follow-up, he didn't show up for the appointment.
23 He apparently or his mom called and rescheduled.
24 He showed up March 24th, still claims to
25 take the Tapazole. Feeling well.

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1 Exam, everything seemed to be okay. We
2 talked. I think we had a conversation at that
3 point about going off the Tapazole sometime in the
4 summer of '97 if everything was okay. That we had
5 a conversation then about maybe stopping the
6 medicine and following him clinically. That was
7 March of '97.
8 So blood tests were done, his T4 was 9.4,
9 still normal. White count was okay. We continued
10 him on the same 20 milligrams of Tapazole.
11 He had an appointment July 14th.
12 Appointment confirmed with the mom. Kurtis didn't
13 show up.
14 He called for a prescription renewal in
15 September. Eventually got him back in in October
16 for follow-up. We're at October 2nd.
17 Q This date is cut off, 10-2-97?
18 A Right. Kurtis had missed his appointment. He was
19 a senior at Bay. Feeling well, no complaints,
20 still claimed to be on the Tapazole.
21 Physical exam, blood pressure okay, heart
22 rate okay, thyroid slightly enlarged. At that time
23 we suggested blood work. We reviewed the length of
24 time he was on Tapazole, which was December of
25 1995. Had a conversation about going off the

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1 thyroid, seeing what happened.
2 We also had a conversation about
3 radioactive iodine treatment being necessary if he
4 became overactive after stopping the medication.
5 Q Now you said he still claimed to be on Tapazole.
6 Do you have any evidence that he wasn't?
7 A No.
8 Q So --
9 A So at that point we were at the end of the length
10 of time we like to treat someone with radioiodine
11 --
12 MR. GROEDEL: You mean medication?
13 A I'm sorry, with medication. At that point we had a
14 conversation with Kurtis and the mom about
15 radioiodine treatment if --
16 Q If he failed?
17 A If we stop, he becomes hyper, then he may need
18 radioiodine treatment. We had a long discussion
19 about it at that point. We did the TSH level at
20 that time. That was the T4 was 9.6. TSH was
21 2.070, so they were both normal.
22 We called him on October 6th to tell him
23 that the T4 and TSH were normal, he could stop the
24 Tapazole. Then we recommended -- actually had the
25 conversation with the mother, we recommended a

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1 blood test, T4 level in six weeks. That was
2 October of '97.
3 Q You next hear from him when?
4 A It was a while. Actually August of 1999. He never
5 did the blood test. There was no follow-up.
6 Q Other than the initial letter to Dr. Garcia in this
7 interval, up until 10 of '99, did you have any
8 kind --
9 A '97.
10 Q 10 of '97.
11 Did you have any further contact with
12 Dr. Garcia?
13 A No.
14 Q No letters, no phone calls?
15 A No.
16 Q Fair enough. So you next saw him is it 8-5-99?
17 A Right. He had an appointment April 30th of 1998,
18 which he cancelled. He didn't do the blood test in
19 six weeks. Then he cancelled the '98 appointment.
20 Came back August of 1999.
21 Q How was he then?
22 A He seemed to be okay. Had no hyperthyroid
23 symptoms. Had been off the medication for two
24 years at that point. Had maintained his weight.
25 Was going to school, working part time.

Page 21

1 Physical exam did not appear to be hyper,
2 thyroid slightly enlarged, no tremors. Clinically
3 he appeared to be again euthyroid.
4 Q Do you know what his weight was at that time?
5 A 202.
6 Q So you gave him a slip for a TSH?
7 A Gave him a slip for TSH. Came back okay. I can
8 get the number for you here. The TSH was .376. So
9 it's in the normal range. He is clinically
10 euthyroid, his TSH is still okay.
11 So Kurtis, two years after stopping the
12 medicine, was still okay. We had a discussion
13 about recurrent symptoms, the need for follow-up,
14 that sort of thing. Told him that if he had
15 symptoms, that he needed to get back in to see us.
16 Q So, in other words, at that point unless he had
17 further symptoms, he didn't require further
18 specific follow-up?
19 A I usually tell my patients if they are feeling all-
20 right, I like to see them once a year to confirm
21 it.
22 Q Is that what you told Kurtis?
23 A I told Kurtis that.
24 Q It's not documented?
25 A It's not documented.

Page 22

1 Q When did you next hear from Kurtis?
2 A The next time we heard from him was -- this is the
3 other two page or four page document here. This
4 was January 20, 2002.
5 Q How did this visit come about?
6 A He was referred back by Dr. Garcia for his apparent
7 recurrence of hyperthyroidism.
8 Q Would that be unusual?
9 A To have a recurrence?
10 Q At this date? It was two years in --
11 A Right. No, it's not unusual.
12 Q He's recurring at basically five years?
13 A Two years -- '97 to 2002, yeah. It's not unusual.
14 It can happen at any time.
15 Q So you received a consult from Dr. Garcia?
16 A Right.
17 Q Go ahead. I didn't mean to interrupt.
18 A Kurtis had seen Dr. Garcia June 2001. Had
19 complained or mentioned weight loss, 25 pounds,
20 occurring over a few years period of time. Had his
21 same hyperthyroid symptoms again he had at the
22 onset, shaky, weight loss. Dr. Garcia saw him, did
23 some blood work.
24 Q So I can read this, no palpations, does that say
25 eyes without complaints?

Page 23

1 A Right.
2 Q What is student --
3 A At Bowling Green.
4 Q Meds none.
5 A So we did an exam, took a history, physical exam.
6 Heart rate was about 100, eyes were okay. Slightly
7 enlarged thyroid, as before.
8 Q Is that what small gland mean?
9 A Yes.
10 Q That means enlarged?
11 A Normally you can't feel it. If you can feel it,
12 it's enlarged. Small gland means it's slightly
13 enlarged. That is my jargon there.
14 Q What does it say under peripheral vascular
15 arteries?
16 A No edema, no swelling. Abdominal exam was okay.
17 Was tremulous. He had a resting heart rate that
18 was slightly high. He was a little bit tremulous.
19 It looked like he was hyperthyroid again.
20 There is a typed note to Dr. Garcia in
21 response to the referral, which was January 22,
22 2002.
23 Q Okay.
24 A So I wrote a note to Dr. Garcia, reviewed the
25 history and reviewed the lab tests, reviewed the

Page 24

1 exam, summarized that Kurtis had recurrent Grave's
2 disease. Asked that he had some blood work done at
3 this point in time, which was January of 2002. I
4 gave him a prescription for Tapazole and Inderal
5 again. Same treatment as Kurtis had before.
6 Q It says Tapazole 10 milligrams, three times a day,
7 is that how he was doing it before?
8 A Yes.
9 Q Now the Inderal is 20 milligrams, twice a day?
10 A Right.
11 Q I have a little trouble with your handwriting.
12 A Sorry.
13 Q No problem.
14 A So we outlined that with Dr. Garcia. I sent Kurtis
15 for a blood test, which would have been the blood
16 test that was January 21, 2002. His T4 level was
17 28.1. That would be January 21st.
18 Q What is the upper limit of normal?
19 A 13.
20 Q So at that point your recommendation -- let me stop
21 you for a minute. I have these slips.
22 A That is Dr. Garcia's slip.
23 Q They were faxed to you or something like that?
24 A Yes. When Kurtis made the appointment in January,
25 my office called Dr. Garcia, they faxed me the lab.

Page 25

- 1 Q Those are the labs that are listed in your consult-
2 note?
3 A Right. Those were June. I saw him in January, so
4 we did the lab work in January. His T4 level was
5 20 in June, 28 in January. It's similar to where
6 it was when I saw Kurtis initially, when he was 16
7 years old. He was pretty much back where he was.
8 Clinically mildly hyperthyroid, with laboratory
9 evidence of hyperthyroidism.
10 Q What was the plan at that point?
11 A The plan was we had a discussion with Kurtis and
12 his mom at that point. At that point Kurtis was in
13 college. We told the mom that the Tapazole was not
14 going to cure him. We needed to do radioactive
15 iodine treatment.
16 We wanted to try to accomplish two things.
17 One, to get him under control with the Tapazole and
18 Inderal, and try to get him through his school and
19 perhaps treat him when he was out of school in the
20 spring or summer of 2002.
21 Q Was he having problems in school at this point?
22 A At that point he didn't have any. There was no
23 mention that he was having trouble in school at
24 that point.
25 Q So, you ordered the Inderal and Tapazole and the

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- 1 plan was what, other than the medicines?
2 A Well, ultimately wanted to treat him with
3 radioactive iodine because the Tapazole wasn't
4 going to cure him.
5 Q Right.
6 A He wanted and his mother wanted him to wait until
7 he was done with his semester of school. The plan
8 was to treat him until he was under control and out
9 of school.
10 Q You saw him --
11 A February 20th. He gained about five pounds, was
12 less tremulous. No problems with medication.
13 Actually his dad came in with him at that point in
14 time. Mentioned that Kurtis dropped out of school
15 because he was having trouble concentrating.
16 Q Let me ask you about this note. It says Tapazole
17 10 milligrams, three at once?
18 A Right.
19 Q He's taking the medicine basically once a day?
20 A Which is okay.
21 Q That was okay. Was that his idea?
22 A That was his idea. It's all right to take it all
23 at once.
24 Q Same for the Inderal?
25 A Inderal should have been taken -- better to be

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- 1 spreading that out.
2 Q So was this a problem, this Inderal two at once?
3 A It's not a problem. It's still beneficial. It's a
4 quick acting drug. He was supposed to be taking it
5 twice a day, that is the way the prescription was
6 written.
7 Q Did you do something about this?
8 A Reaffirmed he should have been taking it the way it
9 was prescribed.
10 Q Is there a once a day drug he could take other than
11 Inderal that would have the same affect?
12 A There are some long acting beta blockers. In
13 hyperthyroidism we like to use the short acting
14 drugs because as we did last time, we were able to
15 wean him off of it. It's easier to wean off a
16 quick acting drug than a long acting drug. The
17 anticipation was we would be able to wean him off
18 of it easier.
19 Q If you knew someone was going to be on this drug
20 until July or August, is there some once a day drug
21 he could have taken instead?
22 A I honestly didn't think this would be a problem for
23 him to take it twice a day.
24 Q I understand. I wonder if there was a drug?
25 A We talked about it, he said it wouldn't a problem.

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- 1 Q Is there a once a day drug?
2 A There are some once a day beta blockers.
3 Q Can you give me an example?
4 A Atenolol.
5 Q So Kurtis dropped out of school?
6 A Dropped out of school, still living in Toledo. We
7 talked at that point about taking the medication.
8 He still wanted to stay up at school for the
9 semester because he paid for the apartment, he
10 wasn't going to be living at home.
11 The plan was as before, to try and get him
12 under control with the medication. Then eventually
13 treat him when he would back at home for the
14 summer.
15 Q It says thyroid enlarged as before, eyes okay?
16 A Eyes okay.
17 Q Impression, Grave's questionably improved?
18 A Right.
19 Q At this point do you have -- would you have
20 expected the medicine to have helped him in that
21 month?
22 A Actually it did help him. His blood work
23 January -- February 20th he was 19.2, so he was
24 down from 28, which is not bad. He looked better,
25 his lab tests were better.

Page 29	Page 31
<p>1 Q Did you feel it was reasonable at that point to 2 continue with medical therapy? 3 A Yes. The plan was the same at that point. We had 4 a discussion about taking the medication as 5 prescribed. He seemed to be taking it because he 6 was getting better. 7 Q Is there some reason why this note is handwritten, 8 as opposed to all the other earlier ones which were 9 typed? 10 A At one point I had all my notes transcribed. My 11 transcriptionist left, so I started handwriting the 12 notes. 13 Q When was that, roughly? 14 A Probably somewhere around 2000 I would say. 15 Q So at this point, did you order additional lab 16 work? 17 A We just talked about it. His T4 was 19. 18 Q What is the date of that test then, I'm sorry? 19 A The test was February 20th and the lab T4 was 19.2, 20 down from 28. 21 Q You got that result on what date? 22 A Actually he went the same day. So we had it either 23 faxed over the same day, or had it the next day. 24 Q There is this handwritten note in a different color 25 ink; is that your handwriting?</p>	<p>1 after the comment was passed. 2 Q You lost me. I'm sorry. 3 Tony wasn't sure if he told her on the way 4 out, or if he called her back to tell her that. 5 When did you learn she wasn't sure when she learned 6 this information? 7 A She told me I think it was the next day. By the 8 way, the dad was concerned about Kurtis' coffee 9 intake and smoking. 10 Q Is this the first you ever heard about Kurtis 11 smoking? 12 A Yes. 13 Q Does that have some relevance to his 14 hyperthyroidism? 15 A No. 16 Q Does the coffee? 17 A Excess coffee can stimulate you as an overactive 18 thyroid can. 19 Q Would that affect his thyroid levels? 20 A No, absolutely not. There is no direct relation to 21 the blood levels of thyroid. 22 Q So, was this -- I guess I'm asking you did you 23 recognize this to be a problem, or was this just an 24 interesting notation? 25 A Well, she wrote it down. I asked her what did you</p>
Page 30	Page 32
<p>1 A No, that is my assistant. 2 Q Can you read that for me, it's cut off on my copy? 3 A Father had talked to the assistant about Kurtis' 4 drinking a lot of black coffee and smoking 5 cigarettes. Father was concerned about that. 6 Q What does it say? 7 A Said dad states Kurtis drinks a lot of black 8 coffee, smokes a lot of cigarettes; two packs a 9 day, three to four cups of coffee. 10 Q What in -- 11 A In a row. 12 Q There is something? 13 A Tony. 14 Q Could I see? 15 A Tony is the girl who wrote the note. 16 Q What is the reason she wrote this note after your 17 note? 18 A The dad I guess on the way out had talked to Tony 19 and passed that comment, or Tony wasn't sure if he 20 told her on the way out, or if he called her back 21 to mention it. 22 Q You learned that how? 23 A Tony mentioned that to me. 24 Q When? 25 A I can't remember. Maybe the next day or somewhere</p>	<p>1 say to dad. She said something like the dad is 2 aware he shouldn't being do that. She reaffirmed 3 that. I didn't think there was anything that had 4 to be done with it. I was comfortable with the 5 conversation. 6 Q Do you feel other than obvious risks, long-term 7 risks of smoking, did you think this was putting 8 Kurtis at some increased risk of something? 9 A No. I was comfortable that the father was aware it 10 was a problem, talked to Kurtis about it. I was 11 comfortable that Tony reaffirmed, yes he probably 12 shouldn't be doing that. It's not good for his 13 health. I was comfortable with that conversation. 14 Q I'm hearing that it's not good for his health. I'm 15 just wondering what kind of -- are we talking about 16 his long-term health, or these are a problem, 17 Kurtis could drop dead from them? 18 A No. Obviously I don't think the cigarettes was a 19 big problem. The caffeine can simulate your 20 heart. He's already hyperthyroid. That is the 21 concern. 22 Q So, does that put a hyperthyroid person at risk of 23 sudden death, drinking a lot of coffee? 24 A I honestly can't say that. I've never come across 25 that before. I don't know the answer to that.</p>

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1 Q You were aware of this issue anyway in February of
2 2002?
3 A Right.
4 Q When did you next hear from Kurtis or his family?
5 A The next, after this visit Kurtis was supposed to
6 -- the plan was to do some follow-up blood work,
7 continue to see him back periodically. So, he was
8 staying in Toledo. So he wanted to do his blood
9 work periodically.
10 So the next time we had any -- March 23rd
11 he had come home to have blood work done. The
12 blood level was 19.9, still elevated.
13 Q This is where I'm having some issue with these
14 pages. This goes 2-20-02 is that note.
15 A Right.
16 Q I have a note 2-21; is that written by you?
17 A Written by me.
18 Q Refers to lab tests we already talked about?
19 A The lab test that we just mentioned, March 23rd.
20 The thyroid level wasn't coming down. It went from
21 19.2 to 19.9, which it really should have been
22 coming down at that point.
23 Q Then there is this other green sheet?
24 A That is a sheet that the office girls use to write
25 their notes on and record prescriptions, that sort

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1 of thing.
2 Q Is that some other new thing that was instituted at
3 some point, because I don't see it before 2002?
4 A Yes, a sheet to keep the pharmaceuticals and girl's
5 notes separate from mine.
6 Q So there is a note that we skipped from February
7 13th that predates your February 20th?
8 A Right. The mom called, she was upset. Problems
9 with depression. Actually that predated the
10 February 20th visit that we just talked about.
11 Q So you had a call from the mom probably before he
12 dropped out, then he dropped out?
13 A Right. So some concern about him not taking his
14 medication.
15 Q Where do you get that from?
16 A Naomi called upset. Actually that wasn't a concern
17 at that point. They were more concerned about his
18 activities in college. His behavior. Performance
19 in college at that point.
20 Q Behavior meaning school?
21 A Performance, right.
22 Q At that point you gave him some -- you gave him
23 some telephone numbers, for what purpose?
24 A Just for perhaps some counseling. The mom was kind
25 of concerned and wanted to know if there was

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1 somebody perhaps at school that could help him, so
2 the girl gave him Community Outreach.
3 I guess there was also some concern about
4 prescription costs. I don't directly know what the
5 concerns were here. That is my take on it.
6 Q Does the fact that he had no medical insurance,
7 that is what it says here, did that have any impact
8 on his receiving care from you?
9 A No. I'm not even sure he didn't have insurance. I
10 honestly don't know. I assume he did have
11 insurance. The mom was relating some concerns
12 about maybe it was prescription costs. I'm not
13 sure.
14 Q Whose handwriting is this?
15 A One of the office girls.
16 Q Do you know who?
17 A Therese.
18 Q Is that TC?
19 A Right.
20 Q Is she still working for you?
21 A Yes.
22 Q What is Community Outreach?
23 A I guess it's some sort of a community health
24 organization. I'm not sure.
25 Q Then there is a February 20th, 2002 note. Was

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1 there any conversation with you on February 13th
2 about these issues?
3 A No, because he was coming in the next week, thought
4 we could deal with it then.
5 Q Did you deal with those issues on February 20th
6 when you saw him?
7 A He came in with his father, there was no real
8 conversation about it. We talked about him
9 dropping out of school, all that. The father
10 didn't raise those issues, other than the
11 performance at school.
12 Q Were you even aware of this note?
13 A I looked at it.
14 Q You didn't think it was relevant?
15 A No. Everything I thought was relevant we talked in
16 the visit in the presence of the father.
17 Q You didn't get the impression they weren't able to
18 afford the medicine you were prescribing?
19 A No.
20 Q What happened next? We went through February
21 20th.
22 A Had the blood work done. His levels were still
23 high. February levels were better.
24 So then he came back for a blood test
25 March 25th. The level was from 19.2 to 19.8. The

<p style="text-align: right;">Page 37</p> <p>1 level went up a little bit. We called, suggested</p> <p>2 that he increase the Tapazole to twice a day</p> <p>3 Suggested that the pills didn't seem to be</p> <p>4 controlling him. At some point he was going to</p> <p>5 need to have radioactive iodine treatment.</p> <p>6 Q This was 3-25-02. Is that your handwriting again?</p> <p>7 A Yes.</p> <p>8 Q At that point did you have any knowledge one way or</p> <p>9 the other whether he was actually taking the</p> <p>10 medicine?</p> <p>11 A No.</p> <p>12 Q Did you have any suspicions one way or another?</p> <p>13 A It was unusual that he wasn't taking it. We had</p> <p>14 some conversation with the mother about that.</p> <p>15 Q I'm sorry, I didn't understand that answer. You</p> <p>16 said it was unusual that he wasn't taking it?</p> <p>17 A It was unusual that the medicine -- if he were</p> <p>18 taking the full dose, that the numbers weren't</p> <p>19 coming down.</p> <p>20 Q So go on, I'm sorry. You had some conversation</p> <p>21 with the mother?</p> <p>22 A At that point we suggested that we increase the</p> <p>23 medicine, urged that he comply with taking the</p> <p>24 medication, because the numbers weren't coming</p> <p>25 down. We had a conversation about taking the</p>	<p style="text-align: right;">Page 39</p> <p>1 left.</p> <p>2 At some point there was apparently a delay</p> <p>3 getting Kurtis organized to have this done. The</p> <p>4 mother called back, said Kurtis is ready to go</p> <p>5 ahead and schedule it. The test was scheduled.</p> <p>6 Q Explain this entry, June 18, 2002, what does -- it</p> <p>7 says 6W --</p> <p>8 A That was the date Kurtis was supposed to come in</p> <p>9 for follow-up after the radioiodine treatment.</p> <p>10 Q So June 18th was a scheduled appointment after</p> <p>11 radioactive iodine?</p> <p>12 A Right.</p> <p>13 Q There is an entry 5-1-02 on the green sheet, what</p> <p>14 happened on --</p> <p>15 A That is apparently when they called to schedule the</p> <p>16 follow-up, the radioiodine.</p> <p>17 Q When was the radioiodine supposed to happen?</p> <p>18 A The radioiodine, Kurtis had a thyroid scan done</p> <p>19 which determines the radioiodine treatment, that</p> <p>20 was April 30th.</p> <p>21 Q It determines the dose you mean?</p> <p>22 A Right.</p> <p>23 Q At Saint John West Shore?</p> <p>24 A Right. That precludes the thyroid treatment.</p> <p>25 Q Precludes? Precedes?</p>
<p style="text-align: right;">Page 38</p> <p>1 medication.</p> <p>2 Q At that point did you check with the pharmacy, or</p> <p>3 do anything else?</p> <p>4 A No.</p> <p>5 Q When did you next see Kurtis, or hear from him or</p> <p>6 his family?</p> <p>7 A As far as I knew, he was taking the pills, he was</p> <p>8 going to have another blood test done. We didn't</p> <p>9 hear anything. We renewed the prescription for</p> <p>10 Inderal March 29th.</p> <p>11 April 8th Mrs. Kinzel called, she was</p> <p>12 concerned that Kurtis wasn't taking his</p> <p>13 medication. So they apparently had some</p> <p>14 conversation, Kurtis wasn't taking the pill. She</p> <p>15 was anxious to go ahead and do the radioiodine</p> <p>16 treatment at that point in time.</p> <p>17 Q So, at this point what is he supposed to be taking?</p> <p>18 A The Tapazole, 20 milligrams, twice a day; and</p> <p>19 Inderal, 20 milligrams twice a day.</p> <p>20 Q So, at that point did you set him up for the</p> <p>21 radioactive iodine?</p> <p>22 A He talked to one of my office girls. They said</p> <p>23 they were ready for the radioiodine treatment.</p> <p>24 They would check with Kurtis, get back to us so we</p> <p>25 could schedule it. So that is how things were</p>	<p style="text-align: right;">Page 40</p> <p>1 A Right. We have to do the scan before we can treat</p> <p>2 him with the radioiodine.</p> <p>3 Q You do that first?</p> <p>4 A Right. He had the iodine uptake. The uptake was</p> <p>5 elevated. Then the treatment was scheduled.</p> <p>6 Q Let me stop you there. I just found this</p> <p>7 February 20th note to the school.</p> <p>8 A Right. When Kurtis was in for his February 20th</p> <p>9 appointment his dad said that Kurtis had dropped</p> <p>10 out of school. He wanted me to write a letter to</p> <p>11 the college, a medical letter to perhaps get him</p> <p>12 out of remaining classes. He wanted a medical</p> <p>13 letter justifying him being out of school.</p> <p>14 Q That is that letter?</p> <p>15 A Right.</p> <p>16 Q Did you have some kind of conversation with Kurtis</p> <p>17 or his family about this radioactive iodine</p> <p>18 procedure?</p> <p>19 A Yes. Through the course of his illness I think we</p> <p>20 had five or six conversations about it. Even on</p> <p>21 his first time he saw me, when I saw him back in</p> <p>22 consultation from Dr. Garcia, we said this is going</p> <p>23 to be necessary. We had ongoing conversations with</p> <p>24 him. As I said, I think five or six conversations</p> <p>25 about it, that it was going to be necessary at some</p>

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<p>1 point through this whole process that we were 2 dealing with him. 3 Q That was a terrible question. I apologize. 4 I mean about what he was supposed to do 5 relative to the medicines he was supposed to be 6 taking in relation to this procedure? 7 A Yes. 8 Q What did you tell Kurtis in terms of what he was 9 supposed to do with his thyroid medication and his 10 Inderal? 11 A If I recall, the conversation was we talked to the 12 mother about it. He was supposed to stay on the 13 Inderal. Stop the Tapazole five days before the 14 radioiodine treatment. 15 Q So the plan was stop the Tapazole five days before 16 the radioactive iodine? 17 A You have to be off the Tapazole in order to do the 18 iodine treatment. 19 Q When would you have had that conversation with 20 Mrs. Kinzel? 21 A We would have had it on the 25th, March 25th, when 22 we talked about radioiodine at that point in time. 23 That was a phone call. 24 Q That phone call was with Mrs. Kinzel? 25 A Right. Then when my office girl scheduled the</p>	<p>1 issues. Basically, you would have to talk to the 2 radiologist about specifics. Basically they tell 3 him about the treatment, if you have any side 4 effects contact your physician. If you have a 5 rapid heartbeat rate, anything unusual. If you 6 notice feeling anymore hyper, then contact your 7 physician. There is a standard little program that 8 they go through with the patient. 9 Q The file consists of -- do you have anything I 10 don't have? 11 A What do you have? 12 Q I have a single one page Saint John West Shore. 13 A No, that is what I have. The radiologist has a 14 conversation with the patient either the day of or 15 day before the treatment. The radiologist actually 16 delivers the treatment. 17 Q What is your policy? As I understand it, you stop 18 the anti-thyroid medication five days before. You 19 continue the Inderal. 20 What did you tell Mrs. Kinzel in terms of 21 when she was to see you next with Kurtis? 22 A They were supposed to see me -- I tell my patients 23 four to six weeks after the radioiodine treatment. 24 Q Four to six weeks? 25 A Right. That is the standard of care that we go</p>
Page 42	Page 44
<p>1 thyroid scan with Mrs. Kinzel, she was told through 2 me the same thing we just talked about. He had to 3 be off the Tapazole for five days before the 4 treatment and to continue on the Inderal. 5 Q Which office girl would this be? 6 A Tony. 7 Q So, the Inderal should just -- 8 A Continue. 9 Q Based on this uptake test, did you determine the 10 appropriate dose of radioactive iodine? 11 A Yes. The dose is determined through the 12 radiologist. They actually, after the scan is 13 done, they contact me, they suggest a dose, I agree 14 on it. I thought the dose was appropriate. 15 Q What was the dose? 16 A 13 millicuries. 17 Q That was conveyed to you before he got it, you 18 approved it? 19 A Right. Prior to treatment the radiologists have a 20 conversation with Kurtis about radioiodine 21 treatment. The side effects, things to watch for, 22 things to do if you have a problem. 23 Q Can you tell me, are you able to tell me what they 24 tell him? 25 A Just they give him a handout on radiation safety</p>	<p>1 by. That is based on the fact that we really don't 2 see a whole lot of effect from the radioiodine for 3 beyond four weeks. We told them to make an 4 appointment in four to six weeks. 5 Q The date of the radioactive iodine treatment is 6 what? 7 A May 2nd. 8 Q So four weeks would have been June 2nd? 9 A Right. 10 Q So what is the reason for June 18th? 11 MR. GROEDEL: I think he said four to 12 six weeks. 13 A I said four to six weeks. 14 Q What is the reason he was given one at the end of 15 it, as opposed to the beginning? 16 A I think they were given the option. That is when 17 they chose to come in. They are also given the 18 option to come in any time they feel like there is 19 a problem. 20 Q So, it's your belief that 6-18-02 was a date chosen 21 by them when they were told they should come 22 between four and six weeks? 23 A Right. 24 Q So when, if ever, was Kurtis instructed to restart 25 the Tapazole?</p>

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1 A He was not.
2 Q When did you have any contact with Saint John West
3 Shore after the treatment, or you got a notice
4 saying it was a successfully administered?
5 A They send me the treatment record, which is what I
6 have in the chart which you have.
7 Q The typewritten sheet?
8 A Right.
9 Q So then we had reflected in your chart you were to
10 see him on June 18th?
11 A That's correct.
12 Q Then what happened?
13 A Well, obviously he died on June 17th, so between
14 his treatment and him dying we had no contact with
15 him.
16 Q You didn't receive -- you didn't make follow-up
17 calls, you didn't receive any calls from them?
18 A No. The family was told to call if they had a
19 problem. They were told that by Dr. Constan, the
20 radiologist. We had no discussion, no phone calls,
21 no conversation between the treatment and when
22 Kurtis died.
23 Q Can you read this 6-17-02 note to me? Is this your
24 handwriting?
25 A Yes. Kurtis -- they called me, actually I think

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1 they called me from the emergency room, actually
2 mom -- I can't remember exact details. This was
3 the day he died. I called the mom to find out what
4 happened. This is what she -- I'm describing what
5 she told me. She heard a thump upstairs, Kurt was
6 gasping for air. They called 911. He arrested.
7 Q Read it for me. He apparently --
8 A He apparently arrested.
9 Q V fib, CPR unsuccessful in ER, is that what that
10 says?
11 A That's correct.
12 Q Go on.
13 A I talked to mom afterwards, just to find out what
14 was going on, because I didn't have any contact
15 with him. She said she didn't know what happened.
16 She said he was taking his beta blocker, was
17 feeling well. Was feeling more like himself. It
18 was apparently a sudden situation.
19 Q Did you receive a call from the ER while they were
20 attempting to resuscitate him?
21 A Yes.
22 Q Then there are some other -- two other entries.
23 Can you read them for the record, please?
24 A June 18th, I was concerned as to what was going on,
25 I called the pharmacy to check and see if he was

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1 taking the Inderal. He had renewed it March 29th,
2 but never refilled it. So based on the amount of
3 medication that was renewed, he was taking less
4 than he should have.
5 Q Well, what you knew from that is what? That he was
6 taking less than he should have during the interval
7 after the radioactive iodine, or during some period
8 of time between March?
9 A Between March 29th.
10 Q And his death?
11 A And his death.
12 Q Did you ask the mother whether she was giving him
13 or whether he was taking his Inderal?
14 A No. She made mention here she said Kurtis was
15 taking his beta blocker, was feeling well. That
16 was the conversation.
17 Then I checked the next day, to see how
18 much he had taken.
19 Q Was that because you disbelieved her?
20 A I was trying to sort out in my own mind what was
21 going on. Trying to put it all together.
22 Q What were you thinking the Inderal, the taking or
23 not taking of Inderal might have to do with his
24 death?
25 A I am assuming, I assumed based on the fact he had a

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1 ventricular fibrillation arrest that he had a
2 coincidental ventricular episode, unrelated to his
3 thyroid. Perhaps taking the Inderal may have
4 protected him from that.
5 Q You are going to have to go a little slowly there
6 for me.
7 What did you think Kurtis died from?
8 A He had a sudden death, which is he had
9 ventricular -- V fib. That is something that is
10 not related, not normally related to an overactive
11 thyroid condition. I think it's a coincidental
12 situation.
13 Q Why did he have V fib?
14 A I don't know. Certainly young people die, have
15 sudden death. It's usually an arrhythmia. Often we
16 don't find the cause.
17 Q So, it was your thought that he had sudden death
18 unrelated to hyperthyroidism from the ventricular
19 fibrillation?
20 A That's correct.
21 Q It was also your thought, if I understand your
22 testimony, that the Inderal should have protected
23 him from that?
24 A It may have. It may have helped. It may not
25 have. That is very speculative.

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1 Q If he were taking it, it didn't, true; that is a
2 fact?
3 A That's possible.
4 Q If he were taking his Inderal every day, he died
5 from a ventricular fibrillation, it obviously
6 didn't protect him?
7 A That's right.
8 Q So, are you saying there is no association in your
9 mind between a hyperthyroid state and ventricular
10 fibrillation?
11 A That's right.
12 Q What sort of arrhythmias do hyperthyroid patients
13 have?
14 A Atrial arrhythmias, atrial tachycardias, atrial
15 fibrillation.
16 Q Do you know what sort of arrhythmias preceded this
17 ventricular fibrillation, if any?
18 A I'm not aware of any. When I was taking care of
19 him he never had any arrhythmias. Mild
20 tachycardia.
21 Q Did you do an EKG at any time?
22 A No. I can tell clinically if someone is in sinus
23 rhythm.
24 Q You can tell clinically if someone is having
25 intermittent atrial arrhythmias or ventricular

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1 arrhythmias when they are not in your office?
2 A No.
3 Q You never did an EKG or Holter monitor, any kind of
4 testing?
5 A It's not part of the normal thyroid workup, unless
6 there is a clinical suspicion there is a problem.
7 Kurtis never had any evidence of an arrhythmia,
8 other than tachycardia, which was mild.
9 Q Just so I'm clear, you never got any kind of an EKG
10 for any reason?
11 A No, there was no need to.
12 Q At what point was he in ventricular fibrillation,
13 was this in the field, in the emergency room?
14 A I'm not sure the details what happened in the
15 field. I believe in the emergency room he was in
16 V fib. CPR was unsuccessful.
17 Q Do you know if that was before or after Epinephrine
18 or other drugs?
19 MR. GROEDEL: Objection. I don't
20 want you to speculate.
21 MS. MATTHEWS: It's not. I asked do
22 you know.
23 MR. GROEDEL: I know.
24 Q Do you know?
25 THE WITNESS: Answer?

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1 MR. GROEDEL: If you know.
2 A I don't know the details of the CPR.
3 Q Before you determined that the death had nothing to
4 do with the hyperthyroid state, did you review the
5 resuscitation or the ER record?
6 A I'm just going by what the ER docs told me.
7 Q What did they tell you?
8 A They told me he was picked up in the field, he was
9 in V fib. They were not able to resuscitate him.
10 Q Did you get any medical records at all from the
11 hospital?
12 A No.
13 Q Did you receive any correspondence or have any kind
14 of a conversation with the coroner at any time?
15 A Yes.
16 Q Can you tell me about that?
17 A Well, I got a copy of the autopsy at some point.
18 The autopsy suggested that Kurtis died of an
19 overactive thyroid. We had a conversation. I had
20 a conversation with the coroner about that.
21 Q Can you tell me about that conversation?
22 THE WITNESS: Is it all right to talk
23 about?
24 MR. GROEDEL: Absolutely.
25 A Well, I took objection to his conclusions, so I had

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1 a conversation with him. I asked him if there are
2 any findings in autopsy that were specific for
3 overactive thyroid. He said no. I said what did
4 you base it on. He said the fact his T4 level was
5 19, which is considered to be very high. I said
6 his T4 level was 28 when I saw him in the office on
7 several occasions, he was walking around, he was
8 fine. That didn't indicate severe hyperthyroidism.
9 Kurtis at autopsy had gained 2 pounds from
10 the last time I saw him. That was another
11 indication to me he was getting better from a
12 thyroid standpoint. His T4 was better, his weight
13 was up. Clinically he was getting better.
14 The coroner, we had a conversation, the
15 coroner said -- well, I'm not quoting the coroner,
16 he suggested that really what happened was Kurtis
17 died of -- likely died of ventricular arrhythmia,
18 died with hyperthyroidism, not of it.
19 Q He told you that, but he didn't put it in his
20 report?
21 A Right.
22 Q Who is the "he" that we're taking about?
23 A The coroner.
24 Q The coroner for Cuyahoga County is a woman, it is
25 Dr. Balraj. You must have been speaking with --

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1 A Dr. Miller.
2 Q So did you ask Dr. Miller to amend the autopsy?
3 A You know, I didn't know that was something that
4 could be done.
5 Q So, are you telling me Dr. Miller's conclusion
6 after talking to you was something other than what
7 the autopsy reflects?
8 A After we had a discussion his conclusion was he
9 said what he should have said, I'm not directly
10 quoting him, was that Kurtis died with
11 hyperthyroidism, not of it.
12 Q Do you have a list of things that you tell your
13 hyperthyroid patients they are not allowed to do?
14 A I don't have a direct list that I give them. We
15 have a conversation about it.
16 Q Can you tell me what the things you tell these
17 patients they should not do are?
18 A Actually there is not things they shouldn't do
19 other than take their medication. Mostly what they
20 should do.
21 Q As long as they are following the regimen you
22 prescribe for them, they don't have to engage in
23 any specific limitations?
24 A No.
25 Q Are there over-the-counter medications you tell

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1 them not to take?
2 A No.
3 Q Because you were aware there was some Sudafed in
4 his blood?
5 A Right.
6 Q Do you have an opinion whether that contributed in
7 some way to his demise?
8 A I don't know. I don't know how much he took.
9 Q Is there a reason for a hyperthyroid patient not to
10 take Sudafed?
11 A Actually it's on the label if you have a thyroid
12 problem you shouldn't take it. If you have an
13 overactive thyroid, you read the label, you know
14 you shouldn't take it.
15 Q You don't feel it is necessary to tell your
16 patients not to take it?
17 A I don't feel it's necessary if somebody can read
18 labels.
19 Q That is a different answer. When I asked you
20 before, you didn't say I don't think it's necessary
21 because people can read.
22 A Honestly I treat a lot of people. I never found it
23 to be a problem.
24 Q You never found the drug to be a problem?
25 A Right.

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1 Q Because I'm assuming that it's such a common
2 medication out there, if you thought it put your
3 patients at risk, you would tell them?
4 A I tell you what normally happens in my patients,
5 they pick something up at the drug store, they call
6 me. The label says if you have an overactive
7 thyroid, don't take it. Then they ask me if they
8 should take it, because it's on the label.
9 Q I guess that is not a reasonable assumption on my
10 part, if you thought Sudafed was a problem you
11 would tell your patients not to take it?
12 A I have never seen it be a problem before. If it's
13 on the label, the patient reads it, normally they
14 call me, ask if they can take it.
15 Q Do you know who prescribed it?
16 A It's over-the-counter.
17 Q It may be or it's in things like -- many
18 prescription drugs as well, right?
19 A I didn't prescribe it.
20 Q Would it be below the standard of care for a doctor
21 to prescribe a drug containing Sudafed to a patient
22 who is known to be hyperthyroid?
23 MS. MCGURK: Objection.
24 MR. GROEDEL: Objection. You may
25 answer.

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1 A If the doctor knew the patient were hyperthyroid, I
2 think they would need to be careful with
3 prescribing it.
4 Q That is a yes?
5 A Yes.
6 MS. MATTHEWS: I don't have any other
7 questions. Thank you.
8 MS. MCGURK: No questions.
9 (Deposition concluded at 7:25 p.m.)
10 (Signature not waived.)
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1 I have read the foregoing transcript from page 1
2 through 56 and note the following corrections:
3 PAGE LINE REQUESTED CHANGE
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20 _____
21 James Myers, M.D.
22 Subscribed and sworn to before me this _____ day
23 of _____, 2003.
24
25 _____
Notary Public
My commission expires: _____

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1 State of Ohio,)
2) SS: CERTIFICATE
3 County of Cuyahoga.)
4 I, Constance Versagi, Court Reporter and Notary
5 Public in and for the State of Ohio, duly commissioned and
6 qualified, do hereby certify that the within named
7 witness, James Myers, M.D., was by me first duly sworn to
8 testify the truth, the whole truth, and nothing but the
9 truth in the cause aforesaid; that the testimony then
10 given by him was by me reduced to stenotypy/computer in
11 the presence of said witness, afterward transcribed, and
12 that the foregoing is a true and correct transcript of the
13 testimony so given by him as aforesaid.
14 I do further certify that this deposition was
15 taken at the time and place in the foregoing caption
16 specified, and was completed without adjournment.
17 I do further certify that I am not a relative,
18 counsel, or attorney of either party, or otherwise
19 interested in the event of this action.
20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office at Cleveland, Ohio, on
22 this 14th day of April, 2003.
23
24 _____
25 Constance Versagi, Court Reporter and
Notary Public in and for the State of Ohio.
My Commission expires January 14, 2008.