

State of Ohio,)
) SS:
 County of Cuyahoga.)

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IN THE COURT OF COMMON PLEAS

- - -

Karl McElfish, II, Admin.,)	
etc.,)	
)	
Plaintiff,)	
)	Case No. 465040
vs.)	
)	Judge Coyne
Meridia Medical Group, et al.,)	
)	
Defendants.)	

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DEPOSITION OF ELIZABETH RUZGA, C.N.M.

WEDNESDAY, FEBRUARY 5, 2003

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The deposition of Elizabeth Ruzga, C.N.M., called by the Plaintiff for examination under the Ohio Rules of Civil Procedure, taken before me, Ivy J. Gantverg, Registered Professional Reporter and Notary Public in and for the State of Ohio, by agreement of counsel and without further notice or other legal formalities, at the offices of Reminger & Reminger, 1400 Midland Building, Cleveland, Ohio, commencing at 10:15 a.m., on the day and date above set forth.

<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 On Behalf of the Plaintiff:</p> <p>3 Cathryn Loucas, Esq.</p> <p>4 Emma Groethe</p> <p>5 1700 Standard Building</p> <p>6 Cleveland, Ohio 44113</p> <p>7 On Behalf of Defendants The Cleveland Clinic</p> <p>8 Foundation and Mimi Khin, M.D.:</p> <p>9 Joseph E. Herbert, Esq.</p> <p>10 Roetzal & Andress</p> <p>11 One Cleveland Center - 10th Floor</p> <p>12 Cleveland, Ohio 44114</p> <p>13 On Behalf of Defendants Physician Staffing, Inc.;</p> <p>14 Sayed M. Husny, M.D.; Sayed M. Husny, M.D., Inc.;</p> <p>15 Arun Jayavant, M.D.; Arun Jayavant, M.D., Inc.</p> <p>16 and Lucille Stine, M.D.:</p> <p>17 Ann R. Mitchell, Esq.</p> <p>18 Gallagher, Sharp, Fulton & Norman</p> <p>19 Bulkley Building - Seventh Floor</p> <p>20 Cleveland, Ohio 44115</p> <p>21 On Behalf of Defendant Meridia Medical Group; Gregory</p> <p>22 Karasik, M.D. and Yelena Beregovskaya, R.N.:</p> <p>23 Stephen E. Walters, Esq.</p> <p>24 Reminger & Reminger</p> <p>25 1400 Midland Building</p> <p>Cleveland, Ohio 44115</p> <p>On Behalf of Defendants Meridia Euclid Hospital:</p> <p>Christine Reid, Esq.</p> <p>Reminger & Reminger</p> <p>1400 Midland Building</p> <p>Cleveland, Ohio 44115</p> <p>On Behalf of Defendants Jeffrey H. Lautman, M.D. and</p> <p>Jeffrey H. Lautman, M.D., Inc.:</p> <p>Kathleen A. Atkinson, Esq.</p> <p>Reminger & Reminger</p> <p>1400 Midland Building</p> <p>Cleveland, Ohio 44115</p> <p>On Behalf of Defendant Charles M. Bailin, M.D.:</p> <p>Kris H. Treu, Esq.</p> <p>Moscarino & Treu</p> <p>630 Hanna Building</p> <p>Cleveland, Ohio 44115</p>	<p>Page 3</p> <p>1 ELIZABETH RUZGA, C.N.M.</p> <p>2 called by the plaintiff for examination under the Rules,</p> <p>3 having been first duly sworn, as hereinafter certified,</p> <p>4 was deposed and said as follows:</p> <p>5 CROSS EXAMINATION</p> <p>6 BY MS. LOUCAS:</p> <p>7 Q. Can you please state your full name for the</p> <p>8 record?</p> <p>9 A. Elizabeth Ann Ruzga.</p> <p>10 Q. Ruzga?</p> <p>11 A. Ruzga.</p> <p>12 Q. Elizabeth, since I don't have a copy of your</p> <p>13 resume or your CV, I want to briefly go through your</p> <p>14 educational background and your professional experience.</p> <p>15 A. Okay.</p> <p>16 Q. First of all, give us your current address?</p> <p>17 A. 7388 -- home address, I assume?</p> <p>18 Q. Home, first.</p> <p>19 A. Yes, Kinsman Road, in Novelty, Ohio, 44072.</p> <p>20 Q. And are you currently employed?</p> <p>21 A. Yes.</p> <p>22 Q. Who is your current employer?</p> <p>23 A. Drs. Bailin, Karasik and Sundaresk.</p> <p>24 Q. And what is the name of their practice now?</p> <p>25 A. Drs. Bailin, Karasik and Sundaresk.</p> <p>*** Notes ***</p>
<p>Page 4</p> <p>1 Q. Karasik and?</p> <p>2 A. Sundaresk, S-U-N-D-A-R-E-S-H.</p> <p>3 Q. So when Meridia broke up, you went with -- or you</p> <p>4 stayed with Drs. Bailin and Karasik?</p> <p>5 A. Right.</p> <p>6 Q. Okay.</p> <p>7 Where did you graduate from high school and in</p> <p>8 what year?</p> <p>9 A. Pymatuning Valley High School in 1986.</p> <p>10 Q. Did you go on to college after that?</p> <p>11 A. Yes, Case Western Reserve University.</p> <p>12 Q. And what was your major?</p> <p>13 A. Sociology and psychology.</p> <p>14 Q. In what year did you graduate?</p> <p>15 A. 1990.</p> <p>16 Q. What did you do after that?</p> <p>17 A. Went to nursing school.</p> <p>18 Q. Where at?</p> <p>19 A. Case Western Reserve University.</p> <p>20 Q. And what year -- did you obtain your R.N. degree,</p> <p>21 B.S.?</p> <p>22 A. B.S. degree in 1993, and an M.S.N. and an N.D. in</p> <p>23 1995.</p> <p>24 Q. I am sorry, you said M.S.N. and --</p> <p>25 A. N.D.</p>	<p>Page 5</p> <p>1 Q. What is an N.D.?</p> <p>2 A. A clinical doctorate of nursing.</p> <p>3 Q. Do you have to choose a particular area of</p> <p>4 interest in your clinical doctorate of nursing?</p> <p>5 A. In the Master's program, you do.</p> <p>6 Q. Okay.</p> <p>7 A. It is just an extension of that, yes.</p> <p>8 Q. And what was that?</p> <p>9 A. Nurse midwifery.</p> <p>10 Q. So was your Master's program and your N.D. the</p> <p>11 extent of your nurse midwifery educational training?</p> <p>12 A. Yes.</p> <p>13 Q. Any other degrees or certificate programs beyond</p> <p>14 that?</p> <p>15 A. Ultrasound, I had a certificate, I did a</p> <p>16 certificate program in ultrasound.</p> <p>17 Q. And what does that enable you to do?</p> <p>18 A. Typically I just use it to do viability in the</p> <p>19 office, fluid levels at the end of a pregnancy.</p> <p>20 Q. Are you certified to perform these types of</p> <p>21 ultrasounds throughout the course of the pregnancy?</p> <p>22 A. Yes, probably. I don't use it as such.</p> <p>23 Q. How do you use it?</p> <p>24 A. Strictly for viability, rule out, you know,</p> <p>25 threatened abortions at the beginning of a pregnancy.</p> <p>*** Notes ***</p>

1 Q. Typically within the first trimester?
 2 A. Right.
 3 Q. And when did you obtain that certification?
 4 A. I don't recall.
 5 Q. After you complete your education, where did you
 6 work, what was your first professional job?
 7 A. I started with Stanley Pollack, and that was
 8 Eastside Physicians.
 9 Q. And I take it you were employed as a nurse midwife?
 10 A. Yes.
 11 Q. And how long did you stay with Stanley Pollack?
 12 A. About seven to eighth months.
 13 Q. That is kind of a brief period of time. Why did
 14 you --
 15 A. Actually, Doctors -- Dr. Bailin and that group was
 16 also Eastside Physicians.
 17 Q. Okay.
 18 A. And one of their physicians became ill, and so I
 19 went over just to help out, and stayed.
 20 Q. You ended up staying?
 21 A. Yes.
 22 Q. Do you remember what year that was that you joined
 23 Dr. Bailin?
 24 A. 1996.
 25 Q. And have you been employed by him consistently?

*** Notes ***

1 Has your license in Ohio ever been restricted or
 2 limited in any way?
 3 A. No.
 4 Q. Have you ever been the subject of a Board review?
 5 A. No.
 6 Q. And do you have -- as a nurse midwife, do you have
 7 hospital privileges?
 8 A. Yes.
 9 Q. And where would that be?
 10 A. Right now, Hillcrest and Lake West.
 11 Q. Had you ever had privileges at any other
 12 hospitals?
 13 A. Euclid Hospital and Richmond Heights Hospital.
 14 Q. Did you have privileges at Euclid Hospital in
 15 September of 2000?
 16 A. Yes.
 17 Q. Why do you no longer have privileges at Euclid
 18 Hospital or Richmond?
 19 A. Neither one of them have an obstetrics unit
 20 anymore.
 21 Q. Wow.
 22 Do you know why that is? Do you know?
 23 MR. WALTERS: Plaintiffs lawyers.
 24 MS. LOUCAS: What is that?
 25 MR. WALTERS: Plaintiffs lawyers.

*** Notes ***

1 A. Yes. Well, it was Meridia at the time, until they
 2 bought the practice.
 3 Q. I am sorry, go ahead.
 4 A. It was Meridia at that point, and then when they
 5 bought the practice, I was employed by them specifically.
 6 Q. Have you ever taken a leave of absence or has your
 7 employment with Dr. Bailin and his groups, whether it be
 8 Meridia, or his current group, has it ever been
 9 interrupted for any reason?
 10 A. Except for maternity leave.
 11 Q. Were you on maternity leave during the time period
 12 when Mrs. McElfish was a patient back in -- from March,
 13 2000 until September of 2000?
 14 A. Yes, I would have been on maternity leave some of
 15 that time.
 16 Q. Because I notice in looking at the flow sheet, you
 17 had one visit with Mrs. McElfish on March 28th.
 18 A. Yes.
 19 Q. And then not again until September.
 20 A. Yes.
 21 Q. So would it have been during those two dates?
 22 A. Yes.
 23 Q. In what states are you licensed?
 24 A. Just Ohio.
 25 Q. Has your license -- I am sorry.

1 Q. (Continuing) Do you know why?
 2 A. Census. Most patients -- when Huron Road Hospital
 3 opened, a lot of the patients that had come up from
 4 Mt. Sinai had come to Euclid, and when Huron Road opened,
 5 the census went down significantly.
 6 Q. Do you know -- and I am asking this because
 7 initially the record indicates that Sherry was to deliver
 8 at Lake West, and she ultimately delivered at Euclid. Do
 9 you know why that is?
 10 A. No, I do not.
 11 Q. Was there a difference in services between the
 12 level of services between the two hospitals in this time
 13 frame, in September of 2000?
 14 A. Historically, yes, but I don't know at this
 15 particular time.
 16 Q. Historically, what is it that you know?
 17 A. Lake is considered a Level I facility, and at some
 18 point, I don't know when, Euclid moved to a Level II
 19 facility.
 20 Q. And can you tell me what is the distinction
 21 between Level I and Level II?
 22 A. Level I would be a more community based hospital,
 23 and a Level II facility would handle a little bit more
 24 complications. But I am not sure when that happened for
 25 Euclid.

1 Q. Who makes a determination where a patient will
 2 deliver, in your practice?
 3 A. Usually the patient.
 4 Q. If a physician or a nurse midwife anticipates
 5 potential complications, would it be within your
 6 discretion to advise the patient to go to -- to plan to
 7 deliver at another hospital?
 8 A. Yes.
 9 Q. Do you know if that was done in regard to Sherry
 10 McElfish?
 11 A. No, I don't.
 12 And insurance could also be an issue, as to which
 13 hospital -- a patient might plan to go to one, and
 14 insurance might not cover that particular facility, so
 15 that could have been an issue, as well.
 16 Q. If a decision is made, or if a change is made as
 17 to the hospital where the patient will deliver, is that
 18 something that is typically noted in the chart?
 19 A. Not necessarily.
 20 Q. Then how would you know?
 21 A. Probably the patient, or at the time, if an
 22 admission was made to a hospital, that would have to be
 23 decided at that point.
 24 Q. So if a physician decides that a patient should be
 25 delivered at a different hospital and if it is not noted

1 in the chart, hopefully the patient will recall that, you
 2 are depending on the patient to make that determination?
 3 A. I think there are a lot of different reasons that
 4 that is chosen. It could be an insurance issue, it could
 5 be --
 6 Q. I want you to assume it is a physician's choice.
 7 A. Okay, then that would be -- at time of admission,
 8 that would be the physician's choice where to go.
 9 Q. But it is not noted in the chart?
 10 A. And that could change. It doesn't necessarily
 11 have to stay that hospital.
 12 Q. Okay, back to your professional experience.
 13 You are still with Drs. Bailin, Karasik and --
 14 boy, I apologize. I just can't remember that last name.
 15 A. Sundaresh, yes.
 16 Q. And your employment there has not been
 17 interrupted?
 18 A. No.
 19 Q. When you were working for Meridia -- and I will
 20 just call it Meridia -- how many nurse midwives were
 21 employed there?
 22 A. At this time, two.
 23 Q. Uh-huh.
 24 A. Yelena and I.
 25 Q. And can you tell me what the plan was, what was

*** Notes ***

1 the policy and procedure for a new patient, how would --
 2 A. To come into the office?
 3 Q. Yes, how would a decision be made as to whether or
 4 not this patient would be seen by a physician or a nurse
 5 midwife?
 6 A. Some patients request specifically who they want
 7 to see. Some patients might request, not necessarily by
 8 name, but choose to see a physician or a midwife.
 9 More often than not, when patients call, the
 10 receptionist goes over with them who is in the office and
 11 who does what, and they choose from there.
 12 Q. I am sorry, more often than not what?
 13 A. The receptionist will explain who we have on staff
 14 and what our roles are, and then the patient chooses who
 15 they wish to see at that time.
 16 Q. Is that documented in some way?
 17 A. Not to my knowledge.
 18 Q. As you sit here today, do you recall Sherry
 19 McElfish?
 20 A. Not other than the care, what I can recall on the
 21 care, which would be 9-8.
 22 Q. Do you specifically remember seeing Sherry
 23 McElfish on September 8th of 2000?
 24 A. Some of that, yes, that visit, yes.
 25 Q. So do you have a visual image of her?

1 A. No, I do not.
 2 Q. No.
 3 Now, the flow sheet indicates that you also saw
 4 her on March 28th?
 5 A. Right.
 6 Q. Do you remember that visit?
 7 A. No.
 8 Q. What is it that -- why is it you remember the
 9 visit of September 8th?
 10 A. Well, with the outcome, when Yelena called to tell
 11 me that the patient had died, I knew that I had seen her
 12 just a week or two before, and at that point thought over
 13 the visit.
 14 Q. Where were you when Yelena called you?
 15 A. Home.
 16 Q. At home.
 17 Do you know why she called you at home?
 18 A. Just to let me know, and to talk.
 19 Q. What did she say to you?
 20 A. Just explained what had happened, what she knew
 21 had gone on, and it was more of an emotional support, to
 22 talk.
 23 Q. It is very important that you share with me what
 24 it was exactly that she said to you.
 25 MR. WALTERS: She was trying to.

*** Notes ***

1 MS. LOUCAS: I know, I know.
 2 MR. WALTERS: If you let her finish -- if
 3 you wouldn't have cut her off, she would have
 4 gotten it through, but go ahead.
 5 Q. (Continuing) Where was Yelena when she called you?
 6 A. I don't know.
 7 Q. Do you remember the time of day?
 8 A. In the morning, 9:30 or 10:00.
 9 Q. I am sorry?
 10 A. 9:30 or 10:00.
 11 Q. Do you know how it was that Yelena found out that
 12 Mrs. McElfish had passed away?
 13 A. No.
 14 Q. What did she say to you?
 15 A. Just let me know that that is what had happened.
 16 I believe she told me that the patient had called, and
 17 that she sent her in, and that there was a C-section
 18 done, and that she was transferred to the Clinic, and
 19 that she had died.
 20 Q. Did she tell you what the cause of death was?
 21 A. No.
 22 Q. Did Yelena know at the time -- well, she didn't
 23 mention how she died, what the cause of death was?
 24 A. No, I don't know that that is still necessarily
 25 clear.

*** Notes ***

1 Q. As you sit here today, do you know the cause of
 2 Sherry McElfish's death?
 3 A. No, I don't know that I do.
 4 Q. What else did Yelena share with you?
 5 A. I think that was about it, just letting me know
 6 that it happened, and she was upset.
 7 Q. Why was she upset?
 8 A. It was her patient.
 9 Q. Did she express any concern as to whether or not
 10 they had managed her correctly?
 11 A. No.
 12 Q. Did she express any concern as to whether or not
 13 they could have done anything differently?
 14 A. No.
 15 Q. Was she surprised that this happened to this
 16 patient?
 17 A. I don't think that is something I could answer.
 18 Q. Do you know of any other patients of Meridia who
 19 died of preeclampsia or complications from preeclampsia?
 20 MR. WALTERS: Are you assuming -- I believe
 21 she said she didn't know why this patient died.
 22 You were jumping the lead that she died of
 23 preeclampsia.
 24 Q. (Continuing) Do you know of any patients at
 25 Meridia who died of preeclampsia or complications from

1 preeclampsia?
 2 MR. WALTERS: Go ahead.
 3 A. Not within our practice, no.
 4 Q. I am sorry?
 5 A. Not within our practice, no.
 6 Q. Have you ever experienced -- have you ever treated
 7 a patient who died of preeclampsia or complications?
 8 A. No.
 9 Q. And when you say, not within our practice, what
 10 does that -- what do you mean by that?
 11 A. I am sure that I have heard stories along the way
 12 of things, but nothing that I am specifically aware of
 13 with our group.
 14 Q. Have you ever treated patients with preeclampsia?
 15 A. Yes.
 16 Q. Can you estimate as to how many, in your some
 17 seven year career?
 18 A. No, I can't say that I can.
 19 Q. One a year? Do you see them annually?
 20 A. At least, yes.
 21 Q. Can you tell me the policy and procedure for how a
 22 patient with preeclampsia is managed by a certified nurse
 23 midwife?
 24 A. We don't necessarily have specific written
 25 policies or procedures. My standard is that I talk with

*** Notes ***

1 a physician each time that I see that patient and decide
 2 on a plan of care.
 3 Q. Why is it that you speak with a physician each
 4 time you see that patient?
 5 A. That is something that we or I consider should be
 6 co-managed, at least, with the physician.
 7 Q. Is there a policy in your office, or was there a
 8 policy at the time, that patients with preeclampsia would
 9 be co-managed by a nurse midwife and a physician?
 10 A. Not a written procedure or policy, no.
 11 Q. That was something that you preferred to do?
 12 A. Yes.
 13 Q. And why is that?
 14 A. Because it is something that can start to fall a
 15 little bit out of the range of normal, and that is
 16 something pretty typical that you would co-manage with
 17 the physician.
 18 Q. And can you describe for me what you mean by
 19 co-management?
 20 A. At least being able to touch base with the
 21 physician, whether by phone, or in person, making them
 22 aware of the situation, if there are any changes from the
 23 previous visit. On occasion we have patients that would
 24 go back and forth between seeing us and a physician, as
 25 well.

1 Q. Is there a policy or procedure that dictates --
 2 when you have a patient who is being co-managed, okay, is
 3 there a policy or procedure in your office -- I am saying
 4 is, I mean to say was, since Meridia is no longer there.
 5 A. Okay.
 6 Q. Was there a policy that a co-managed patient
 7 should be physically seen and examined by a physician?
 8 A. No, it was very one on one basis.
 9 Q. So each case --
 10 A. Yes. If a physician or we felt that it was
 11 necessary that a physician follow up with a patient, then
 12 that could happen.
 13 Q. As to Sherry McElfish, if you remember, did you
 14 actually speak with a physician in regard to her care?
 15 A. Yes.
 16 Q. And who would that have been?
 17 A. Dr. Bailin.
 18 Q. Dr. Bailin?
 19 A. Uh-huh.
 20 Q. And that would have been on September 8th?
 21 A. Yes.
 22 Q. And why is it that you chose to speak with
 23 Dr. Bailin on that day?
 24 A. He was in the office with me that day.
 25 Q. And what did you share with Dr. Bailin?

*** Notes ***

1 A. Showed him the chart so that he saw blood
 2 pressure, protein, showed him the NST.
 3 Q. And what was his response to you after you shared
 4 those things with him?
 5 A. Specifically we talked about if it was necessary
 6 to order more blood work. And she just had some several
 7 days before that, that were fine, so he felt it wasn't
 8 necessary to order again at that point.
 9 Q. Why did you suggest more -- why did you question
 10 whether or not more blood work should be done?
 11 MR. WALTERS: I don't think that was her
 12 answer, but go ahead.
 13 Q. (Continuing) I think you answered that you asked
 14 him, was it necessary to order more blood work. And if I
 15 misinterpret your answer, please clarify it for me.
 16 And actually, now is a good time. Have you ever
 17 given a deposition?
 18 A. Yes.
 19 Q. And how many times?
 20 A. One.
 21 Q. What kind of case was it? Was it a medical
 22 malpractice case?
 23 MR. WALTERS: Go ahead.
 24 A. Yes.
 25 Q. Were you a witness or a defendant?

1 A. A defendant. Not a named defendant, no.
 2 Q. Not a named defendant?
 3 A. Right.
 4 Q. So you were not a defendant?
 5 A. Well --
 6 Q. Your group was a defendant?
 7 A. Yes. An employee of.
 8 Q. Is this case still pending?
 9 A. No.
 10 Q. Do you remember the name of the case?
 11 A. The patient's name?
 12 Q. Yes.
 13 A. Cisco.
 14 Q. Can you spell that?
 15 A. C-I-S-C-O.
 16 Q. C-I-S-C-O.
 17 Was that the plaintiff? Because sometimes, if it
 18 is a death case, it is filed in the name of the
 19 decedent's representative.
 20 A. I believe that was the name, yes.
 21 Q. So this was not a death case?
 22 A. No.
 23 Q. Do you know the outcome of that case?
 24 A. It was a settlement.
 25 Q. Which physicians, if any, were involved?

*** Notes ***

1 A. Dr. Brownlee.
 2 Q. Brownling?
 3 A. Brownlee.
 4 Q. Brownlee.
 5 Is that one word?
 6 A. Yes.
 7 Q. Okay.
 8 A. And I don't specifically know, Dr. Lim, possibly.
 9 Q. Were Dr. Bailin or Drs. Bailin or Karasik involved?
 10 A. I don't know.
 11 MR. WALTERS: I believe Bailin was.
 12 THE WITNESS: Bailin.
 13 MR. WALTERS: I think. I am going by
 14 memory. You have to look it up. It is all there.
 15 BY MS. LOUCAS:
 16 Q. Do you remember the underlying reason for the
 17 lawsuit, was it -- I don't know what, a hundred things --
 18 A. Fetal demise.
 19 Q. Fetal demise.
 20 So you know somewhat the rules of the game, then,
 21 if I begin -- please let me finish my question before you
 22 answer, and I will try to do the same. I usually end up
 23 in a conversation, so I will try not to do that.
 24 A. Okay.
 25 Q. And if you don't understand my questions, please

1 correct me.
 2 A. Okay.
 3 Q. And again, if I misinterpret your answer, please
 4 feel free to let me know.
 5 A. Okay.
 6 Q. So I believe you consulted with Dr. Bailin, and
 7 correct me if I am wrong, you asked him whether or not it
 8 was necessary to order more blood work?
 9 A. Right.
 10 Q. What blood work would you have ordered?
 11 A. Typically we order some clotting studies, liver
 12 function, CBC with platelets.
 13 Q. Anything else?
 14 A. That is it.
 15 Q. Would you have had the ability to do that in your
 16 office, or would Sherry -- would she have had to have
 17 gone to the hospital to have blood drawn?
 18 A. We could have done it in our office.
 19 Q. Would you have sent it out to a lab?
 20 A. Yes.
 21 Q. Did you have an opportunity to review the lab
 22 results from the previous hospital admission just a
 23 couple days before?
 24 A. That day?
 25 Q. On 9-8, right.

*** Notes ***

1 A. I don't recall.
 2 Q. When he told you they were normal, were you going
 3 on his representation to you that they were normal?
 4 A. I don't recall how that came about.
 5 Q. Did you look in the chart to validate that the
 6 labs had been received and that they were indeed normal?
 7 A. I don't recall.
 8 Q. Did you compare her labs to see if there was a
 9 trend?
 10 MR. WALTERS: She just said she doesn't
 11 recall if she reviewed the labs.
 12 A. I don't know.
 13 Q. So as you sit here today, you don't recall whether
 14 you reviewed those labs?
 15 A. Correct.
 16 Q. If I represented to you that the chart indicates
 17 that those labs, that the copy, the paper copy of the
 18 labs was not received in your office until September
 19 21st, is it fair for me to assume that you did not review
 20 them?
 21 A. I don't recall. I don't know that I can answer
 22 that.
 23 Q. Do you believe it would be have been your duty to
 24 review the labs?
 25 A. No, not necessarily.

1 Q. And why not?
 2 A. Because they were reviewed by somebody already.
 3 Q. So you were relying on Dr. Bailin's representation
 4 to you; is that fair?
 5 A. I don't know if it was Dr. Bailin's representation.
 6 Q. Well, you spoke with Dr. Bailin?
 7 A. Right.
 8 Q. You consulted with Dr. Bailin?
 9 A. Right.
 10 Q. And you asked him if he thought it was necessary
 11 to order more labs, and he said no?
 12 A. Right.
 13 Q. Why did he say no?
 14 A. Because she had some labs done previously, and
 15 that those had been normal.
 16 Q. Okay, so he did tell you they were normal?
 17 A. Correct, I guess he did. I don't know that -- I
 18 don't know -- yes, that is what I would say.
 19 Q. Okay.
 20 So you were relying on his representation that
 21 they were normal?
 22 A. Yes, I guess so.
 23 Q. What else did you and Dr. Bailin discuss, if
 24 anything, about Sherry McElfish?
 25 A. I don't recall anything else specifically.

*** Notes ***

1 Q. And just so I am correct, you consulted with
 2 Dr. Bailin because her blood pressure was high, to you?
 3 Did you consider her blood pressure to be high?
 4 A. Borderline.
 5 Q. And she had two plus protein?
 6 A. Correct.
 7 Q. What was your impression of Sherry's condition on
 8 this date?
 9 A. Stable.
 10 Q. Did you have -- was there a diagnosis? Did you
 11 formulate a diagnosis?
 12 A. No, I did not.
 13 Q. Did you believe that Sherry had preeclampsia on
 14 this date?
 15 A. I don't recall that specifically being a
 16 diagnosis.
 17 Q. Was it a concern, was it in your -- I don't know
 18 if nurse midwives enter into differential diagnoses,
 19 excuse me for my ignorance, but did you consider that she
 20 may be preeclamptic?
 21 A. I don't recall.
 22 Q. Why was it, then, that you called Dr. Bailin?
 23 What was your concern in that you decided to pick up the
 24 phone and call him, or if he was in your office --
 25 A. He was in my office.

1 Q. -- why you consulted with him?
 2 MR. WALTERS: Other than what she said
 3 already?
 4 Q. (Continuing) What was your clinical impression?
 5 A. Our plan, obviously, was that we were seeing her
 6 more frequently, and at that point obviously she had been
 7 hospitalized prior to that for labs, and it seemed
 8 prudent to consult with a physician.
 9 Q. Did you -- again, since you looked at the chart
 10 and you knew that you guys were seeing her more
 11 frequently, and she was sent to the hospital, and labs
 12 were being done, did you have -- if it wasn't
 13 preeclampsia, was there a working diagnosis that you had
 14 for this patient?
 15 A. At least borderline hypertension.
 16 Q. Just borderline hypertension?
 17 MR. WALTERS: In fairness to her, that is
 18 not the only thing she created.
 19 MS. LOUCAS: I am going to go through all
 20 that.
 21 MR. WALTERS: I understand, but obviously
 22 she doesn't have a memory.
 23 There are other records that you had.
 24 A. Yes, chronic hypertension was listed on her NST
 25 that day.

*** Notes ***

1 Q. Now is a good time for me to ask you, I should
 2 have asked you before, what did you review before your
 3 deposition today?
 4 A. The depositions of Dr. Bailin and Yelena, and the
 5 chart for a little bit. Not for very long.
 6 Q. Did you review the deposition of Dr. Karasik?
 7 A. No, I was not given that.
 8 Q. Did you read the depositions of Yelena and
 9 Dr. Bailin in their entirety?
 10 A. Yes.
 11 Q. Did you make notes of those depositions?
 12 A. No.
 13 Q. Have you made any notes regarding Sherry McElfish
 14 that are independent of this chart?
 15 A. No.
 16 Q. Did you review any literature or textbooks or
 17 anything else in preparation for your deposition today?
 18 A. No.
 19 Q. You have the flow sheet there in front of you,
 20 correct?
 21 A. Yes.
 22 Q. And that is a copy -- what happens to the original
 23 flow sheet, do you know? Typically, in general.
 24 A. What do you mean, what happens to it?
 25 Q. Well, when we reviewed the original Meridia chart,

1 there was just kind of like a ditto or a copy --
 2 A. Okay.
 3 Q. -- of the flow sheet. It seems to be a multiple
 4 copy record, right?
 5 A. Yes. One copy does go to the hospital.
 6 Q. Can you explain to me how many copies are there,
 7 in an original flow sheet?
 8 A. I am not sure if it is two or three.
 9 Q. Okay.
 10 A. But one copy goes to the hospital so they have
 11 information when the patient arrives for delivery.
 12 Q. Is it like a color coded thing, like a pink and a
 13 yellow and a green, something?
 14 A. No.
 15 Q. No, okay.
 16 Who retains the original Prenatal Flow Record?
 17 A. One copy goes to the hospital. I don't know if it
 18 is the front copy or the second copy.
 19 Q. The copy -- well, if it has got ink on it, it is
 20 an original?
 21 A. Right, but I am not sure which one is sent.
 22 Q. And when is that sent?
 23 A. Usually 35 to 36 weeks.
 24 Q. Who sends it?
 25 A. Medical assistant, usually.

*** Notes ***

1 Q. I understand that you called Dr. Bailin on the day
 2 that you saw Sherry McElfish, but do you know whether or
 3 not Sherry McElfish was a co-managed patient?
 4 A. I would say she was.
 5 Q. Did you discuss her care with anyone else in your
 6 office? Did you discuss her care with Yelena?
 7 A. No.
 8 Q. How about Dr. Karasik?
 9 A. No.
 10 Q. After Sherry died and you came back to the office,
 11 were there any discussions regarding Sherry McElfish, her
 12 care and her death?
 13 A. Not specifically her care, no.
 14 Q. What was discussed?
 15 A. The emotional aspect.
 16 Q. And who did you discuss that with?
 17 A. Dr. Bailin, mostly.
 18 Q. And what did he say to you?
 19 A. Just that it was devastating.
 20 Q. Did he tell you the cause of her death?
 21 A. No.
 22 Q. Did he tell you how she died, or the circumstances
 23 leading up to her death?
 24 A. I don't recall. After having read the deposition,
 25 I am not sure where I heard or saw things at this point.

1 Q. Well, what is your recollection as you sit here
2 today?
3 MR. WALTERS: She just said she doesn't
4 recall.
5 MS. LOUCAS: She --
6 MR. WALTERS: That is what she said. She
7 said after having read the deposition, she is not
8 sure where she picked this up from.
9 MS. LOUCAS: Exactly.
10 Q. (Continuing) You picked something up, and you just
11 don't know whether it was from your original conversation
12 with Dr. Bailin or from his deposition?
13 A. Correct.
14 Q. So I am asking, what is it that you remember, as
15 you sit here today?
16 A. I don't remember specifically.
17 Q. You don't remember anything?
18 A. I don't remember enough to say one way or another.
19 Q. Did he tell you that she had DIC?
20 A. I don't recall that specifically, no.
21 Q. Did he tell you that she had HELLP syndrome?
22 A. I don't recall that specifically, no.
23 Q. So it was devastating when you folks learned that
24 this patient died, but you didn't ask why she died or how
25 she died?

*** Notes ***

1 MR. WALTERS: I am going to object, because
2 she said she can't recall.
3 So go ahead and tell her.
4 A. I don't recall.
5 MS. LOUCAS: Don't testify for her.
6 MR. WALTERS: I am not.
7 BY MS. LOUCAS:
8 Q. Did you ask how she died?
9 MR. WALTERS: Wait, Cathy, hold on a
10 second. She said she can't recall on four
11 occasions. You are not going to berate her into a
12 recollection.
13 MS. LOUCAS: Okay. You can object and say,
14 asked and answered.
15 MR. WALTERS: I will stop her from
16 answering. I am just giving you a warning right
17 now.
18 Q. (Continuing) Did you review the autopsy in this
19 case?
20 A. No.
21 Q. Was it part of the chart?
22 A. No.
23 Q. When I asked you, what did you review, you said
24 the chart. Can you please be more specific with me as to
25 what exactly in the chart you reviewed?

*** Notes ***

1 MR. TREU: Objection.
2 MR. WALTERS: Well, that is not fair,
3 because she said she didn't recall.
4 MS. LOUCAS: There is --
5 MR. WALTERS: There is a huge difference,
6 and don't mischaracterize her testimony.
7 I don't usually get angry, but that was a
8 blatant mischaracterization of her testimony.
9 There is a huge difference between being unable to
10 remember something and somebody saying --
11 MS. LOUCAS: You can object, but you know --
12 MR. WALTERS: I can say whatever I want.
13 MS. LOUCAS: This county has a rule against
14 speaking objections.
15 MR. WALTERS: File the motion.
16 MS. LOUCAS: I will rephrase the question.
17 MR. WALTERS: File a motion, because you
18 know what? I think a judge will read this, and
19 read it as a blatant mischaracterization of the
20 witness' answer. And I think that any judge in
21 any county in any state will recognize that I have
22 a right to speak up as to a blatant
23 mischaracterization.
24 So go ahead and ask your next question.
25 Q. (Continuing) Elizabeth, did you ask how she died?

1 A. I had a few minutes with the chart. I have not
2 had a copy of the chart specifically for me to review.
3 Q. Okay.
4 A. So I have had a few minutes with the chart on a
5 couple of occasions.
6 I specifically reviewed the flow sheet, because
7 that is where I was involved on two occasions.
8 Q. Anything else?
9 A. I believe I looked back at the NST that I did that
10 day. And probably some of the lab work from when she was
11 hospitalized on the 5th.
12 Q. On the 5th.
13 And I think you said you don't remember, the labs
14 from 8-21 is not something you would have reviewed prior
15 to your deposition?
16 A. We looked at it briefly.
17 Q. Did you look at any of the records from the night
18 of her delivery?
19 A. No.
20 Q. Why not?
21 MR. WALTERS: Wait a minute.
22 Q. (Continuing) Did you not have time?
23 MR. WALTERS: Wait a second.
24 MS. LOUCAS: Steve, just let me clarify.
25 MR. WALTERS: First of all, she has an

1 attorney representing her --
 2 MS. LOUCAS: Let me clarify.
 3 MR. WALTERS: -- and I would have provided
 4 her with whatever she reviewed.
 5 Q. (Continuing) That was going to be my question, did
 6 your attorney provide you with documents to review, and
 7 are those strictly the documents that you reviewed?
 8 A. The two depositions, I was provided with.
 9 Q. Okay.
 10 A. There is a copy of the chart in the office, and
 11 that I reviewed.
 12 Q. Okay.
 13 A. I reviewed specifically how I dealt with the
 14 patient, and I thought that was primarily what this would
 15 be about, and I thought that was the most important part
 16 to review.
 17 Q. So you did have -- other than what your attorney
 18 provided to you, you had access to the chart in the
 19 office?
 20 A. I had access to it. It was not something housed
 21 in my office and available to me 24 hours a day.
 22 Q. But you didn't review the whole thing?
 23 A. No.
 24 Q. Okay.
 25 A. And I don't know -- it was certainly not as thick

1 as this (indicating). So I am not necessarily sure what
 2 all was in that chart.
 3 MR. WALTERS: You wouldn't have had it all.
 4 Q. Let's go to the Prenatal Flow Record, and let's
 5 mark that as Plaintiff's Exhibit A.
 6 (Thereupon, Plaintiff's Exhibit A (Ruzga)
 7 was marked for identification.)
 8 Q. (Continuing) In the top left box, it has a rating,
 9 0 to 2, has no known risk, is at risk, and is at high
 10 risk.
 11 A. Yes.
 12 Q. There is a line going through 1, and I just want
 13 to know if you know whether or not that is an indication
 14 that the patient is at risk, or --
 15 A. I think it was underlining the word Euclid.
 16 Q. Okay.
 17 A. And that apparently shows a change in hospital
 18 status.
 19 Q. I couldn't read that, so thank you.
 20 A. I think that is Dr. Bailin indicating Euclid.
 21 Q. So as you reviewed this front sheet, do you --
 22 just by reviewing the record, do you know whether or not
 23 Sherry was ever -- whether or not this record ever
 24 indicated that she was at any type of risk?
 25 A. Not from this box, no.

*** Notes ***

1 Q. How about from anywhere else on the record?
 2 A. I think looking through the flow sheet.
 3 Q. Okay.
 4 Your first entry was on March 28th; do you see
 5 that?
 6 A. Yes.
 7 Q. Can you tell me what your typical procedure is
 8 with a patient that you are seeing for the first time,
 9 even though she is not new to the practice?
 10 I understand this is not her first visit --
 11 A. Okay.
 12 Q. -- but it is her first visit with you.
 13 A. Okay.
 14 At this point, I would typically go back and
 15 review the lab sheet she had drawn initially, and go over
 16 those with her. We talked about a triple check.
 17 Q. What is a triple check?
 18 A. A triple check is a blood test that is done on mom
 19 that basically can show risk for things like Down's
 20 syndrome, neural tube defects, and we obviously discussed
 21 that, how she was feeling, and her visit.
 22 Q. Do you perform a physical examination of any kind?
 23 A. Not on a second visit, other than assessing the
 24 pregnancy.
 25 Q. And when you say, assessing the pregnancy, you

1 mean blood pressure, urine, sugar?
 2 A. Listening to the baby.
 3 Q. And in your opinion, was everything normal on that
 4 date?
 5 A. Yes.
 6 Q. Did you make any recommendations or any orders on
 7 that date?
 8 A. Nothing other than stating that she would have the
 9 triple check at her following visit.
 10 Q. And did she have that done, can you tell from the
 11 record?
 12 A. Yes, she did have that done, 4-27.
 13 Q. Then we jump right to September 8th, and tell me,
 14 what did you do on this date with Sherry McElfish?
 15 A. Reviewed what she had done as far as weight and
 16 blood pressure and urine, we did do an NST.
 17 Q. And why did you do an NST?
 18 A. Assess fetal well-being.
 19 Q. How often is that done?
 20 A. It depends on the patient.
 21 Q. What was your motivation for doing one on this
 22 day, or what was your reasoning for doing one on this
 23 day?
 24 A. I believe it is something that had been done
 25 previously, and we pretty much consistently continue to

*** Notes ***

1 watch for fetal well-being.
 2 Q. It is not done on every visit, right?
 3 A. For every patient?
 4 Q. For her.
 5 A. For her?
 6 Q. It wasn't done on every visit, right?
 7 A. It had been done the previous visit, at least.
 8 And it was ordered again for the next visit.
 9 Q. And I am not trying to be difficult, and I am not
 10 being redundant, but what was your reason for having a
 11 non-stress test done?
 12 A. Assess fetal well-being.
 13 Q. What was it about her physical condition, or was
 14 there anything specific about her physical condition that
 15 you wanted to assess fetal well-being, or was it your
 16 normal practice to do that at this stage of the
 17 pregnancy?
 18 A. No, related to her blood pressure.
 19 Q. Anything else, any other factors? Her blood
 20 pressure and the protein, perhaps?
 21 A. Not necessarily.
 22 Q. So you did it primarily for blood pressure?
 23 A. Right.
 24 Q. Which on that day was 134/84, and how would you
 25 characterize that?

*** Notes ***

1 A. Borderline.
 2 Q. Okay.
 3 A. But acceptable.
 4 Q. Why did you repeat her blood pressure?
 5 A. I believe it was done with a smaller cuff, and it
 6 should be done with a larger cuff on someone pretty much
 7 cut off at around 200 pounds, so we repeated it at that
 8 point. And typically with blood pressure, we do repeat
 9 it. It is not uncommon to repeat it again later in the
 10 visit, to assess that it is not going up and down
 11 dramatically.
 12 Q. So if the blood pressure is either borderline or
 13 high, you will do a repeat blood pressure?
 14 A. It is not uncommon to do that.
 15 Q. So the first blood pressure was with a small cuff,
 16 and then you switched to the large cuff.
 17 Are all these subsequent blood pressures, 150 --
 18 okay, 154/84 was with the small?
 19 A. Right.
 20 Q. 134/84 was with the large?
 21 A. Right.
 22 Q. And then you repeated it, and the third blood
 23 pressure was 140/90?
 24 A. Correct.
 25 Q. What effect does the large cuff have on blood

1 pressure -- I am sorry, the small cuff. Would it tend to
 2 be a false low reading?
 3 A. Not necessarily. Just not the most accurate for
 4 somebody. It just doesn't fit appropriately.
 5 Q. Do you know -- and obviously from looking at the
 6 chart -- whether or not Yelena used a large cuff or a
 7 small cuff?
 8 MR. WALTERS: On which visit?
 9 Q. (Continuing) Throughout her -- if you just look at
 10 the flow sheet --
 11 MR. WALTERS: Okay.
 12 Q. -- can you tell?
 13 A. I can't read all of her writing. I don't know
 14 that I specifically see it stated that way, but I can't
 15 read all of her writing.
 16 Q. But was it standard practice in your office to use
 17 a large cuff for anyone who is large in size, say over
 18 200 pounds?
 19 A. Yes.
 20 Q. What else did you do on this date, in addition to
 21 the non-stress test?
 22 A. Spoke with Dr. Bailin and talked with the patient
 23 about some of the warning signs that can go along with
 24 increasing blood pressure.
 25 Q. And do you remember what the warning signs were

*** Notes ***

1 that you discussed with her?
 2 A. I don't specifically recall them, but they are
 3 pretty standard.
 4 Q. And what are your standard warning signs?
 5 A. Headache, abdominal pain, flashing lights in front
 6 of her eyes.
 7 Q. Anything else?
 8 A. Those are the primary ones.
 9 Q. And what could those signs be indicative of?
 10 A. A potentially worsening situation.
 11 Q. Of what?
 12 A. Of blood pressure problems.
 13 Q. Could these signs be indicative of end organ
 14 damage, do you know?
 15 A. Of end organ damage?
 16 Q. Yes, if you know.
 17 MR. WALTERS: If you can answer that. I
 18 don't know how you can answer the question.
 19 I will object to the question.
 20 Answer it, go ahead.
 21 A. I wouldn't say they would specifically be related
 22 to end organ damage, no.
 23 Q. Had Sherry had these symptoms in the past?
 24 A. I believe she had.
 25 Q. Do you give your patients any kind of pamphlets or

1 reading material that discusses warning signs of blood
 2 pressure?
 3 A. Sometimes.
 4 Q. Are they there in the office?
 5 A. Sometimes.
 6 Q. Okay, why sometimes?
 7 A. Well, there are thousands of pamphlets available
 8 for patients, and you can't have them all. So sometimes
 9 pamphlets are available, sometimes not.
 10 Q. Do you know, in this case, if you gave Sherry any
 11 literature?
 12 A. I don't recall specifically, no.
 13 Q. And again, if you had done so, would you have
 14 noted it? Is that something that you would note?
 15 A. If I would do it, yes.
 16 I know sometimes our medical assistants,
 17 especially, you know, on visits with standard stuff,
 18 would give out literature about things.
 19 Q. I am going to show you a page from the chart --
 20 well, first of all, let's stick with the non-stress test.
 21 Is this your order sheet for a non-stress test,
 22 specifically on 9-8, for Sherry McElfish?
 23 A. It is not an order sheet so much as it is a place
 24 to hold the NST, and it describes the patient and the
 25 date, and what it is that we are looking at.

*** Notes ***

1 Q. And is that your handwriting?
 2 A. Yes.
 3 Q. And am I correct in that the reason -- well, you
 4 put chronic hypertension down, and why did you write
 5 that?
 6 A. I don't recall specifically.
 7 Q. NST reactive.
 8 So no concern at this point for the well-being of
 9 the fetus?
 10 A. Correct.
 11 Q. And warning signs, I can't read that.
 12 A. Reviewed, I think.
 13 Q. Reviewed?
 14 A. Yes.
 15 Q. And then you want her to come back to the office
 16 in three days on 9-11?
 17 A. Correct.
 18 Q. And why is that?
 19 A. Continued watch over her and the baby.
 20 Q. And again, because of her blood pressure?
 21 A. Primarily, yes.
 22 Q. Anything else? When you say, primarily, it makes
 23 me wonder if there is anything else.
 24 A. Continue to watch for warning signs and protein.
 25 Q. Now, when you saw her on 9-8, would you have

1 reviewed her entire chart?
 2 A. Her flow sheet, yes.
 3 Q. Just her flow sheet?
 4 I am sorry, you would have just reviewed the flow
 5 sheet?
 6 MR. WALTERS: If you recall.
 7 Q. (Continuing) If you recall.
 8 What is your normal practice? I mean, you know,
 9 somebody comes in, you know, what do you typically
 10 review?
 11 A. Even if I have been seeing them, I would review
 12 the flow sheet.
 13 Q. Would you have reviewed labs?
 14 A. Potentially, if there were any there. It would be
 15 on a case by case basis.
 16 Q. You don't recall going back and reviewing labs on
 17 this case in regard to Sherry McElfish?
 18 A. Right, except for talking with Dr. Bailin about
 19 the labs from 9-5.
 20 Q. I am going to show you a lab result from -- it
 21 looks as though the sample was drawn on August 28th and
 22 the results were returned on August 31st.
 23 A. Okay.
 24 Q. Had you seen that before?
 25 A. Yelena had previously written it in the chart on

*** Notes ***

1 8-31.
 2 Q. And what did she write?
 3 A. GBS positive.
 4 Q. And what does that mean to you?
 5 A. What it means is that we do antibiotics during
 6 labor to prevent infection.
 7 Q. Antibiotics during labor?
 8 A. During labor.
 9 Q. Anything else?
 10 A. No.
 11 Q. What is a GBS positive indicative for, what is
 12 that?
 13 A. It is group beta strep, it is a normal flora to be
 14 in the vagina, but we know that it can, on rare
 15 occasions, cause infections in babies.
 16 Q. How about in the mother?
 17 A. Even more rare, but yes. Not in a standard
 18 pregnancy, no.
 19 Q. How about in a case, a pregnancy where the patient
 20 has chronic hypertension?
 21 A. No.
 22 Q. How about --
 23 A. I don't believe that would be --
 24 Q. I am sorry?
 25 A. I mean, we use it specifically to prevent

1 infection in the baby. It is a normal flora to be in the
 2 mom.
 3 Q. Is it an additional risk for women with
 4 preeclampsia?
 5 A. No, not to my knowledge.
 6 Q. Can you give that back, please.
 7 (Thereupon, the document was handed to
 8 Ms. Loucas.)
 9 Q. (Continuing) So in order to treat this, would you
 10 consider -- if this was GBS positive, did she have a
 11 urinary tract infection --
 12 A. No.
 13 Q. -- or a kidney infection going on?
 14 A. No.
 15 Q. No.
 16 A. This is specifically a vaginal culture.
 17 Q. And so your therapy would be strictly antibiotics
 18 at delivery?
 19 A. Right.
 20 Q. Did you do anything else on this date in regard to
 21 Sherry McElfish?
 22 A. On the 8th?
 23 Q. Yes.
 24 A. Besides talking with her about warning signs, no.
 25 Q. Let me show you an ultrasound record from that

1 date. Did you order that?
 2 A. That is my handwriting, yes.
 3 Q. That is your handwriting?
 4 A. Yes.
 5 It is the head.
 6 Q. I am sorry?
 7 A. It is the head, just ensuring that the baby was
 8 head down in the pelvis.
 9 Q. Did you perform this ultrasound?
 10 A. I guess so.
 11 Q. So that was one done in your office?
 12 A. Yes.
 13 Q. You didn't have to send her out for that?
 14 A. Right.
 15 Q. All right.
 16 A. It was not assessing anything other than that the
 17 baby was vertex.
 18 Q. No reading, then, no report issued as a result of
 19 that ultrasound?
 20 A. Right.
 21 Q. And under doctor, can you read those initials?
 22 A. No, really I can't.
 23 Q. So first I wonder if they were Yelena's, it looks
 24 like a B. I didn't know --
 25 A. I don't know if I was putting that down, if it is,

*** Notes ***

1 because it was typically her patient, or if it was
 2 Dr. Bailin that was there that day. I am not sure what
 3 it means.
 4 Q. That is your handwriting, though. Okay.
 5 Did you ever meet Sherry's husband, was he there
 6 with her on that day, do you know?
 7 A. I don't recall.
 8 Q. I just want to discuss some terms with you, okay?
 9 What is chronic hypertension?
 10 A. Elevation in blood pressure above a patient's
 11 normal or -- pretty standard, we use 140/90 as a kind of
 12 a borderline cutoff.
 13 Q. And what makes it chronic to you?
 14 A. That it is happening a couple of times.
 15 Q. Is that significant in a pregnant woman?
 16 A. I think it is significant in everybody.
 17 Q. Is that considered -- if a pregnant woman presents
 18 with chronic hypertension, does that place her at any
 19 greater risk?
 20 A. Yes.
 21 Q. For what?
 22 A. For preeclampsia.
 23 Q. And what is preeclampsia?
 24 A. It is a blood pressure problem specific to
 25 pregnancy that exhibits more things than just high blood

1 pressure.
 2 Q. Such as?
 3 A. Excessive protein in the urine, the headaches,
 4 clotting factors changing, liver function changing.
 5 Q. What is the relationship between chronic
 6 hypertension and preeclampsia, other than chronic
 7 hypertension being an additional risk for preeclampsia?
 8 Is there any other relationship between the two?
 9 A. I am not sure I understand what you mean by the
 10 question.
 11 Q. That is a bad question.
 12 Speaking of protein, on 9-8 when you saw Sherry,
 13 she had a two plus urine protein. Was that the highest
 14 protein level she had had up until this point?
 15 A. Yes.
 16 Q. Did you make that -- and you informed Dr. Bailin
 17 of that?
 18 A. Yes.
 19 Q. And I know you asked her to return on 9-11, but
 20 did you and Dr. Bailin formulate a plan of care for her
 21 during your conversation with him? I know he said you
 22 don't need to do any other labs, but did you change or
 23 reformulate your plan of care for Sherry McElfish?
 24 A. I think our plan was to return and continue to do
 25 monitoring mostly.

*** Notes ***

1 Q. And how often would you do that?
 2 A. Pretty standard, every three to four days to a
 3 week.
 4 Q. Had you ever -- first of all, did you utilize 24
 5 hour urine tests in your office at Meridia?
 6 A. Sometimes, yes.
 7 Q. In what cases would you recommend a 24 hour urine?
 8 A. When we do them, it is usually when they are
 9 spilling protein plus three, plus four in the office.
 10 Q. You typically don't -- okay, I take it that with a
 11 woman spilling two plus, you would not usually order a 24
 12 hour urine?
 13 A. Not necessarily.
 14 Q. When you say, not necessarily, are there some
 15 instances where you would order a 24 hour urine?
 16 A. Possibly. It is a case by case basis.
 17 Q. How about urine volume, when would you perform
 18 those?
 19 A. We wouldn't necessarily perform them in the office.
 20 Q. When would you instruct a woman to do that?
 21 A. I can't say I have ever instructed a woman at home
 22 to do that. I think by that point, you know --
 23 Q. That is something that is done in the hospital?
 24 A. That might be something that is done in the
 25 hospital.

*** Notes ***

1 Q. Okay.
 2 What is mild preeclampsia?
 3 A. I think there is a lot of interplay between these.
 4 Having some of those additional risk factors that
 5 I listed before. Not necessarily. Some might have those
 6 and not have preeclampsia.
 7 Q. What is severe preeclampsia?
 8 A. I believe when you start to change your clotting
 9 factors and your liver study changes and spilling more
 10 protein, plus three, plus four.
 11 Q. What is preeclampsia superimposed on hypertension?
 12 A. If you had chronic hypertension and then added
 13 those additional things, some or all of those things that
 14 start to change as you go along.
 15 Q. And HELLP syndrome?
 16 A. Specifically it is when you have a decreased
 17 platelet count, as well, the clotting once again starts
 18 to change, elevated liver enzymes and hemolysis.
 19 Q. Is that along the spectrum of preeclampsia?
 20 A. It can be.
 21 Q. And what about DIC?
 22 A. Disseminated intravascular coagulation.
 23 Q. Are women who have preeclampsia at increased risk
 24 for HELLP and DIC?
 25 A. Increased risk, yes, but it is not always a

1 sequelae of it.
 2 Q. And how about pregnant women with chronic
 3 hypertension, are they at increased risk for HELLP and
 4 DIC?
 5 A. They are at increased risk for preeclampsia.
 6 Q. Since you read Yelena's deposition, she had
 7 indicated that there may have been some group discussions
 8 regarding Sherry's care. Had you ever been -- did you
 9 ever participate in any of those group discussions?
 10 A. I don't recall anything specifically other than
 11 talking with Dr. Bailin that day.
 12 Q. Can you tell me what the typical procedure is when
 13 a patient is going to be co-managed with the nurse
 14 midwife and a physician?
 15 Now, the brunt of her care was by Yelena.
 16 A. Uh-huh.
 17 Q. Are you guys interchangeable in this office? Were
 18 you interchangeable at that time, you and Yelena, or was
 19 this primarily Yelena's patient?
 20 A. Well, considering I was on maternity leave most of
 21 the time, primarily it was Yelena's patient.
 22 Q. But under normal circumstances, are you
 23 interchangeable?
 24 A. If the patient desires us to be so, we can be.
 25 Q. So patients in your office, they are not

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1 necessarily assigned to one nurse midwife?
 2 A. Correct.
 3 Q. Is it fair to say that they are assigned to the
 4 group?
 5 A. Assigned to the group?
 6 Q. Yes.
 7 A. I mean, if they come to our office, we anticipate
 8 that they will seek care through us.
 9 Q. If it came time for Sherry to deliver under normal
 10 circumstances, okay, would you have been available to
 11 deliver her child, or would it have been Yelena?
 12 MR. WALTERS: Object to form, because I
 13 don't know about the circumstances.
 14 Q. (Continuing) Well, if you are interchangeable, and
 15 let's say Sherry presented to the emergency room, this
 16 was a nonrisk, noncomplicated pregnancy --
 17 A. Uh-huh.
 18 Q. -- would you be able to step in Yelena's shoes and
 19 deliver that baby?
 20 A. Yes. And that was Sherry's request (indicating).
 21 Q. And how do you know it was her request?
 22 A. Because it is written down here that she have a
 23 midwife.
 24 Q. But it wasn't a request for you?
 25 A. No. That was Sherry's request. And Yelena and I

1 worked very hard to try to deliver patients that
 2 requested a midwife.
 3 Q. And can you tell me, it looked like you were
 4 pointing at something that that was her request?
 5 A. Yelena wrote down, midwife. And that was our way
 6 of allowing the group and hospitals to know that the
 7 patient requested that.
 8 Q. Again, back to office procedure, how are follow-up
 9 appointments made in your office?
 10 A. When the patient leaves a visit, they will go out
 11 and make the following visit with the receptionist there.
 12 Q. Do they take the chart with them?
 13 A. No.
 14 Q. Do you tell the patient when they are supposed to
 15 come back in, and then the patient goes to the
 16 receptionist desk and tells them?
 17 A. Yes.
 18 Q. Are there ever times where you give them a slip
 19 for a specific appointment to come back, or for her to
 20 see anybody else, or anything like that?
 21 A. They probably get a reminder card from the
 22 receptionist, but we wouldn't necessarily -- I wouldn't
 23 necessarily hand the patient a slip saying to return on
 24 this date. I would just tell them to.
 25 Q. While they are making the appointment, the

1 receptionist would give them a reminder card?
 2 A. Right.
 3 Q. Do you know, Elizabeth, whether or not in a
 4 patient who has been diagnosed as being chronic
 5 hypertensive, in a pregnant patient who is chronic
 6 hypertensive, is it true that in cases of superimposed
 7 preeclampsia, the manifestations may be more subtle?
 8 MR. WALTERS: Manifestations of what?
 9 MS. LOUCAS: Of preeclampsia.
 10 MR. WALTERS: Okay.
 11 Q. (Continuing) Based on your experience, or
 12 education and training.
 13 A. Not specifically, no.
 14 Q. If you suspect preeclampsia in a patient, do you
 15 agree or disagree that you must wait at least six hours
 16 between blood pressure readings?
 17 MR. WALTERS: I have to object, because I
 18 don't understand the question. For what?
 19 Q. (Continuing) If you suspect preeclampsia, if you
 20 are trying to rule out or rule in preeclampsia --
 21 A. Okay.
 22 Q. -- and you want to take repetitive blood pressure
 23 readings --
 24 A. Okay.
 25 Q. -- do you agree or disagree that there should be

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1 six hours between -- or the blood pressure readings
 2 should be at least six hours apart?
 3 A. I don't specifically know.
 4 Q. Had you or Dr. Bailin or anyone in your practice
 5 ever instructed patients who are either chronic
 6 hypertensive or you suspect are preeclamptic to engage in
 7 home monitoring of blood pressure readings?
 8 A. We have on occasion.
 9 Q. And under what circumstances would you recommend
 10 home blood pressure monitoring?
 11 A. Some patients that have either training in or have
 12 access to equipment, those patients are pretty easy to
 13 ask to do some additional monitoring at home.
 14 Patients that are -- I hate the word -- but
 15 noncompliant, and don't necessarily always follow up with
 16 visits very well, would be good patients for home
 17 monitoring with a company.
 18 Q. Oh, okay.
 19 So patients who are noncompliant, you think they
 20 are good candidates for home monitoring?
 21 A. (Witness nods).
 22 Q. Was Sherry McElfish noncompliant, do you know? In
 23 your experience with her, or from what you could tell
 24 from the record, was she a compliant or a noncompliant
 25 patient?

1 A. She came to her visits, so that is pretty
 2 compliant, from what I know. I don't have a camera on
 3 her at home if she was on bed rest. If she was on bed
 4 rest, I don't know.
 5 Q. As you sit here today, can you point to anything
 6 that would indicate that she was noncompliant?
 7 A. Not specifically, no.
 8 Q. Did you understand that she had been placed on bed
 9 rest?
 10 A. I don't know specifically if she was.
 11 Q. That was not something you were aware of on 9-8
 12 when you saw her?
 13 A. I don't recall specifically knowing that one way
 14 or another.
 15 Q. Had you ever had any discussions with -- do you
 16 want to look at that? I am sorry.
 17 A. Go ahead.
 18 Q. Had you ever had discussions with anyone from
 19 Sherry's employment?
 20 A. No, I did not.
 21 Q. Had you ever had discussions with anyone in her
 22 family regarding Sherry's condition?
 23 A. Not that I recall.
 24 Q. What does toxemia in pregnancy mean to you?
 25 A. It is not necessarily a word that is used very

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1 often anymore. I think historically it was the whole
 2 gamut of preeclampsia to eclampsia.
 3 Q. But that word is no longer --
 4 A. It is not as in favor as it was.
 5 Q. And in its place is now used the word
 6 preeclampsia?
 7 A. Preeclampsia and eclampsia.
 8 Q. At what point in time, if you could answer this,
 9 at what point in time does a patient risk out, does a
 10 preeclamptic patient risk out of certified nurse midwife
 11 care?
 12 A. What do you mean by risk out?
 13 Q. Okay, meaning she is at risk that you would refer
 14 her care strictly to a physician. At what point would
 15 you do that?
 16 A. I guess specifically, you know, higher blood
 17 pressures, 160/100 or 110, presenting with those things
 18 much earlier in the pregnancy, those high blood
 19 pressures.
 20 Q. Okay, anything else?
 21 A. I would say case by case basis, but you always
 22 have to look at other medical problems, as well.
 23 Q. I read your standard care agreement, and it
 24 doesn't relate specifically to preeclampsia, but was
 25 there a policy and procedure in place that would dictate

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1 when preeclamptic patients would be referred specifically
 2 to the management of a physician?
 3 A. No, that would be specifically between the
 4 physician and the midwife when that would happen.
 5 Q. Is that Standard Care Arrangement like the one you
 6 have in place now with Drs. Bailin and Karasik?
 7 A. Yes.
 8 Q. Would you say it is identical?
 9 A. I can't say that.
 10 Q. Okay.
 11 At the time you were working for Meridia, you also
 12 signed a Standard Care Arrangement?
 13 A. Yes.
 14 Q. Did you have one with each physician in that office?
 15 A. I don't recall.
 16 Q. Okay.
 17 A. Initially when they came about, your primary
 18 backup was the person, and it was understood to be a
 19 group thing. And they, in a sense, changed it to make it
 20 with each physician that you work with, and I am not sure
 21 when that -- I can't look back to see exactly when that
 22 happened.
 23 Q. So initially your Standard Care Arrangement was
 24 with the group?
 25 A. Right, that Dr. Bailin would have signed, because

1 he was the primary medical backup at that point, but it
 2 was understood as a group thing.
 3 Q. And why was Dr. Bailin the primary medical backup?
 4 A. He was the --
 5 Q. Was he the senior partner, more or less?
 6 A. Well, he was kind of the head medically, at that
 7 point.
 8 Q. How long had Dr. Karasik been with the firm? Been
 9 with the practice, I am sorry.
 10 A. I would say five or six years.
 11 Q. If a patient that you have been primarily
 12 responsible for, like Sherry McElfish, called, let's
 13 assume you have a patient -- this is a hypothetical --
 14 assume you have a patient like Sherry McElfish who calls
 15 you, and she is going into early labor -- I suppose this
 16 could be considered early labor -- and you advise her to
 17 go to the hospital for delivery, would you typically go
 18 to the hospital with that patient, even if her pregnancy
 19 has taken on different measures that put her at higher
 20 risk, would you typically go to the hospital to assist
 21 the physician in delivering that baby? This is just your
 22 practice.
 23 A. I am not sure if I understand your question. That
 24 is on a very case by case basis, I think.
 25 Q. I suppose my question is, if you have been

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1 managing this patient throughout her entire prenatal care --
 2 A. Uh-huh.
 3 Q. -- and a complication develops at the late -- you
 4 know, late term, and she unexpectedly goes to the
 5 hospital, and she is going to be delivered by a physician
 6 instead of you, would you normally go to the hospital to
 7 assist the physician in the delivery?
 8 MR. WALTERS: What is the complication?
 9 Q. (Continuing) Well, in this case, early labor.
 10 A. To me, early labor is not a complication.
 11 Q. Okay.
 12 A. So if it was going to be -- I guess I am not sure
 13 I understand your question.
 14 Q. Would you follow that patient through, even though
 15 she did develop some complications at the end --
 16 A. Okay.
 17 Q. -- she calls you and she says, you know, I am
 18 having labor, I think I am going into labor, you instruct
 19 her to go to the hospital, but in this case, you know,
 20 Sherry McElfish did present signs, at least you guys
 21 knew -- well, she was considered by some members of the
 22 group as being chronic hypertensive, okay?
 23 A. Uh-huh.
 24 Q. Do you know why Yelena called Dr. Bailin? Why
 25 didn't Yelena go to the hospital?

1 MR. WALTERS: First of all, I don't know
 2 how she would know what Yelena did or didn't do.
 3 A. What transpired, I don't know, that night.
 4 Q. She never shared that with you?
 5 A. No.
 6 Q. And my question is, typically what is your
 7 practice? Would you go to the hospital to assist the
 8 physician in delivering this child, or no?
 9 MR. WALTERS: I will object.
 10 Go ahead.
 11 A. It would very much be a case by case basis.
 12 Q. Okay.
 13 A. If it was to a physician, I might not even know
 14 what was going on at the time, if the hospital would have
 15 called a physician.
 16 Q. Well, in this case, she would have called you --
 17 scratch that, never mind.
 18 Did you and Yelena have identical or the same
 19 practice parameters?
 20 A. We had Standard Care Arrangements.
 21 Q. And you have never practiced in any other state,
 22 correct?
 23 A. Correct.
 24 Q. Have you ever managed a patient with severe
 25 preeclampsia? I asked you previously about preeclampsia.

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1 So my question now is, have you ever managed a patient
 2 with severe preeclampsia?
 3 A. I don't know that I can answer that.
 4 Q. Because you don't remember, or --
 5 A. Yes, I don't specifically recall.
 6 Q. Have you ever co-managed a patient with severe
 7 preeclampsia?
 8 A. I don't specifically recall.
 9 Q. A patient with severe preeclampsia, would she
 10 typically, in your practice at Meridia, would she
 11 typically be referred to a physician for further care?
 12 A. Typically.
 13 Q. Are you familiar with ACOG?
 14 A. Yes.
 15 Q. Do you read any of their literature, publications?
 16 A. Rare occasions.
 17 Q. What things do you consult, what kind of journals
 18 or textbooks or things do you typically consult in your
 19 field?
 20 A. I get a couple of midwifery journals.
 21 Q. Which ones would those be?
 22 A. Journal of Nurse Midwifery, Midwifery Today.
 23 Q. If the ACOG standard in 1996 indicated that
 24 symptoms such as headache, visual disturbances or
 25 epigastric or right upper quadrant pain were symptoms

1 suggestive of end organ involvement in a patient with
 2 preeclampsia, would you have any reason to disagree with
 3 that statement?
 4 MR. WALTERS: First of all, it is an unfair
 5 statement. As I understand, the ACOG guidelines
 6 are directed towards the American College of
 7 Obstetrics and Gynecology.
 8 But if you can answer that question --
 9 A. Can I ask you to repeat the question?
 10 Q. Sure.
 11 If the ACOG standard in 1996 regarding patients
 12 with pregnancy induced hypertension, if it said that
 13 symptoms suggesting end organ involvement include
 14 headache, visual disturbances or epigastric or right
 15 upper quadrant pain, would you have any reason to
 16 disagree with that statement?
 17 MR. WALTERS: Well, first, I will just
 18 state my objection again, because now you have
 19 changed the question. You said a patient, it
 20 sounded like the ACOG standards, the standards of
 21 pregnancy induced hypertension, with these
 22 symptoms, and I would like her to see -- if you
 23 have got the document, I would like her to see it,
 24 because obviously it sounds like a different -- it
 25 sounds like you are going to -- obviously since

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1 you asked the question in this case, you are going
 2 to try to use it in this case. So if we have got
 3 it, we will look at it.
 4 Q. (Continuing) Elizabeth, as you sit there, do you
 5 have an -- do you know whether or not, in patients with
 6 pregnancy induced hypertension who present with end
 7 organ -- I am sorry -- who present with headache, visual
 8 disturbances or epigastric pain, do you know whether or
 9 not those symptoms may be related or suggestive of end
 10 organ involvement? And that is if you know.
 11 MR. WALTERS: It is a hypothetical.
 12 A. Yes, suggestive, guidelines. I can't say that I
 13 know the answer to that.
 14 Q. Do you agree or disagree that the acute onset of
 15 proteinuria and worsening hypertension in a pregnant
 16 woman with chronic hypertension is suggestive of
 17 superimposed preeclampsia?
 18 A. I will ask you to repeat.
 19 MR. WALTERS: I will object to the form of
 20 the question.
 21 Q. Do you agree or disagree that the acute onset of
 22 proteinuria and worsening hypertension in a pregnant
 23 woman with chronic hypertension is suggestive of
 24 superimposed preeclampsia?
 25 MR. WALTERS: Same objection.

1 Go ahead, if you can answer. Do you
 2 understand?
 3 A. It is not an either/or.
 4 Q. Do you agree or disagree that those -- that
 5 proteinuria and worsening hypertension in a pregnant
 6 woman with chronic hypertension is suggestive of
 7 superimposed preeclampsia?
 8 MR. WALTERS: She just said it is not an
 9 either/or. I think that was her answer. You gave
 10 her an agree or disagree, and she said it is not
 11 an either/or.
 12 In other words --
 13 Q. (Continuing) Are there times when these symptoms
 14 may be suggestive of superimposed preeclampsia?
 15 A. It could be.
 16 Q. In your experience, what would that be?
 17 A. What do you mean by that?
 18 Q. You were saying, could be. So --
 19 A. Everything is a case by case basis.
 20 Q. Would you agree that in a patient with pregnancy
 21 induced hypertension, it is prudent to overdiagnose
 22 rather than underdiagnose?
 23 A. I can't answer that.
 24 Q. Would you agree that chronic hypertension
 25 complicates pregnancy and is associated with several

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1 adverse outcomes including premature birth, intrauterine
 2 growth restriction, fetal demise, placental abruption and
 3 cesarean delivery?
 4 A. Lots of things have that potential.
 5 Q. Including chronic hypertension in a pregnant woman?
 6 A. It could have that potential.
 7 Q. More likely than not, is kidney dysfunction
 8 involved in preeclampsia?
 9 A. I am sorry, could you repeat the question?
 10 Q. More often than not, is kidney dysfunction
 11 involved in preeclampsia?
 12 A. I don't know that I can answer that.
 13 Q. How do you measure kidney function?
 14 A. You do some through blood work, watching urine.
 15 Q. What specific blood work are you looking at to
 16 measure kidney function?
 17 A. Some of the creatinine levels, BUN levels, those
 18 types of things can show what is going on.
 19 Q. What is a more accurate test of kidney function, a
 20 24 hour urine with a serum creatinine or a serum
 21 creatinine alone?
 22 A. I don't know the answer to that.
 23 Q. How many babies have you delivered, if you can --
 24 do you keep a running tab?
 25 A. No, I don't have a running tab.

1 Q. Can you give me a guesstimate?
 2 A. Three or four hundred.
 3 Q. Do you also provide general gynecological care to
 4 patients, or is your --
 5 A. Yes.
 6 Q. Tell me the parameters or the scope of your
 7 practice?
 8 A. Full scope.
 9 Q. Full scope?
 10 A. Uh-huh. Full scope midwifery. Full scope
 11 midwifery, yes.
 12 MR. TREU: Can we take a break, please?
 13 MS. LOUCAS: Sure.
 14 (Short recess had.)
 15 BY MS. LOUCAS:
 16 Q. Early on in your deposition, Elizabeth, you had
 17 indicated that you also performed ultrasounds to check
 18 fluid levels?
 19 A. Uh-huh.
 20 Q. Did you do that on 9-8? Is that something that
 21 you were looking at on September 8th when you performed
 22 that ultrasound?
 23 A. No.
 24 Q. And why not?
 25 A. It is typically done once a person goes past their

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1 due date.
 2 Q. So it is something you typically don't do if they
 3 are still within their term?
 4 A. Correct.
 5 Q. What are the criteria for superimposed
 6 preeclampsia? And when I say, criteria, what is the
 7 criteria for your working diagnosis of superimposed
 8 preeclampsia in a woman with chronic hypertension?
 9 A. What do you mean by criteria?
 10 Q. I am sorry?
 11 A. What do you mean by criteria?
 12 Q. How would you make a diagnosis, at what point
 13 would you make a diagnosis of superimposed preeclampsia
 14 in a woman with chronic hypertension?
 15 MR. WALTERS: I am going to object, because
 16 I think she has answered that, but go ahead.
 17 A. It has to be a case by case basis. Some of it is
 18 just too subtle, there are so many similarities between
 19 the two. I think when it starts to pull away with higher
 20 blood pressures and spilling protein, plus three, plus
 21 four, changes in those.
 22 Q. And I believe -- now you are refreshing my memory,
 23 I believe you said earlier that you would be looking for
 24 a blood pressure of 160/110 --
 25 A. Somewhere in that range.

1 Q. -- for superimposed preeclampsia or severe
 2 preeclampsia?
 3 A. Well, to note that there is a difference between
 4 hypertension and that it is moving away from that into
 5 something else, that you would expect to see increases
 6 more.
 7 Q. But there is no range -- there is no cutoff values
 8 for you?
 9 A. I don't know that there can be.
 10 Q. They are just too subtle to make that distinction;
 11 is that your testimony?
 12 A. As far as strictly blood pressure.
 13 Q. Well, what kind of things --
 14 A. Spilling protein at higher numbers.
 15 Q. So you would need to see a blood pressure of
 16 160/110 or spilling protein at three or greater in order
 17 for you to come to the diagnosis of superimposed
 18 preeclampsia?
 19 A. I think it would have to be a case by case basis.
 20 (Thereupon, Mr. Herbert left the room.)
 21 Q. Are you aware that hypertension is directly
 22 responsible for 15 percent of maternal deaths in the
 23 United States?
 24 A. No, I didn't know that.
 25 Q. How would you consider -- would you consider that

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1 fetal demise, is that what it says? That is what
 2 you have represented.
 3 If you want to show her the bulletin, that
 4 is fine. But if you want to represent that the
 5 ACOG Bulletin says that any woman with
 6 hypertension has a 15 percent risk of fetal
 7 demise, that is what the question asked, and I
 8 don't think the bulletin says that.
 9 MS. LOUCAS: First of all, I have never had
 10 to, at a deposition, produce the material with
 11 which I can impeach the witness.
 12 Q. (Continuing) I will present it to you in the form
 13 of a hypothetical, okay?
 14 In the ACOG Bulletin 219 that was published in
 15 January of 1996, it stated that hypertension is directly
 16 responsible for 15 percent of maternal deaths in the
 17 United States.
 18 Do you consider that to be a risk for the pregnant
 19 woman with chronic hypertension?
 20 MR. TREU: Fifteen?
 21 MR. WALTERS: Fifteen.
 22 Go ahead, if you can answer that.
 23 A. I am not sure what I can consider a risk.
 24 MR. WALTERS: The 15 percent, or --
 25 MS. LOUCAS: Do you acknowledge that

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1 a low --
 2 MR. WALTERS: Is that a fact?
 3 Q. (Continuing) Would you consider that --
 4 MR. WALTERS: How do we know that?
 5 Q. -- a low, moderate or high risk?
 6 MR. WALTERS: Go ahead. I don't know how
 7 we know that.
 8 A. Would I consider what?
 9 Q. That hypertension -- first of all, that
 10 hypertension is directly responsible for 15 percent of
 11 maternal deaths in the United States.
 12 MR. WALTERS: First of all, you don't have
 13 to accept that to be true unless we somehow can
 14 prove it.
 15 But if you want her to assume that to be
 16 true --
 17 MS. LOUCAS: ACOG 219, January, 1996.
 18 Q. (Continuing) Would you consider that a low,
 19 moderate or high risk?
 20 MR. WALTERS: What?
 21 A. What?
 22 Q. Fifteen percent risk of death for a pregnant woman
 23 with hypertension.
 24 MR. WALTERS: So the ACOG Bulletin says
 25 anybody with hypertension has a 15 percent risk of

1 chronic hypertension -- I don't mean to argue, I
 2 really don't, but I just want to limit speaking
 3 objections, and nodding of the head and answering
 4 for the witness.
 5 MR. WALTERS: Wait a minute, hang on a
 6 second. This is a silly question. And I think
 7 anybody that reads it will find it to be a silly
 8 question, and I will make that statement on the
 9 record.
 10 But the reality is, I am not doing anything
 11 for this witness other than pointing out that the
 12 question you are asking is unfair.
 13 The fact that you have never had to produce
 14 literature that you are reading from in another
 15 deposition is not my problem. That, perhaps, is
 16 the lawyer who was defending the deposition's
 17 problem. When you quote literature, you have to
 18 do it accurately.
 19 She has not told you that ACOG is a
 20 standard on which she lives by. In fact, she says
 21 she doesn't read it.
 22 But I will allow you the leeway to ask the
 23 question, but do not prohibit me from trying to
 24 make it a logical question or a question that
 25 makes any sense.

1 So go ahead.

2 MS. LOUCAS: For the record, there have --
3 throughout the course of this deposition, Steve,
4 whether you realize it or not, you nod your head
5 yes or no, and even on occasions have verbalized
6 yes or no.

7 I take that to be an instruction to the
8 witness, and all I am doing is asking you --

9 MR. WALTERS: Well, you better take that
10 very seriously. And I would suggest, if that is
11 in fact true, you report it to the Bar Association,
12 because that is not only inappropriate conduct, it
13 is conduct that is set forth in the ethical
14 guidelines and rules that we are not allowed to
15 engage in. And if I am engaging in that conduct,
16 I should be disbarred, okay?

17 So I suggest, when you make an accusation
18 that is that serious, you better be prepared to
19 back it up. Because I have defended cases for 20
20 years, and I have never heard anybody say that to
21 me, all right?

22 MS. LOUCAS: Well, I noticed it in this
23 deposition.

24 MR. WALTERS: Well, whatever you noticed,
25 be prepared to back it up.

1 MS. LOUCAS: I will bring a videographer
2 with me from now on.

3 MR. WALTERS: Guess what? You have videos
4 of every deposition I have defended here.

5 MS. LOUCAS: You are not on the video, the
6 witness is.

7 We will continue.

8 (Thereupon, Mr. Herbert reentered the room.)

9 BY MS. LOUCAS:

10 Q. I take it you don't feel comfortable answering
11 that question, is that correct, Elizabeth?

12 A. No.

13 MR. WALTERS: And I suggest you get an
14 affidavit from Mr. Becker, as well, because
15 perhaps -- he has been doing this for a long time.
16 Maybe he didn't see it, these subtle clues.

17 BY MS. LOUCAS:

18 Q. Do you agree or disagree that some of the risks of
19 conservative management of HELLP syndrome include
20 abruptio, pulmonary edema, acute renal failure,
21 eclampsia, perinatal death and maternal death?

22 MR. WALTERS: I am sorry, could you read
23 that back. I wasn't paying attention, I got
24 aggravated.

25 (Record read.)

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1 MR. WALTERS: First of all, I will object,
2 because I don't know that she treats HELLP syndrome.

3 Go ahead.

4 A. I don't know that I can answer that.

5 Q. Do you agree or disagree that a woman with severe
6 preeclampsia should not be managed expectantly after 34
7 weeks?

8 MR. WALTERS: Objection.

9 A. I don't know that I can answer that.

10 Q. Do you agree or disagree that the only definitive
11 cure for preeclampsia is termination of the pregnancy?

12 A. I don't know that I can answer that.

13 Q. Do you know whether or not Sherry McElfish was
14 ever offered the option of early delivery?

15 A. I do not know that.

16 Q. Have you ever offered that to one of your
17 patients, to one of your patients with superimposed
18 preeclampsia?

19 A. I don't recall that I have had that exact scenario
20 to answer that question.

21 Q. Is that something that you would recommend, or a
22 physician, one of the obstetricians in the office?

23 A. It would be a case by case basis, but it would be
24 the two of us together, if we were co-managing a patient.

25 Q. I am sorry if I asked you this. Did you ever

1 consider Sherry McElfish to be at risk?

2 A. At risk.

3 I don't know that I specifically thought of it the
4 day that I saw her, that I would use those words in my
5 mind, so I don't know that I can answer that.

6 Q. Did you have a maternal fetal specialist in your
7 practice?

8 A. At the time?

9 Q. Yes.

10 A. I don't know his specific background. Dr. Kushnir.
11 But I don't know his specific training, to say that he
12 was thought of as that.

13 Q. But you are saying that Dr. Kushnir may be a
14 maternal fetal specialist?

15 A. He may be.

16 Q. Did you ever refer -- did your group ever transfer
17 high risk patients to Dr. Kushnir's care?

18 MR. WALTERS: He was in the group.

19 Q. (Continuing) That is what I mean.

20 But let's say you had a patient who was being
21 managed by one of the nurse midwives and either
22 Dr. Bailin or Dr. Karasik or some other physician, had
23 you ever known of a patient to be transferred to the care
24 of Dr. Kushnir?

25 A. Transferred, no.

*** Notes ***

1 Q. No, okay.
 2 Had high risk patients ever been managed -- I
 3 mean, ever been transferred out of your practice and
 4 referred to another group or to a high risk group?
 5 A. I don't specifically recall.
 6 Q. Did your group manage high risk patients? And I
 7 am asking because some groups do and some groups don't.
 8 So did your group manage high risk patients?
 9 A. Yes.
 10 Q. Do you know what the plan for delivery was in
 11 regard to Sherry McElfish?
 12 A. No.
 13 Q. Did you, on that visit, advise Sherry that she may
 14 be at risk for complications in her pregnancy? I know
 15 you advised her of warning signs, but did you advise her
 16 of the potential complications?
 17 A. I don't know that I specifically recall that.
 18 Q. Is first trimester ultrasound important for
 19 patients with chronic hypertension?
 20 A. I would say if we were concerned about dating.
 21 MS. LOUCAS: I just need a minute to review
 22 my notes, and I think I am almost done.
 23 Let's go off the record for a minute, Ivy.
 24 (Thereupon, a discussion was had off the
 25 record.)

*** Notes ***

1 BY MS. LOUCAS:
 2 Q. Do you check -- you take urine samples in the
 3 office, correct?
 4 A. I don't specifically, but yes, we do.
 5 Q. Your office does.
 6 Do you check for potassium levels there in the
 7 office?
 8 A. No.
 9 Q. You send it out to a lab?
 10 A. If we are looking for that, yes, we would have to
 11 send it out.
 12 MS. LOUCAS: I don't think I have any
 13 further questions.
 14 MR. WALTERS: Anybody else?
 15 MR. TREU: No questions.
 16 MS. REID: No questions.
 17 MR. HERBERT: No.
 18 MS. MITCHELL: No.
 19 MS. ATKINSON: No questions.
 20 MR. WALTERS: We will read it.
 21 MS. LOUCAS: Thank you, Elizabeth.

22 ---
 23 (DEPOSITION CONCLUDED)
 24 ---
 25

1 CERTIFICATE
 2 State of Ohio,)
 3 County of Cuyahoga.) ss:
 4 I, Ivy J. Gantverg, Registered Professional
 5 Reporter and Notary Public in and for the State of Ohio,
 6 duly commissioned and qualified, do hereby certify that
 7 the above-named ELIZABETH RUZGA, C.N.M., was by me first
 8 duly sworn to testify to the truth, the whole truth, and
 9 nothing but the truth in the cause aforesaid; that the
 10 deposition as above set forth was reduced to writing by
 11 me, by means of stenotype, and was later transcribed into
 12 typewriting under my direction by computer-aided
 13 transcription; that I am not a relative or attorney of
 14 either party or otherwise interested in the event of this
 15 action.
 16 IN WITNESS WHEREOF, I have hereunto set my hand
 17 and seal of office at Cleveland, Ohio, this 20th day of
 18 February, 2003.
 19
 20 Ivy J. Gantverg, Notary Public
 21 in and for the State of Ohio.
 22 Registered Professional Reporter.
 23 My commission expires November 5, 2003.
 24
 25

*** Notes ***

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