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1 LAUREL THILL, R.N., a witness herein, called
2 for examination, as provided by the Ohio Rules of
3 Civil Procedure, being by me first duly sworn, as
4 hereinafter certified, was deposed and said as
5 follows:

6 EXAMINATION OF LAUREL THILL, R.N.

7 BY MS. TOSTI:

8 Q. Would you please state your full name
9 and spell your last name for us.

10 A. Laurel A. Thill, T-H-I-L-L.

11 Q. And what is your home address?

12 A. **16932** Detroit Avenue, Apartment No. **1**,
13 Lakewood, Ohio, **44107**.

14 Q. Have you ever had your deposition
15 taken before?

16 A. Yes.

17 Q. When was the last time you had your
18 deposition taken?

19 A. Oh, gosh, let me think.

20 Q. Approximately.

21 A. Five years ago.

22 Q. Has it only been taken one time or
23 more than once?

24 A. Just the one time.

25 Q. Was that in regard to a medical

1 negligence case?

2 A. Yes.

3 Q. What was the subject matter? In other
4 words, what was the allegation in the case?

5 MR. GOLDSTEIN: Objection. You may
6 answer subject to the objection. Go ahead and
7 answer her question. She wants to know what the
8 lawsuit was about.

9 A. I had worked for a well health care
10 setting for the mentally retarded and one of the
11 residents there had been taken to one of the
12 urgent care centers for treatment because she was
13 limping and her leg was bothering her. The
14 doctors at the urgent care missed on the x-ray
15 that she had a fractured hip and she was walking
16 on the hip for a couple weeks and the family sued
17 on that behalf. And I was unfortunately the
18 person that happened to be the one that took the
19 paperwork when she got back from the doctor's
20 appointment.

21 Q. Were you named as a defendant in the
22 suit?

23 A. No.

24 Q. Did that suit go to trial?

25 A. Yes.

1 Q. And how was it resolved?

2 A. They were found guilty and the family
3 was awarded money on her behalf.

4 Q. Found negligent?

5 A. Yes, I believe so.

6 Q. What was the plaintiff's name in that
7 case?

8 A. Let me think. I don't recall.

9 Q. Was that filed here in Cuyahoga
10 County?

11 A. Yes.

12 Q. What was the name of the facility that
13 you were working at?

14 A. The PVA Circle of Homes in Cleveland,
15 Ohio.

16 Q. Do you recall who the plaintiff's
17 attorney was in that case?

18 A. No.

19 Q. Other than that one time that you had
20 your deposition taken, you haven't had your
21 deposition taken before; correct?

22 A. Correct.

23 Q. I want to just go over some of the
24 ground rules for depositions. I am sure that
25 counsel has had a chance to talk with you a

1 little bit about that.

2 This is a question and answer
3 session. It's under oath. It's important that
4 you understand the questions that I ask you. If
5 you don't understand them, let me know and I'll
6 be happy to repeat the question or to rephrase
7 the question. Otherwise I'm going to assume that
8 you understood my question and you are able to
9 answer it.

10 If at any point you wish to refer to
11 medical records, counsel has a set for you to
12 look at, so feel free to look at them. This is
13 not a memory test at all.

14 At some point one of the defense
15 counsel here may choose to enter an objection.
16 You are still required to answer my question
17 unless counsel instructs you not to.

18 Also, it's important that you give all
19 of your answers verbally, because our court
20 reporter can't take down head nods or hand
21 motions.

22 Do you understand those directions?

23 A. Yes, I do.

24 Q. Okay. Tell me what you have reviewed
25 in preparation for this deposition.

1 A. I was given a copy of medical records
2 in this particular case and I had discussed it
3 with this gentleman here. I don't remember his
4 name, I'm sorry.

5 Q. Mr. Goldstein --

6 A. Mr. Goldstein.

7 Q. -- sitting beside you?

8 A. Yes, sir -- or ma'am, I'm sorry.

9 Q. When you mentioned the medical
10 records, could you tell me what medical records
11 you reviewed?

12 A. I had a Xerox copy of his entire
13 chart.

14 Q. And that would be the Judson
15 Retirement Community chart; is that correct?

16 A. That is correct.

17 Q. Have you reviewed any textbook
18 articles in preparation for this deposition?

19 A. No.

20 Q. I'm going to just mention a few other
21 things, and if you haven't seen them, let me
22 know.

23 Have you seen any of the Meridia
24 Hillcrest Hospital records, other than what have
25 been contained in the Judson Retirement Community

1 records?

2 A. I don't believe so.

3 Q. Cleveland EMS emergency run sheet?

4 A. **No**, I didn't see that.

5 Q. Any Cleveland Clinic records at all?

6 A. When was he at Cleveland Clinic?

7 Q. Well, I am just asking if you recall
8 reviewing them?

9 A. No, I did not.

10 Q. How about autopsy results?

11 A. No, I did not.

12 Q. Death certificate?

13 A. No, I did not.

14 Q. Have you reviewed any deposition
15 testimony that's been taken in this case?

16 A. No, I did not.

17 Q. Any policies or procedures from Judson
18 Retirement Community?

19 A. In relation to this case?

20 Q. Yes.

21 A. No.

22 Q. Since this case was filed, other than
23 with counsel, have you discussed this case with
24 any doctors or nurses?

25 MR. GOLDSTEIN: Objection to the

1 extent that it may encompass any peer review. If
2 it does encompass peer review, you can tell
3 counsel whether or not there was such a meeting,
4 but you will not be permitted to discuss what was
5 discussed at the meeting.

6 A. There wasn't any meeting except in
7 regard to what I had discussed with
8 Mr. Goldstein.

9 Q. And you are not required to tell me in
10 regard to your conversations with him. I am
11 inquiring to anything that was discussed outside
12 of those conversations.

13 A. I discussed it a little bit with my
14 director of nursing, just when she was asking me
15 questions in regard to trying to find any
16 information that would help us determine whether
17 or not the test was actually scheduled or not.

18 Q. Okay. When did you have those
19 conversations with the director **of** nursing,
20 approximately?

21 A. A month or so ago.

22 Q. And what did you tell the director **of**
23 nursing?

24 MR. GOLDSTEIN: Excuse me, let me
25 interrupt for a moment. I just want to make sure

1 that that was not within the scope of any peer
2 review relative to what occurred involving Mr.
3 Hayes.

4 THE WITNESS: No, there was no peer
5 review.

6 MR. GOLDSTEIN: Then you may answer
7 the question.

8 A. Well, we were looking for any back
9 records of calendars that might have recorded the
10 appointments, because I recall that the secretary
11 that had worked there -- I believe she had worked
12 there at the time, I am almost positive -- used
13 to have a calendar that recorded all appointments
14 so that she could follow through and make all the
15 preparations necessary.

16 And it seems that we didn't have a
17 copy of records that far back.

18 Q. **So** in other words --

19 A. And we were just kind of brainstorming
20 to kind of figure out how we can figure that out.

21 Q. Did you come up with any other method
22 besides looking at the calendar from the
23 secretary?

24 A. Well, I think we thought of the
25 obvious and that would be going back to check the

1 hospital records of any appointments that may
2 have been scheduled, but other than that, I don't
3 believe **so**.

4 Q. Did you do that?

5 A. I don't know what she did in follow
6 up.

7 MR. GOLDSTEIN: She asked you what you
8 did.

9 A. I didn't do anything.

10 Q. Do you know of anybody else that did
11 anything in regard to checking to see if there
12 was some schedule at the hospital for that test?

13 A. No. I don't know what follow up was
14 done. It wasn't further discussed with me.

15 Q. Aside from your conversations with the
16 director of nursing about the issue of scheduling
17 the test, did you talk with her about anything
18 else in regard to Mr. Hayes?

19 A. No.

20 Q. Was that one conversation that you
21 had?

22 A. Just the one, I believe. Otherwise
23 she would let me know what days the depositions
24 were scheduled for. She would keep me posted on
25 that, and any cancellations, whatever.

1 Q. Other than that conversation and any
2 discussions that you had with counsel, have you
3 talked to anyone else about this case?

4 A. No.

5 Q. Do you have any personal notes or
6 personal file on this case?

7 A. No.

8 Q. Have you ever generated any personal
9 notes on this case?

10 A. No.

11 Q. Who is your current employer?

12 A. Judson Retirement Community.

13 Q. And in November of 1997, was Judson
14 Retirement Community your employer?

15 A. Yes.

16 Q. Now, you are a registered nurse in the
17 State of Ohio; is that correct?

18 A. Yes, that's correct.

19 Q. When did you receive your nursing
20 license?

21 A. 1996. I think I took my exam in
22 January and I think I got my results in early
23 February.

24 Q. I'm sorry, what year did you say?

25 A. 1996.

1 Q. In November of '97, were you employed
2 by anyone else besides Judson Retirement
3 Community?

4 A. No.

5 Q. What type of a basic nursing program
6 did you complete?

7 A. I received my associates degree from
8 Lorain Community College. I was an LPN and did
9 their accelerated program. We were the access to
10 nursing program, and we were the first group that
11 went through. So we were kind of the guinea pigs
12 of the program, so to speak.

13 Q. When did you receive your LPN license?

14 A. August of 1983.

15 MR. GOLDSTEIN: Did you say '83 or
16 '93?

17 THE WITNESS: '83.

18 Q. When did you first become employed by
19 Judson Retirement Community?

20 A. April 7th, 1997.

21 Q. And prior to being employed by Judson
22 Retirement Community, what did you do?

23 A. I had worked a few positions at
24 different facilities. I had worked at the Corin
25 in Westlake, a nursing facility, working on a

1 skilled and nonskilled floor. I had a short
2 period where I was in training for hemodialysis
3 at Mt. Sinai Medical Center, and I didn't care
4 for that, so I left, and worked at Medbridge in
5 North Olmsted on a skilled floor. Medbridge was
6 my first job. And then also at Cleveland Clinic
7 subacute I worked a short time, for three months.

8 Q. And from the time that you got your
9 nursing license in, I believe you said it was
10 January of '96?

11 A. Yes. I had had five positions before
12 this one, yes.

13 MR. GOLDSTEIN: You are referring to
14 the RN license?

15 MS. TOSTI: Correct.

16 Q. Those positions that you just
17 described were after you received your RN
18 license?

19 A. Yes.

20 Q. Were you practicing as an LPN prior to
21 the time you received your RN license?

22 A. Yes.

23 Q. What type of work were you doing as an
24 LPN?

25 A. My last position I had worked in a

1 hospital on a trauma surgical step-down unit, but
2 I had done everything but office work. I worked
3 home care and well health care settings and
4 nursing home, et cetera.

5 Q. Do you have any additional training
6 beyond your basic RN education?

7 A. I took the certification exam to have
8 my specialty in gerontology, and of course I have
9 taken the BLS courses and refresher courses and
10 that to get relicensed.

11 Q. Were you able to attain certification
12 in gerontology?

13 A. Yes, I passed it on my first go.

14 Q. When did you receive that?

15 A. It was, I took the exam in, I believe,
16 December of 1998, because that was the last year
17 that the associates degreed RNs could take the
18 exam. After that they were going to make them
19 have bachelor's degrees to take the exam. I
20 believe that was the year.

21 Q. What is your current title and
22 position at Judson Retirement Community?

23 A. I'm an assistant resident care manager
24 and I am currently floating between the skilled
25 floor, Alzheimer's floor and the long-term care

1 floor, and they put me wherever they need
2 coverage.

3 Q. And in November of 1997, what was your
4 title and position?

5 A. I was assistant resident care manager
6 on the 6th floor at Brunning health, which was a
7 skilled health care unit.

8 MS. ROLLER: I am having trouble
9 hearing you because I can't see your face and we
10 have the fan here.

11 THE WITNESS: I'm sorry.

12 A. At that time I was the assistant
13 resident care manager on the Brunning health care
14 6th floor, which is the skilled floor, and the
15 rehab floor.

16 Q. Thank you.

17 Now, for the balance of this
18 deposition, unless I tell you otherwise, my
19 questions are going to refer to the time period
20 of November of 1997 when William Hayes was a
21 patient at Judson Retirement Community, and I am
22 going to be referring chiefly to the clinical
23 area where he was a patient. So if I ask you a
24 question, that's what I am referring to, unless I
25 tell you something different.

1 I would like you to describe for me
2 the Judson Retirement facility in 1997, just
3 generally how many units there were, the types of
4 patients on the various units, those types of
5 things.

6 A. Well, on the 6th floor -- and each of
7 the floors were arranged -- you want the general
8 layout; is that it?

9 Q. Give me a general overview and then we
10 will talk more specifically about the 6th floor.

11 A. All right. Well, the 4th floor is
12 long-term care. The 5th floor they have
13 Alzheimer's patients. And then the 6th floor
14 had, two out of the six units were long-term care
15 and the remaining four were skilled care and
16 short-term rehabilitation. And he was on the
17 skilled care, short-term rehabilitation unit.

18 Q. And in the unit that he was on, how
19 many beds or patients were normally on that
20 unit? What was the maximum number census?

21 A. The maximum number was 32.

22 Q. Now, in November of '97, were you a
23 full-time employee of Judson Retirement
24 Community?

25 A. Yes, I was.

1 Q. And were you a regular staff member on
2 any particular nursing unit at Judson Retirement
3 Community at that time?

4 A. Yes, I took care of the residents on
5 the C and E cluster.

6 Q. And what was the C and E cluster?

7 A. They were skilled care rehabilitation
8 units.

9 Q. So was C and E part of those four
10 skilled care units that you described?

11 A. Yes, it was.

12 Q. We have to speak one at a time because
13 she can't take us both down at the same time.

14 A. I'm sorry.

15 Q. So let me repeat my question.

16 Was C and E units part of the four
17 skilled care units that you previously described?

18 A. Yes.

19 Q. And the area where William Hayes was,
20 did it have a particular name or a designation?

21 A. No. It was just the skilled unit.

22 Q. Was that the E unit, though?

23 A. Oh, yes, I'm sorry, E unit.

24 Q. When did you first start working on
25 the E unit?

1 A. When I was hired in April of 1997.

2 Q. And is that still an area that you
3 have any responsibilities for presently?

4 A. Yes. If a full-time person, a regular
5 over there is off, I cover for her days that they
6 need the coverage. And E cluster is currently
7 long-term care. They changed that at the
8 beginning of the year.

9 Q. **So** you were a regular staff member on
10 the E cluster in November of 1997; correct?

11 A. Yes, I was.

12 Q. Was there a point in time that you no
12 longer were a regular staff member on that
14 particular unit?

15 A. Yes. I was moved to the front part of
16 that floor to be in charge of the A cluster and B
17 cluster, which is once again skilled care, and
18 that was probably eight or nine months ago.

19 Q. Were you required to have any
20 specialized training to work on **E** unit, aside
21 from your nursing degree?

22 A. No.

22 Q. Did you go through a formalized
24 orientation program?

25 A. Yes, I did.

1 Q. What did the orientation program
2 involve?

3 A. There was a day in the classroom where
4 they reviewed some of the policies and
5 procedures, where to find information in the
6 books, and I was given, for lack of a better way
7 to describe it, a John Doe chart, dummy chart, I
8 guess is another way to look at it, so I could
9 review the general layout of the charts to learn
10 that. And then I worked with a couple of
11 different nurses who just showed me the general
12 routine so that I could become familiarized with
13 how things are operated there.

14 Q. How was the E unit usually staffed?

15 A. There was one RN and two resident
16 assistants.

17 Q. And how many shifts normally was the
18 work force divided into for the E unit?

19 A. We had three shifts, three eight hour
20 shifts.

21 Q. When did the shifts usually begin and
22 end?

23 A. The day shift starts at 6:30 until
24 3:00 o'clock. The afternoon shift starts at 2:30
25 until 11:00 o'clock and the evening shift starts

1 at 3:30 until 7:00 in the morning.

2 Q. And that was true in November of '97?

3 A. Yes, that was true.

4 Q. On each of those shifts, there was
5 just one registered nurse and two resident
6 assistants?

7 A. No, it varied from shift to shift.

8 Q. What was the staffing on each of those
9 shifts then subsequent?

10 A. Day shift had one RN and three
11 resident assistants, nurse assistants. And then
12 second shift had the one RN and two nurse
13 assistants, but actually the two nurse assistants
14 took care of three clusters so they each had one
15 and a half clusters. And the night shift had the
16 two RNs and three nurse assistants. I'm sorry.
17 I am getting my numbers all mixed up.

18 There were three -- I'm sorry.

19 MR. GOLDSTEIN: Take your time.

20 A. Day shift there were three RNs,
21 afternoon shift there were three RNs, and night
22 shift there were two. And then the supervisor
23 would work on the long-term care, and then also
24 take care of the whole house if there was
25 anything that came up. I'm sorry.

1 Q. The RNs, when they would work, was
2 their only responsibility for the **E** unit? When
3 you say there were three RNs assigned, were there
4 three RNs assigned only to **E** unit?

5 A. No, there was one RN to **C** unit and **E**
6 unit. **So** I took care of 16 patients.

7 Q. Then let's back up again because I
8 want to make sure that we have this and I'm
9 understanding what you are saying. I thought you
10 had said three.

11 A. I was referring to the whole staffing
12 of the whole floor.

13 Q. Okay. When you are talking about the
14 whole floor, how many units are we talking about?

15 A. A total of six units with seven or
16 eight beds, depending on the unit.

17 MR. FALLON: I'm sorry.

18 THE WITNESS: Seven or eight beds,
19 depending on the unit.

20 Q. Now, I think previously I asked you
21 how many beds, maximum capacity, were on **E** unit,
22 and I think you told me 32; correct?

23 A. I thought you meant the whole area.
24 There is eight.

25 Q. Let's back up then again.

1 On E unit, how many beds are there?

2 And we are speaking in November of '97.

3 A. Seven beds.

4 Q. Now, the whole floor consists of 32
5 beds, approximately; is that correct?

6 A. Yes.

7 Q. And when we are talking about the
8 staffing for E unit, the staffing for E unit is
9 part of the floor staffing; is that correct?

10 A. Yes.

11 Q. Okay. **So** let's back up then and tell
12 me again what the normal staffing pattern is for
13 days, evenings and nights on the floor where E
14 unit is.

15 A. One RN and --

16 Q. Let's start with days. There is one
17 RN on for the whole floor?

18 MR. GOLDSTEIN: Days.

19 Q. On the day shift?

20 A. For the whole floor or for E unit, I'm
21 sorry?

22 Q. Individual staff for E unit that only
23 has responsibility for E unit.

24 A. No.

25 Q. **So** then we have to talk about the

1 staff for the whole floor; correct?

2 A. Yes.

3 Q. For the whole floor of 32 beds, how
4 many RNs are assigned on the day shift?

5 A. For the skilled units, there were two
6 RNs.

7 Q. And they only had to worry about the
8 skilled units; correct?

9 A. Yes.

10 Q. Okay. And how many beds were in the
11 skilled units?

12 A. Collectively, 30, because I forgot,
13 some units have eight and some have seven and I
14 just don't -- I'm not trying --

15 Q. This is confusing and I understand
16 that.

17 A. I know. I am sorry. I am trying to
18 be as clear as I can. I guess I --

19 Q. How many units were on the floor that
20 E unit was on? How many units?

21 A. I'm not sure. I don't know if you are
22 asking about how many skilled units were on the
23 floor, including E cluster or just E cluster.
24 I'm not clear on that.

25 Q. I am trying to determine what the

1 staffing patterns were for E unit and I would
2 also like to know if there were people that were
3 taking care **of** the **E** unit, if they had other
4 responsibilities.

5 **So** the people assigned to E unit, **I**
6 would like to know, how many people there were
7 and what category they were, and in addition,
8 what other responsibilities they had. And **I** am
9 not sure what the best way to ask that question
10 is.

11 So first off, in regard to let's just
12 take **E** unit, how many nurses on day shift had
13 some responsibility for the patients in E unit on
14 day shift?

15 A. One nurse.

16 Q. One nurse, okay.

17 And then in addition to that one
18 nurse, were there any other individuals that had
19 patient care responsibilities in the E unit on
20 the day shift?

21 A. One resident assistant.

22 Q. Now, that one nurse that would be
23 taking care **of** patients in the E unit, did that
24 nurse also have responsibilities in some of these
25 other units?

1 A. Yes, in the C cluster unit, which was
2 also a skilled care unit.

3 Q. So one other unit, two other units?

4 A. One other unit.

5 Q. One other unit.

6 And you told me that in E unit there
7 was approximately seven beds?

8 A. There were seven beds. And in C unit
9 there are eight beds.

10 Q. On the 3:00 to 11:00 shift, how many
11 nurses had responsibility for patients in the E
12 unit?

13 A. One nurse.

14 Q. And how many assistants?

15 A. Two. Oh, no, wait a minute. There
16 was one, because then they split another unit in
17 addition to that.

18 Q. And then on night shift?

19 A. There was one RN and one nurse
20 assistant.

21 Q. Okay. And all of these people that
22 you described, they also have responsibilities in
23 some of these other units?

24 A. Yes.

25 Q. On the various shifts?

1 A. Yes.

2 Q. Okay. What was the usual shift that
3 you worked at Judson in November of '97?

4 A. 2:30 to 11:00 p.m. shift, the
5 afternoon shift.

6 Q. And you worked that as a straight
7 shift? You didn't rotate between two at any
8 time?

9 A. No, it was a straight shift.

10 Q. Did you punch a time clock when you
11 went in and left?

12 A. Yes.

13 Q. And in November of 1997, what were
14 your duties and responsibilities of Judson
15 Retirement Community on the E unit?

16 A. I would administer medications,
17 treatments as necessary. If there were any IV
18 antibiotics or IV fluids that needed to be given,
19 I would take care of that. If there were
20 admissions that came in, I would help, I would do
21 the paperwork and check and overview the patient
22 and their records. And also discharges, and also
23 be in charge to make sure the resident assistants
24 did their job.

25 Q. Did you make the assignments out for

1 the resident assistants that were working in the
2 **E** unit on your shift?

3 A. At that time, no, I didn't make the
4 assignments out.

5 Q. Who did that?

6 A. One of the other nurses would just --
7 usually the nurse that worked in the front would
8 get here first and then she would make out the
9 assignments based on what the staffing
10 coordinator had designated in the way of who was
11 working in which section. Did that make sense?

12 Q. Someone other than you usually would
13 make out the assignments? Someone else that
14 would be assigned to that 6th floor?

15 A. Yes.

16 Q. When you were on duty, did you have
17 responsibility for communicating with physicians
18 regarding the patients under your care?

19 A. Yes.

20 Q. And generally, how many patients when
21 you worked in the evening would be under your
22 care?

23 A. If we were full, 15.

24 Q. So you would have responsibilities not
25 only for the E unit, but also one of the other

1 units; correct?

2 A. Yes.

3 Q. Now, in the other unit, would you also
4 be responsible for doing the same things that you
5 described for the E unit?

6 A. Yes.

7 Q. Admissions and that type of thing?

8 A. Yes.

9 Q. Who was your immediate clinical
10 supervisor at that time?

11 A. Lola Henley.

12 Q. Did she work the 3:00 to 11:00 shift?

13 A. Yes, she did.

14 (Thereupon, a discussion was had off
15 the record.)

16 Q. Did you provide direct patient care?
17 And by that I mean, other than the medications
18 and the other responsibilities that you
19 described, did you actually go in and bathe
20 patients and assist with moving patients and
21 those types of things?

22 A. Periodically I would assist with
23 transferring the patients or putting them on the
24 bedpan, but I did not do any bathing or anything,
25 so to speak.

1 Q. Did you routinely do assessments on
2 the patients assigned to you?

3 A. Yes.

4 Q. How often would you be doing the
5 assessments?

6 A. At least once a shift, and if the
7 person was sicker than usual, I would check on
8 them as often as necessary.

9 Q. **Is** Lola Henley still an employee of
10 Judson Retirement Community?

11 A. **No**, she is not.

12 Q. When did she leave?

13 A. I would say about a year and a half
14 ago.

15 Q. Was there a head nurse or some type of
16 a unit manager for the 6th floor or unit 6?

17 A. For the 6th floor, yes.

18 Q. And who was the head nurse? Was that
19 the correct title, head nurse?

20 A. Resident care manager.

21 Q. Resident care manager, okay.

22 Who was the resident care manager for
23 the 6th floor in November of **1997**?

24 A. Dianne Soukup.

25 MR. GOLDSTEIN: Spell the last name if

1 you can.

2 THE WITNESS: S-O-U-K-U-P.

3 (Thereupon, a discussion was had off
4 the record.)

5 Q. In the rehab skilled area of unit 6,
6 how often were the patients required to be seen
7 by a physician?

8 MR. FALLON: Objection.

9 A. I'm not certain what the mandates are,
10 but they were seen on a regular basis, about two
11 or three times a week.

12 Q. You are not familiar with any minimum
13 number of times that a patient has to be seen in
14 that particular area; correct?

15 A. Correct.

16 MR. GOLDSTEIN: Hang on one second
17 before you ask the next question.

18 (Thereupon, a discussion was had
19 between the witness and his counsel out **of** the
20 hearing of the reporter.)

21 MR. GOLDSTEIN: All set.

22 Q. In November of '97, if one of the
23 patients under your supervision developed
24 problems which you believe required a physician's
25 evaluation, was there a procedure you were

1 supposed to follow for contacting the physician?

2 A. Yes.

3 Q. Would you tell me what that procedure
4 was?

5 A. If it was something that was urgent
6 that needed to be taken care of right away, we
7 would call the geriatric fellow on call for the
8 evening, after 5:00 o'clock. If it was something
9 that could wait until the next day, we would put
10 it on what we call a physician reminder board,
11 and then they would address it the next day.

12 Q. Tell me a little bit more about this
13 physician reminder board. What was it? What did
14 it look like and what type of information did you
15 put on it?

16 First, describe it physically for me.

17 A. It's an 8 by 14 piece of paper that is
18 designated with the physician's name, the
19 patient's room number, the patient's name, the
20 date, and then a brief description of what our
21 concerns were and what needed to be addressed.

22 Q. Now, you mentioned that if it was an
23 urgent matter, you would call the geriatric
24 fellow after 5:00 p.m.?

25 A. Yes, at University Hospital. Or at

1 the time we had Kaiser doctors there too and we
2 would call the Kaiser doctor on call, if it
3 applied.

4 Q. Kaiser attending physicians?

5 A. Yes.

6 Q. Is that what you are talking about?

7 A. Yes.

8 Q. What about on Sundays?

9 A. On Sundays we would call the geriatric
10 fellows on call.

11 Q. For an urgent matter?

12 A. Yes.

13 Q. And if it was a nonurgent matter, you
14 would use this physician reminder board; is that
15 correct?

16 A. Yes.

17 Q. What type of things would you put on
18 the physician reminder board?

19 A. They would be notified if a narcotic
20 needed to be reordered because it was getting
21 low, and we had to send it, send the order to the
22 pharmacy.

23 If a family member had a concern, or
24 if a patient mentioned something about medication
25 they were taking prior to this, and they wanted

1 to look into whether or not they needed to be on
2 it, or if they had -- just things like that.

3 Q. Is this a paper board?

4 A. It's a clipboard.

5 Q. A clipboard?

6 A. Yes.

7 Q. Where is it kept?

8 A. Let's see. At the time, they kept the
9 University Hospital clipboard at the second desk
10 and the one for Kaiser would be kept at the back
11 nurses station.

12 Q. And would the attending physicians
13 come in and look at this board when they would
14 come in to make rounds on their patients?

15 A. They would. The nurse
16 practitioners would take a look at the board too.

17 Q. When you say nurse practitioners, are
18 you speaking of any Judson Retirement Community
19 employees?

25 A. Yes.

21 Q. What responsibilities did the nurse
22 practitioners have in regard to patients?

23 A. They would see the patients, and after
24 discussing their findings with the doctors, they
25 would also write orders or update the doctors as

1 needed.

2 Q. Were they assigned to particular
3 units?

4 A. Things have changed so much in regard
5 to that these days, I don't remember what the
6 deal was at the time.

7 Q. Well, let me rephrase my question
8 then.

9 In November of 1997, was there a
10 particular nurse practitioner that saw patients
11 on unit 6-E?

12 A. Not on 6-E, per se, no. It was based
13 on the doctor assignments, I believe.

14 Q. Do you know if a nurse practitioner
15 saw Mr. Hayes at any time during his confinement
16 at Judson Retirement Community?

17 A. He would have been seen on Monday and
18 Tuesday.

19 Q. And who would have seen him? If you
20 know.

21 A. I don't recall who was working there
22 at that time.

23 Q. What is your understanding as to what
24 the nurse practitioner would do if he was seen on
25 Monday or Tuesday, what is it that they would be

1 doing with Mr. Hayes?

2 A. They would complete the history and
3 physical. They would review the paperwork that
4 was sent over from the hospital, review the
5 physician's orders and then when the doctor came
6 on, he or she would discuss with the doctor, you
7 know, a synopsis of the case before the doctor
8 went in to see them.

9 Q. Do you have any recollection of any
10 nurse practitioner having contact at all in Mr.
11 Hayes' case?

12 A. I don't know specifically who had seen
13 Mr. Hayes, no.

14 Q. Okay. And in regard to your review of
15 the records, you didn't see any reference to
16 nurse practitioners seeing Mr. Hayes, did you?

17 A. I didn't pay attention to that part of
18 it. I was just focused on the nursing notes and
19 data base from the admission.

20 Q. We were discussing -- my original
21 question was if you had to contact a physician in
22 regard to a problem that a patient was having,
23 you indicated that if it was urgent and it was
24 after 5:00 you would call the geriatric fellow or
25 on Sunday you would call the geriatric fellow;

correct?

A. Yes.

Q. If it was a nonurgent problem, you would put it on this communication board for the physicians to check when they would come in; correct?

A. Yes.

Q. Did you have any other instances where you would contact an attending physician by phone?

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A. Well, to verify the admitting orders so we could follow through and do the care for the patient.

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Q. Aside from verification of admitting orders, did you normally contact attending physicians by phone?

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MR. GOLDSTEIN: Objection to the form of the question. Do you understand the question?

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2

THE WITNESS: Not really. I mean --

MR. GOLDSTEIN: Ask her to ask it again or rephrase it. You have that right.

Q. You indicated that you would verify admitting orders with attending physicians; correct?

1 A. Yes.

2 Q. Aside from phone calls made to verify
3 orders -- or if the doctors came in, I suppose
4 you would verify orders at that point in time --
5 did you ever call attending physicians for any
6 other instances?

7 A. Yes. If lab results came in after the
8 doctors had left for the day and there was
9 something abnormal, we would call them to bring
10 it to their attention. Or if they had developed
11 a high fever or something and we needed to get
12 orders for maybe lab work or urine specimens or
13 whatever, or if -- I don't know. I can't think
14 of anything else.

15 Q. You would be calling the attending
16 physician in order to report laboratory results
17 or to get orders; is that correct?

18 A. Oh, attending physicians, no. I'm
19 sorry, the on-call physician.

20 Q. Maybe my question wasn't clear.

21 In regard to attending physicians,
22 other than verification of orders, would you have
23 any instances where you would be calling the
24 attending physician if you had a concern about a
25 patient?

1 A. If for some reason we had not heard
2 from the geriatric on-call doctor within a
3 reasonable time, or if we weren't satisfied with
4 what they were doing and felt that maybe
5 something further needed to be done for input, I
6 suppose.

7 Q. Did you have a list in regard to the
8 geriatric fellows as to who you were supposed to
9 call for a particular day or week?

10 A. No. We would call the geriatric
11 answering service and they would page whoever the
12 particular doctor was on call, but we did not
13 personally have that list.

14 Q. **So** you didn't know who you would be
15 talking to if you placed a call to a geriatric
16 fellow; is that correct?

17 A. That's correct.

18 Q. And aside from the geriatric fellows
19 that covered you after **5:00** p.m. and on the
20 weekend, and the attending physicians that were
21 there, any other physicians that worked at Judson
22 Retirement Community in November **of '97?**

23 A. You want me to name specifically the
24 doctors on staff?

25 Q. No. I'm asking aside from the

1 attending physicians and the geriatric fellow
2 physicians, were there any other physicians that
3 routinely provided care at Judson Retirement
4 Community?

5 A. There were a handful of doctors that
6 would work with specific families that were not
7 -- I mean with specific residents that were not
8 part of University Hospital, yes, and we would
9 speak with them about their particular resident.

10 Q. Okay.

11 A. Is that what you were looking for?

12 Q. I just was interested in knowing other
13 than attending and geriatric fellows if there
14 were other physicians that came at times to
15 Judson Retirement Community.

16 When a patient was admitted to Judson
17 Retirement Community from an acute care hospital,
18 did the acute care hospital usually send a
19 written transfer form that contained information
20 regarding the patient with the patient?

21 A. Yes, they did.

22 Q. Did you have a particular name for
23 that form or did you just call it a transfer
24 form?

25 A. It was either a discharge summary or a

1 transfer form.

2 Q. And what information would generally
3 be on that form?

4 A. It would have the patient's admitting
5 diagnosis, the medications that were ordered, any
6 medication allergies that they would have had,
7 any recent blood work results, maybe. Sometimes
8 they had it and sometimes they didn't. I said
9 the list of medications that they were on with
10 the doses and frequencies, any wound treatment,
11 if necessary; specifics as to whether they were
12 supposed to have occupational therapy, physical
13 therapy, speech therapy; any follow-up doctor
14 appointments; any lab work that they wanted to
15 have done, and I think that's about it.

16 Q. In November of 1997, would you
17 describe for me how an admission to the area
18 where Mr. Hayes was a patient would normally be
19 handled, if the patient is coming from an acute
20 care hospital?

21 A. The patient would usually come on a
22 stretcher and we would transfer him to the bed.
23 We would get the information from the ambulance
24 driver.

25 Generally I would transcribe the

1 orders and notify the doctor, see the patient and
2 complete the data base, ask them any questions,
3 take a look at their skin and do the general, the
4 usual listening to lung sounds and bowel sounds
5 and asking questions and orienting them to the
6 general routine of the unit; and then getting the
7 orders verified, transcribing the information
8 into the various medical record forms that we
9 have, and complete the various sheets for the
10 different departments that would also be taking
11 care of them.

12 Q. Now, you mentioned that you would
13 transcribe orders. This would be information
14 that was coming on that transfer form? You would
15 transfer that on to your order sheets; is that
16 correct?

17 A. Yes, that is correct.

18 Q. And then you would notify the doctor.
19 What doctor would you notify?

20 A. Well, if they came here before 5:00
21 o'clock, we would notify the attending **on** call,
22 or the attending in the house, or the nurse
23 practitioner if the attending wasn't physically
24 in the building. And then after 5:00 o'clock, we
25 would notify the geriatric fellow on call.

1 Q. What about on Sundays?

2 A. We would notify the geriatric fellow
3 on call.

4 Q. And then you would copy orders that
5 came on that form on to your admission order
6 form; is that correct?

7 A. Yes, that is correct.

8 Q. Now, you mentioned that you would get
9 the orders verified?

10 A. Yes.

11 Q. Would that be with the geriatric
12 fellow?

13 A. Yes. We would read off the
14 information to the geriatric fellow, and if there
15 was something that he wasn't clear about, he
16 would ask us to either clarify it by calling the
17 hospital where they came from, the acute care
18 facility, or if it was something that could wait,
19 we would put it on the board for the doctor to
20 clarify in the morning.

21 Q. And then once they were verified by
22 the geriatric fellow or the attending, would you
23 as the nurse then be in a position to carry out
24 those orders?

25 A. Yes.

1 Q. Now, how soon after the patient is
2 admitted is the patient seen by a physician?

3 MR. **FALLON**: Objection.

4 A. It depends on when they were
5 admitted. If they were admitted during the
6 weekday, it would be either that same day or that
7 next morning. If it's on the weekend, if it's
8 Friday night, it wouldn't be until Monday.
9 Saturday and Sunday also wouldn't be until
10 Monday.

11 Q. And normally what would be -- when
12 would the patient receive an assessment by the
13 nurse after admission?

14 A. Within that same -- before the end of
15 the shift where they came on. **So** within eight
16 hours, at the longest, but we would go in
17 initially and just do a quick, you know, once
18 over. If there was something that needed to be
19 attended to as far as the data base, you know,
20 hooking up the oxygen or checking IVs and that
21 kind of stuff, we would do that.

22 Q. Were geriatric fellows usually present
23 at Judson Retirement Community on Sunday?

24 A. No. They would be at University
25 Hospital.

1 Q. So if you were verifying orders on
2 Sunday, would you make a phone call in order to
3 do that?

4 A. Yes, that is correct.

5 Q. And once the orders were written and
6 verified, was it the nursing staff's
7 responsibility for seeing that the orders were
8 carried out properly?

9 A. Yes.

10 Q. And if an order called for a
11 diagnostic test to be scheduled at a facility
12 outside of Judson Retirement Community, who would
13 be responsible for scheduling that type of test?

14 A. Our unit coordinator who is our
15 secretary. Unless it was something that had to
16 be done that very next day or something and then
17 we would call to take care of it, but generally
18 the secretary would schedule the appointments.

19 Q. So would you, as a nurse, transcribe
20 the order and communicate to the unit secretary
21 that this particular test needed to be scheduled?

22 A. Yes.

23 Q. And do the registered nurses supervise
24 the unit coordinator in regard to those type of
25 activities?

1 A. No.

2 MR. GOLDSTEIN: You mean unit
3 secretary?

4 THE WITNESS: Yes, that's who they
5 call.

6 Q. Let's clarify that. Is the unit
7 coordinator a secretary?

8 A. Yes.

9 Q. Who supervises the unit coordinator?

10 A. The resident care manager would check
11 on her periodically. Pretty much, she functioned
12 independently.

13 Q. Who makes sure that when she is
14 working with the physician's orders that she is
15 carrying out those duties correctly?

16 A. I don't know.

17 Q. Did anybody oversee to make sure that
18 if you tell her I need this test scheduled that
19 she is actually doing it?

20 A. I suppose that -- I don't know.

21 Q. It's not your responsibility as a
22 registered nurse if you are transcribing orders
23 and verifying admission orders for a patient,
24 it's not your responsibility to make sure that
25 she does whatever you have asked her to do?

1 A. I don't know how to answer that.

2 Q. Well, I am just asking whose
3 responsibility is it to make sure that she does,
4 in fact, take care of any orders that you asked
5 her to schedule; such as a diagnostic test? Is
6 there any follow up to make sure that that's
7 taken care of?

8 MR. GOLDSTEIN: That's a different
9 question, though.

10 A. I suppose the nurse on the day shift
11 would review the orders and check on it, but I
12 don't know what goes on during the daytime.

13 Q. So once you see an order for a
14 diagnostic study that needs to be scheduled, and
15 you tell the unit coordinator to schedule that
16 test, you don't have any further responsibility
17 for it?

18 A. No, I don't think **so**, because I have
19 done my part.

20 Q. And you don't know who has
21 responsibility after you have communicated that
22 information to the unit coordinator; correct?

23 A. Correct.

24 Q. If there was a problem scheduling a
25 diagnostic study ordered by a physician, would it

1 be the responsibility of the nurses to inform the
2 physician about that problem?

3 A. Yes, or the unit coordinator, yeah.
4 Either/or.

5 Q. It would be either the unit
6 coordinator's job to tell the doctor or the
7 nurse's job?

8 I am trying to clarify what you said.

9 A. Yeah.

10 Q. Prior to William Hayes, had you ever
11 cared for a patient who had recently undergone
12 total knee replacement?

13 A. Yes.

14 Q. Had you cared for such patients at
15 Judson Retirement Community?

16 A. Yes.

17 Q. Do you know if total knee replacement,
18 bilateral total knee replacement increases the
19 risk for developing deep vein thrombosis?

20 A. I would think that that would be true,
21 yes.

22 Q. Do you know as a nurse whether
23 bilateral total knee replacement would increase a
24 patient's risk for pulmonary emboli?

25 A. Well, if it would increase the risk

1 for a DVT, yes, it would increase the risk for a
2 pulmonary emboli.

3 Q. In a patient that's three days post-op
4 from bilateral total knee replacement, as a
5 nurse, are there any particular complications
6 that you watch for in such a patient?

7 A. Well, we would check their calves for
8 any complaint of tenderness or pain by doing a
9 Homans' test or check to see if there is any
10 redness or inflammation, I mean inflammation or
11 swelling at the site to see if there might be
12 early signs of a DVT. We would just check the
13 incision and monitor their vital signs.

14 I don't know. Yeah, that's fine.
15 That's my answer.

16 Q. Do you have any independent
17 recollection of William Hayes, aside from what
18 you reviewed in the chart? As you sit here, do
19 you recall him as patient?

20 A. Yes, I do.

21 Q. What do you recall about him?

22 A. Well, I recall that on the day that he
23 came in, it was a little bit later in the shift.
24 He was brought in and had numerous complaints
25 about the environment of the room and mentioned

1 that his wife wouldn't be pleased with the room,
2 and that was basically all that I remembered.

3 Q. And from your recollection or review
4 of the record, when did you render care to
5 William Hayes?

6 A. The first night that he was here I had
7 done the admission data base and done his head to
8 toe assessment, and did everything that was
9 involved in the admission, including all the
10 paperwork, notifying the doctor, and that type of
11 thing.

12 Q. Did you care for him after? That was
13 November 23rd, I believe, on a Sunday. Did you
14 care for him after that?

15 A. I believe I did maybe one other time.
16 I don't recall exactly what day he passed away,
17 but I was off that day.

18 MS. TOSTI: Do you have a set of
19 records that she can look at so she can tell me?

20 MR. GOLDSTEIN: Sure.

21 (Pause.)

22 THE WITNESS: Are the medication
23 records in here? That would be more definitive.

24 A. As near as I can see from the records,
25 I had only taken care of him that first day, but -

1 Q. Okay. Look on November 26th on the
2 nurses records, and tell me, there is, it looks
3 like, a 10:00 p.m. entry. I am wondering if
4 that's an entry --

5 A. It's 10:00 a.m.?

6 Q. No. I think it's on the reverse side
7 of the first page at the top. Is that an entry
8 made by you?

9 A. Oh, yes, I did miss that, yes.

10 Q. So is it likely that you cared for him
11 on November 26th, as well?

12 A. Yes, I did. I just missed that top of
13 the page. I scanned it too quickly.

14 MR. GOLDSTEIN: That's okay.

15 Q. Now, you were on duty at the time that
16 William Hayes arrived at Judson Retirement
17 Community when he was admitted; is that correct?

18 A. Yes.

19 Q. Were you aware that he was being
20 admitted prior to the time that he arrived at
21 Judson Retirement Community?

22 A. Yes.

23 Q. How did you become aware of his
24 admission?

25 A. When the admissions coordinator makes

1 the arrangements for it, she puts a piece of
2 paper at the nurses station that indicates the
3 date, the name of the person, the time of
4 arrival, and any special equipment that might be
5 necessary; for example, maybe an oxygen tank, or
6 IV poles or different things like that.

7 Q. In regard to Mr. Hayes, did he require
8 any special equipment? If you recall.

9 A. I don't recall specifically.

10 Q. Did you receive any type of a report
11 on Mr. Hayes, other than what you just described
12 from the coordinator?

13 A. We would get a copy of a transfer
14 order of paperwork that they sent over for the
15 admissions coordinator to review to see if this
16 is somebody that we could take care of or had the
17 room or facilities to take care of.

18 Q. You don't have a recollection of
19 getting a verbal report from anybody at Hillcrest
20 Hospital --

21 A. No.

22 Q. -- prior to transfer?

23 A. We rarely get verbal reports. As a
24 matter of fact, if we do, it's a surprise.

25 Q. So normally if you have something,

1 it's in writing?

2 A Yes.

3 Q Do you have a recollection of getting
4 a transfer form in Mr. Xay's case?

5 A Yes.

6 Q And that was the place where you found
7 the various orders for Mr. Xay's, is that
8 correct?

9 A Yes, that's correct.

10 Q And so the information that you had at
11 the time that he arrived was the information
12 contained on that transfer form?

13 A Yes.

14 Q Now, when you reviewed the records
15 that were provided to you, was there a transfer
16 form in those records that you looked at?

17 A The transfer form just has the
18 information about the car that they want them to
19 have.

20 Q That's what I am asking, if you had a
21 form and is you had a chance to take a look at
22 it?

23 A. Yes.

24 Q. And at the time that Mr. Xay's
25 arrived, you then had whatever information was

1 contained in that transfer form; correct?

2 A. Yes.

3 Q. Was anyone with Mr. Hayes when he
4 arrived, aside from the transport people?

5 A. I don't recall specifically. Maybe
6 his son and daughter were there, I'm not sure. I
7 think they may have arrived shortly after.

8 Q. You don't have a recollection of a
9 family member being there at the time of his
10 arrival, though?

11 A. No.

12 Q. Now, at the time of his admission, was
13 it your understanding -- at the time **of** his
14 admission, what was your understanding as to who
15 his attending physician was?

16 A. I would have to look at the records.
17 I don't recall.

18 Q. Feel free.

19 (Thereupon, a discussion was had
20 between the witness and his counsel out of the
21 hearing of the reporter.)

22 A. I can't find the specific paper that
23 would say before they come here who the doctor
24 is.

25 Q. Well, I was asking what your

1 understanding was as to who the attending
2 physician was. And I don't know whether you are
3 able to answer that question or not.

4 (Thereupon, a discussion was had
5 between the witness and his counsel out of the
6 hearing of the reporter.)

7 A. I don't recall specifically who the
8 doctor was that was originally assigned to the
9 patient.

10 Q. Now, you did an admission assessment
11 data base on Mr. Hayes at the time of his
12 admission, or close to the time of his admission;
13 is that correct?

14 A. Yes, I did.

15 Q. Do you recall at what point in time
16 you did that?

17 A. I don't recall a specific time frame,
18 but --

19 Q. Was it shortly after his admission?

20 A. I don't recall the time frame.

21 Q. Okay. Can you turn to the data base
22 in the records. Now, I'm speaking of a form that
23 says nursing admission data base.

24 A. Right. I completed the data base four
25 hours after he got here, according to my nurses

1 notes.

2 Q. Well, I would like you to look at the
3 actual data base that you collected.

4 MR. GOLDSTEIN: Just tell her you
5 can't find it if you can't find it.

6 A. I can't find it right now. I saw it
7 earlier. I just didn't pay attention to where it
8 was located:

9 Okay, I found it.

10 Q. Now, you believe that you filled that
11 out several hours after his admission? I believe
12 that's what I heard you say; is that correct?

13 A. Yes.

14 Q. And you found that referenced in your
15 note that you wrote?

16 A. In my nurses notes, yes.

17 Q. Was Mr. Hayes the person that supplied
18 the information on the data base?

19 A. I don't recall.

20 Q. And you don't recall whether there was
21 a family member present or not at the time that
22 you collected the data base?

23 A. I don't recall that either.

24 Q. Is some of the information on your
25 data base information that you probably

1 transferred off of the transfer form for this
2 patient?

3 A. If it was, it was just the admitting
4 diagnosis and the medications, **so** I would -- I
5 would have to say that I got the information from
6 him based on some of the answers to the questions
7 that I have written down here.

8 Q. Okay. And you found when you
9 collected that data base that he was oriented;
10 correct?

11 A. I thought so, yes.

12 Q. And I believe you also mentioned in
13 your nurses note, he was reluctant to answer some
14 of your questions; is that correct?

15 A. Yes. He was vague, yes.

16 Q. Now, at the end of the data base, I
17 believe your signature appears on the last page.

18 A. Yes.

19 Q. And you have a title ARCM. What does
20 that stand for?

21 A. Assistant resident care manager.

22 Q. And did you do a physical examination
23 of Mr. Hayes at the time of his admission?

24 A. I did, yes.

25 Q. When you were completing your data

1 base --

2 A. Yes.

3 Q. -- did you find any deviations from
4 normal when you did his admission data base?

5 MR. GOLDSTEIN: Objection.

6 A. Deviation from normal in regard to
7 total knee replacement or of a healthy person?

8 Q. As a registered nurse, did you learn
9 in your training to do physical assessments of
10 patients?

11 A. Yes.

12 Q. And one of the things that you were
13 taught was how to recognize a deviation from
14 normal in doing a physical assessment of a
15 patient; correct?

16 A. Yes.

17 Q. And so what I am asking is when you
18 did an assessment of Mr. Hayes, did you find any
19 deviations from normal in your physical
20 assessment?

21 A. Yes, I did.

22 Q. And could you just tell me what
23 deviations you found?

24 A. Well, the pedal pulses I have
25 documented as feeling faint. And then I have

1 documented about the incisions to his knees with
2 steri-strips. And let's see. Slight nonpitting
3 edema and his feet were cool to touch.

4 Q. Now, does Judson Retirement Community
5 have policies and procedures that describe how
6 documentation in the nurses notes is supposed to
7 be done?

8 A. Yes.

9 Q. And do the policies require that
10 documentation in the nurses notes be
11 contemporaneous with the care or events being
12 documented?

13 A. You mean in regard to the admission?

14 Q. In regard to anything that you are
15 writing in the patient's chart, are you supposed
16 to be doing it at or about the time that the
17 event or observation occurs?

18 A. In a perfect world, yes, but more
19 often than not it doesn't get documented until
20 the end of the shift.

21 Q. So it's the usual course that things
22 happen early in the day and you don't document it
23 until later in the day?

24 A. Right. Unless you happen to have the
25 time at that moment to document it.

1 Q. And is that standard operating policy
2 at Judson Retirement Community to do that?

3 MR. GOLDSTEIN: Objection to the form
4 of the question.

5 A. I don't know what other people do in
6 regard to their documentation. From time to
7 time. I'm not there when they are doing their
8 work.

9 I know in my case I do it when I do
10 it, and most often or not I have time to do it at
11 the end of the shift.

12 Q. Do you know what Judson Retirement
13 Community's policies and procedures say about
14 documentation in patients records as far as
15 nurses notes?

16 A. They just want documentation that
17 explains any abnormalities or any unusual events,
18 and they don't say that it needs to be done
19 within 15 minutes of the occurrence or anything.
20 They don't specify a time frame. As long as it's
21 done before the end of your shift, I mean, before
22 you leave at the end of the evening.

23 a. Are you required if you are making an
24 entry that's several hours past the time that an
25 event occurred to indicate in your entry the time

1 that the entry is actually being made?

2 A. I don't know. I didn't look into it
3 that clearly.

4 Q. So you don't know whether you are
5 supposed to do that or not?

6 A. I don't know Judson's rules, per se,
7 but the way that I understand it is that you
8 outline what happens given the chronicle time
9 frame and basically you backlog for that specific
10 date. Well, not backlog, but if you are writing
11 it at the end of the shift, if it's something
12 that happened at 3:00 o'clock, you can specify
13 that that's the time that it happened.

14 Q. But if it happened at 8:00 o'clock in
15 the morning, are you required in your note to
16 indicate that your note is being written at 3:00
17 p.m. and that you're referencing something that
18 happened at 8:00 o'clock?

19 A. I don't know for sure.

20 Q. When you would write notes on a
21 patient at the end of the shift, would you
22 indicate that they were being written at the end
23 of the shift, by putting the time in, in the date
24 and time column that that's the time that the
25 note is actually being written?

1 A. Sometimes but not always.

2 Q. I am handing you what's been marked as
3 Plaintiff's Exhibit Number 1. It's the first
4 page of the nurses notes. I am going to ask if
5 you would please identify that document for me,
6 if you can.

7 A. That is the admitting note for the
8 patient, and the subsequent documentation of the
9 fact that certain things got done with the orders
10 being verified and the data base being completed.

11 Q. Now, you have that dated for November
12 -- is this your note, the initial writing on
13 this page marked as Plaintiff's Exhibit 1, is
14 that your handwriting?

15 A. Yes, it is.

16 Q. Is that your signature at the end of
17 the initial note on that page?

18 A. Yes, it is.

19 Q. And you have a note written here at
20 3:15 p.m. on November 23, '97; correct?

21 A. Yes.

22 Q. And that's a description of some
23 information from Mr. Hayes' admission; correct?

24 A. Yes.

25 Q. Did you write that note at 3:15 p.m.?

1 A. No.

2 Q. When did you write that note?

3 A. Probably 2:00 o'clock or 3:00 o'clock
4 in the morning. I don't remember. I don't
5 recall.

6 Q. Now, you mentioned in your note that
7 he had some complaints about the environment; is
8 that correct?

9 A. Yes, I did.

10 Q. What kind of things was he complaining
11 about?

12 A. As I mentioned earlier, he was
13 complaining that the room was too small and that
14 his wife wouldn't be pleased with the aesthetics
15 of the room.

16 Q. Did he complain about anything else,
17 that you recall?

18 A. Not specifically, no.

19 Q. What is Homans' sign?

20 A. Homans' sign is a test where you have
21 the patient point his toe -- you have the leg
22 extended outward and you point the toe towards
23 the head of the body so it stretches that back
24 calf muscle.

25 And if there is a blood clot there,

1 you would feel a little bit of tenderness in that
2 site, and then you would look at the site to see
3 if he does feel -- if that person does feel
4 discomfort, you check the site to see if there is
5 any redness or inflammation or swelling.

6 Q. And if the Homans' sign was positive,
7 what would that be an indication of?

8 A. Possible presence of a blood clot.

9 Q. If it's negative, what's that an
10 indication of?

11 A. Generally you would not suspect that
12 there is a blood clot.

13 Q. Do you know whether or not you can
14 have deep vein thrombosis and have a negative
15 Homans?

16 A. It's possible if there **is** a small
17 enough blood clot and where there is no pressure,
18 I guess.

19 Q. Now, why did you check Mr. Hayes for
20 Homans' sign? First, you checked Mr. Hayes for
21 Homans' sign; correct?

22 A. I don't recall specifically, but I
23 would think **so**, yes.

24 Q. Well, do you want to take a look at
25 your first note there. Down near the end of your

1 3:15 entry, doesn't that say complaints of slight
2 pain in right calf during Homans?

3 A. Yes, I did do a Homans' sign.

4 Q. And in this case, why did you check
5 Mr. Hayes for Homans?

6 A. Well, first of all, because of the
7 fact that he did have knee surgery and he was in
8 bed. Normally after any kind of surgery, if you
9 are bedridden, that is a possibility.

10 And the fact that the resident
11 assistant had mentioned that he was complaining
12 of some pain in his leg, I wanted to follow up on
13 that.

14 Q. So you were told by a resident
15 assistant that he had pain in his leg?

16 A. Yes.

17 Q. And because of the type of surgery he
18 had, because he was in bed, there was a
19 heightened concern for the possibility of deep
20 vein thrombosis in this patient; is that correct?

21 A. Yes, that's correct.

22 Q. Now, when you checked him, you found
23 that he did have some pain in his right calf;
24 correct?

25 A. Yes, that is correct.

1 Q. Did that raise any concerns in your
2 mind for this patient?

3 A. Yes, it did.

4 Q. What concern did it raise?

5 A. Well, I was concerned that he did, in
6 fact, possibly have a DVT, and I was concerned
7 that the hospital had released him knowing this
8 possibility existed, because they wrote the fact
9 that they needed to do the DVT test on Monday,
10 and I was not clear on why they would go ahead
11 and transfer him if they are not sure about the
12 outcome.

13 Q. And do you know whether or not it was
14 a standard procedure on bilateral total knees to
15 do DVT studies on patients?

16 A. Yeah, that's -- well, I would think
17 so.

18 (Thereupon, a discussion was had off
19 the record.)

20 A. Well, I guess I want to make sure that
21 I am clear. You want to know if it's standard
22 procedure to do a DVT study after they have done
23 knee surgery?

24 Q. Let me withdraw the question and I
25 will ask an another question. Let me rephrase

1 that.

2 (Thereupon, a recess was taken.)

3 Q. We are going to go back to my last
4 question. I'm going to ask you a somewhat
5 different question.

6 In regard to patients that you have
7 cared for at Judson Retirement Community that
8 have had total knee replacement surgery, have you
9 had other patients that have gone for DVT
10 studies?

11 A. Yes. Not every single one of them,
12 but yes.

13 Q. In some instances, they have gone for
14 DVT studies?

15 A. Yes.

16 Q. Has it been as a routine measure,
17 prophylactic measure rather than because the
18 patient has had symptoms?

19 A. I'm not sure. It's usually a
20 physician's decision.

21 Q. Have there been DVT studies that were
22 ordered at the time the patient was admitted to
23 Judson Retirement Community?

24 A. I don't recall specific cases, but I
25 would think so.

1 Q. Now, you indicated that you had
2 examined Mr. Hayes for Homans' sign and that you
3 found that he had a positive Homans' sign in his
4 right leg; is that correct?

5 A. Yes, that's what I had documented.

6 Q. And that raised some concern in your
7 mind that possibly he may have a deep vein
8 thrombosis; correct?

9 A. Yes.

10 Q. Did you take any action after you
11 found that he had a positive Homans' sign?

12 A. I just reported it to the doctor when
13 I gave him the review of the orders and that.

14 Q. Okay. What doctor did you report it
15 to?

16 A. Dr. Ahmed.

17 Q. Now, you have recorded Dr. Ahmed
18 A-H-M-E-D in your nurses notes; correct?

19 A. Yes.

20 Q. Do you know whether that's a correct
21 spelling for Dr. Ahmed's name?

22 A. As far as I can recall, I believe so.

23 Q. Do you know what Dr. Ahmed's first
24 name was?

25 A. No.

1 Q. Has anyone asked you anything in
2 regard to the identity of the person that you are
3 referring to in those nurses notes?

4 A. I think that Dr. Goldstein might have
5 asked me during that --

6 MR. GOLDSTEIN: I'm moving up.

7 Q. Aside from Mr. Goldstein.

8 A. Mr. Goldstein, I'm sorry. I am
9 nervous.

10 (Thereupon, a discussion was had off
11 the record.)

12 A. Yes, but I couldn't recall the name.

13 Q. Well, do you recall the conversation
14 you had with Dr. Ahmed?

15 A. Yes, I do.

16 Q. What did you tell Dr. Ahmed?

17 A. Well, after I had reviewed the
18 transfer and admitting orders, I happened to
19 mention to him that he had complained of the pain
20 in his leg and he had a positive Homans' sign,
21 but there was no redness or warmth to the site,
22 and I had also reiterated that they had ordered a
23 DVT study to be done on Monday -- not done, but
24 ordered for Monday, and I'm assuming that that
25 meant to be ordered to be done on Monday.

1 But anyway, he just said go ahead and
2 have them do it on Monday and bring it to the
3 doctor's attention, I think he might have said,
4 I'm not sure.

5 Q. I'm going to hand you what's been
6 marked as Plaintiff's Exhibit Number 2. It's the
7 admission order sheet. I am going to ask you if
8 you can identify that document for me.

9 A. These are the admission physician's
10 orders that I completed from the transfer.

11 Q. Now, about three-quarters of the way
12 down the page, under miscellaneous orders, could
13 you read for me what it says there?

14 A. It says DVT study. 11-25 to rule out
15 DVT. Call 449-4500 vascular lab.

16 Q. And where did you get that order from?

17 A. From the transfer order sheet.

18 Q. Now, Mr. Hayes was admitted on the
19 23rd, which was a Sunday.

20 A. Saturday.

21 Q. I believe the 23rd was a Sunday.

22 MR. GOLDSTEIN: You guys have a
23 difference of opinion.

24 MR. JONES: This one is not a matter
25 of opinion.

1 (Thereupon, a recess was taken.)

2 Q. Now, we were discussing the date. And
3 I have a calendar here from 1997, so that on the
4 record, from 1997, I would like you just to take
5 a look at what day of the week November 23rd,
6 1997 was.

7 A. First of all, this is 1998.

8 MR. GOLDSTEIN: Right over here.

9 A. November 23rd is a Sunday, you are
10 right. I'm sorry.

11 Q. And we were looking at the order that
12 you transcribed on the admission sheet?

13 A. Yes.

14 Q. And read again what that order says,
15 please, under the miscellaneous orders.

16 A. DVT study, 11-25. To rule out DVT.
17 Call 449-4500 vascular lab.

18 Q. And you would agree that 11-25 would
19 not be Monday; that would be Tuesday?

20 A. That would be Tuesday.

21 Q. Correct?

22 A. Yes.

23 Q. Now, you indicated that when you
24 talked to Dr. Ahmed, you told him your concerns
25 with regard to the positive Homans; correct?

1 A. Yes.

2 Q. What was your understanding in regard
3 to the DVT study?

4 A. He said just go ahead and have him
5 schedule it for the day that they have it on
6 there and we will see from there.

7 Q. Okay. And that would have been
8 Tuesday, based on what we just looked at on the
9 calendar; correct?

10 A. Yes.

11 Q. And then what did you do in regard to
12 the DVT study after you talked with Dr. Ahmed?

13 A. When I was completing the paperwork, I
14 filled out the unit coordinator request slip,
15 which is the paper that lets the unit coordinator
16 know that certain follow-up doctors' appointments
17 and any out **of** the facility appointments need to
18 be scheduled and transportation arranged **so** that
19 they can go to that particular study.

20 Q. And did you tell the coordinator that
21 the test was supposed to be done on Tuesday?

22 A. It was written on the piece **of** paper,
23 yes.

24 Q. **Is** that piece of paper kept? Is it on
25 a requisition form or something?

1 A. It's on a requisition form, but I
2 don't know how long they keep the papers.

3 Q. And so it's your testimony that you
4 told the coordinator to schedule that test for
5 Tuesday, November 25th?

6 A. Yes, I put that on the paper and put
7 it in her secretary's box.

8 Q. Now, is all of the handwriting on the
9 admission doctor orders sheet marked as
10 Plaintiff's Exhibit Number 2, down to the point
11 of the physician's signature, is it all in your
12 handwriting?

13 A. Yes.

14 Q. And is this line at the bottom in your
15 handwriting?

16 A. No, it's not. Wait a minute. Let me
17 take a look at it.

18 MR. GOLDSTEIN: It's the same as this
19 one. **So** look at that.

20 A. No, that's not in my handwriting.

21 Q. Do you know whose that is?

22 A. Yes, Joan Fronck.

23 Q. And who is she?

24 A. The nurse that took care of the E
25 cluster and C cluster on the day shift.

1 MR. FALLON: Is that the very last
2 line?

3 THE WITNESS: Where it says resident's
4 name.

5 MS. ROLLER: It's Joan?

6 THE WITNESS: Fronck F-R-O-N-C-K or
7 F-R-O-N-K.

8 Q. Now, because this was a Sunday
9 admission, did you verify these orders with Dr.
10 Ahmed?

11 A. Yes, I did.

12 Q. And you weren't required then to
13 contact the attending physician; is that correct?

14 A. That is correct.

15 Q. Now, on Plaintiff's Exhibit Number 1,
16 which was the admission note that you wrote, on
17 the very first line it has Dr. O'Toole's name.
18 Is this in your handwriting?

19 A. No.

20 Q. Who would be making this out?

21 A. Wait a minute. E601 wants me to say
22 it's mine, but I don't make my apostrophes
23 backwards like that, **so** I am not sure whose
24 handwriting that is, unless it's Joan's, I'm not
25 sure.

1 Q. It's not your handwriting?

2 A. I can't say for sure that it's not,
3 because the **E601** looks like my handwriting, but
4 the O'Toole with the backwards apostrophe like
5 that doesn't look like it would be my
6 handwriting. And I don't put a period at the end
7 of Williams, so it's not my handwriting.

8 Q. Okay. When did you verify the orders
9 with Dr. Ahmed?

10 A. At **3:45** in the afternoon on Sunday.

11 Q. And did you do that by phone with him?

12 A. Yes, I did.

13 Q. And is there a reason why on the order
14 sheet you did not write down that you verified
15 the orders with Dr. Ahmed?

16 A. At the time it wasn't required, but I
17 would write the time and the day so that I could
18 confirm the date and time I did it. I guess at
19 the time I didn't think it wouldn't be considered
20 legal if it wasn't, because we have only recently
21 had to write down the name of the doctor we spoke
22 with.

23 Q. But when you as a nurse document a
24 physician's order, aren't you required to
25 indicate the physician from whom those orders

1 came?

2 A. Yes.

3 Q. And did you do that on the admission
4 orders --

5 A. **No.**

6 Q. -- indicate where those orders came
7 from?

8 A. **No.**

9 Q. Is there a reason why you didn't do
10 that?

11 A. Because there wasn't a line to say
12 that that's what we needed to fill out. It was
13 never really brought to the forefront until a
14 later date.

15 Q. Now, do you know whether you were
16 talking with Dr. Tosaddaq Ahmed **or** a doctor --

17 A. I have no idea.

18 Q. Let me finish my question -- or Dr.
19 Sakhar Ahmad?

20 A. I have no idea. All I know is the
21 name was Dr. Ahmed, that's all I know.

22 Q. What did you say the name of the
23 secretary was that you transmitted the **DVT** order
24 to, to have it scheduled?

25 A. For some reason I want to say that her

1 name was Patty Redwood, but I can't say for sure
2 that there was a transition, but I don't remember
3 at what period that that took place and I don't
4 know who the person was prior to that.

5 Q. Who was the resident assistant that
6 informed you that Mr. Hayes was having pain in
7 his leg?

8 A. I don't recall who the resident
9 assistant was that was working that night.

10 Q. Now, on the admission sheet, it has
11 Dr. O'Toole's name and I note Dr. O'Toole's name
12 is indicated at the top of the nurses notes.

13 A. Yes.

14 Q. Would the information about the DVT
15 study be something that you would put on that
16 communication board that we talked about
17 earlier?

18 Is that something you would write a
19 note about on a communication board for the
20 attending physician in this case?

21 MR. FALLON: Objection.

22 Q. You may answer.

23 A. I don't recall if I specifically did,
24 but I -- I don't recall if I specifically did
25 that.

1 Q. Would that be an instance where you
2 normally would write a note to the attending
3 physician? He has a positive Homans' sign,
4 complaining of pain in his leg, something to that
5 effect?

6 MR. FALLON: Objection.

7 A. I may have written that down, but I
8 wouldn't have written about the DVT study because
9 she would see that when she reviewed the chart.
10 I mean, I may have written it down, but I don't
11 recall specifically.

12 Q. Once you informed Dr. Ahmed and you
13 told the unit secretary to schedule the test, did
14 you take any other action in regard to Mr. Hayes'
15 DVT study?

16 A. No.

17 Q. Did you take any further action in
18 regard to the positive Homans' sign that you
19 noted?

20 A. No, because at the time it was
21 basically an unwritten policy that patients
22 didn't get out of bed until physical therapy or
23 occupational therapy saw them for an evaluation,
24 so I didn't have to worry about whether or not he
25 was going to get out of bed that night, so I

1 didn't feel that it was necessary to do anything
2 further at that time.

3 Q. Why would that relieve your mind of
4 concern that he wasn't getting out **of** bed if he
5 had a positive Homans' sign?

6 A. Because if he had a positive Homans'
7 sign and he would've gotten out of bed, it could
8 have possibly dislodged it. And his leg was
9 elevated and he was in the bed, **so I** didn't think
10 that it would be an issue at the time, because it
11 wasn't reddened and it wasn't inflamed.

12 Q. And in your mind, you have to have
13 those symptoms before a patient can have a
14 significant blood clot in their leg that can
15 cause a patient to go on to develop pulmonary
16 emboli?

17 MR. GOLDSTEIN: Objection. Go ahead.

18 A. I guess that I would consider that the
19 redness and the inflammation would be more
20 indicative **of** Homans' sign -- I mean, of a **DVT**.

21 Q. Now, after you write admission orders
22 on a patient, is it the usual course that the
23 attending then comes in and signs those orders
24 the next time that they are into Judson?

25 A. Yes.

1 Q. And they reviewed those orders?

2 A. Yes.

3 Q. Now, in this instance, I believe Dr.
4 Atkinson's name appears at the bottom of the
5 orders that you wrote; correct?

6 A. Yes.

7 Q. And so normally she would be the one
8 to review those orders; correct?

9 A. Not necessarily. Apparently we had
10 initially thought that Dr. O'Toole was going to
11 take it, that's why her name was on it, and I
12 would guess that Dr. O'Toole reassigned her case
13 to Dr. Atkinson. I don't know. That's the best
14 I can do.

15 Q. The normal procedure would be the
16 attending -- whoever that was -- come in, review
17 those orders and then sign them; correct?

18 A. Yes, and also see the patient to do
19 the history and physical to document.

20 Q. And in Dr. Atkinson's case, when she
21 reviewed this, she would have a reasonable
22 expectation that the DVT study ordered there
23 would have been taken care of as far as
24 scheduling; correct?

25 A. Yes.

1 Q. I am going to hand you what's been
2 marked as Plaintiff's Exhibit Number 3. It's the
3 addendum note.

4 A. Yes.

5 Q. I am going to ask if you would
6 identify that document for us, please.

7 A. Well, just as you had said. It's an
8 addendum note written to further expand on my
9 admitting note to clarify some vague references I
10 had made in regard to the admission.

11 Q. And Plaintiff's Exhibit Number 3 is in
12 your handwriting; is that correct?

13 A. Yes, it **is**.

14 Q. And the date and time on that note is
15 November 23rd, '97 at 3:45 p.m.; correct?

16 A. Yes, it is.

17 Q. Okay. When did you write this note?

18 A. I don't recall specifically what day
19 it was, but it was after November 23rd.

20 Q. Was it after Mr. Hayes died?

21 A. Yes, it was.

22 Q. Why did you not indicate the date and
23 time that you wrote this note?

24 A. Because of the fact that my director
25 of nursing just came out of the blue and handed

1 this to me and said I want you to make an
2 addendum note to clarify this, because there is
3 indication that the family might be suing. And I
4 guess it just kind of shook me up and I didn't
5 think to date it for the proper date. And when
6 she looked at it, she didn't indicate that that
7 wasn't inappropriate and I just wasn't thinking
8 in regard to --

9 Q. Who was the director of nursing who
10 told you to write this note?

11 A. Donna Joseph.

12 Q. How much after Mr. Hayes' death were
13 you asked to write this note, approximately?

14 A. I couldn't give a specific time
15 frame. I'm not certain. I really don't recall.

16 Q. Is it more than weeks after his death?

17 A. Yeah. I don't know exactly what time
18 frame, but I know that it was a significant time
19 after his death.

20 Q. Did she tell you what you were
21 supposed to put in the note?

22 A. Not verbatim, but she had said that
23 she wanted me to expound on what the complaints
24 were and to expound on what I specifically
25 discussed with Dr. Ahmed that evening in regard

1 to the orders and what he had said about the DVT
2 and that.

3 Q. Did she tell you what her specific
4 concern was?

5 A. Yes.

6 Q. What was that?

7 A. She said that there was -- I don't
8 specifically know how she phrased it, but she had
9 said that there was an indication that the family
10 may be suing for wrongful death and that she
11 wanted to make sure that what happened that
12 evening was more clearly outlined.

13 Q. And how did you feel when she
14 approached you and asked you to do that?

15 MR. GOLDSTEIN: Objection.

16 A. I felt very uncomfortable and just did
17 as I was told, because she was my **boss**.

18 Q. Why did you feel uncomfortable?

19 A. Because of the fact that there might
20 be a possible lawsuit, and I just felt
21 uncomfortable, that's all.

22 Q. Did she tell you that Mr. Hayes had
23 died from pulmonary emboli?

24 A. **No**, but I knew that already.

25 Q. How did you find that out?

1 A. People talk after an incident. This
2 person happened to be rushed out. I was off that
3 day and they told me the next day what happened.

4 I mean, when you are getting report
5 and whatnot, they give you a summary about what
6 had happened; that he had passed away and that,
7 you know, he was rushed out 911 and that he
8 died.

9 I guess I didn't know specifically
10 that it was a pulmonary embolus, but I knew that
11 he had died. I guess I didn't know specifically
12 that it was pulmonary embolus.

13 Q. Did your director of nursing look at
14 the note and approve it before it went in Mr.
15 Hayes' chart?

16 A. She did.

17 Q. Did she ask you to make any
18 corrections or add anything or subtract anything
19 after you wrote it?

20 A. No.

21 Q. Was that the only version **of** the note
22 that you wrote?

23 A. Yes.

24 Q. Did she ask you to write it out on a
25 piece of paper and let you look at it before it

1 went into the nurses notes, documentation record?

2 A. No.

3 Q. After, were you asked to do anything
4 else besides write that note?

5 A. No.

6 Q. Did you ever make any attempts to talk
7 to Dr. O'Toole or Dr. Atkinson about your
8 findings after you examined Mr. Hayes and found
9 that he had a positive Homans' sign?

10 A. No.

11 Q. Now, you cared for Mr. Hayes again on
12 the 26th. We looked at the notes; correct?

13 A. Yes.

14 Q. Did you examine him at that point in
15 time to see if he continued to have any problems
16 in his legs?

17 A. I don't recall, but I would think **so**,
18 because I didn't specifically say in the nurses
19 notes, but I would think so.

20 Q. Well, wouldn't that be something if
21 you were concerned about him having a deep vein
22 thrombosis, if you did it, you would put a note
23 in there? Isn't that a significant piece of
24 information on this particular patient?

25 A. Yes, it is a significant piece of

1 information.

2 Q. And you would agree, there should be
3 something documented in there about whether or
4 not he has a positive Homans' sign; correct?

5 A. Yes.

6 Q. Now, the fact that it's not documented
7 in your November 26th note, is that an indication
8 that you didn't check for it?

9 MR. GOLDSTEIN: Objection.

10 A. Not necessarily.

11 Q. **Do** you know whether you checked for it
12 on the 26th?

13 A. I don't recall. That was two years
14 ago.

15 Q. When you cared for him on the 26th,
16 did you look into whether he had his **DVT** study on
17 the 25th as it was ordered?

18 A. No, I didn't look into it.

19 Q. Wouldn't that be something that you
20 would want to know if it was taken care of,
21 considering you were the one that had seen that
22 he had a positive Homans on Sunday?

23 A. Yeah, but I am not the only one that
24 takes care of him.

25 Q. We are only talking about the care

1 that you rendered to Mr. Hayes. And since you
2 discovered that he had a positive Homans and was
3 concerned enough about it to tell Dr. Ahmed, my
4 question to you is, did you follow up when you
5 took care of this patient on the 26th --

6 A. No, I did not follow up.

7 Q. Let me finish -- when you took care of
8 him on the 26th to see whether or not he actually
9 had the test that you made the arrangements with
10 the coordinator to schedule?

11 A. No, I did not.

12 Q. Is there a reason why you did not?

13 A. I guess the thought crossed my mind.
14 I just didn't think to ask the day shift nurse to
15 see if it was ordered. I don't know. Because
16 she had become a crutch and I knew she was very
17 organized and I figured that if it was going to
18 be followed up, she would take care of it.

19 Q. When you took care of Mr. Hayes on
20 Sunday after his admission, you discovered his
21 positive DVT sign and you talked to Dr. Ahmed,
22 did you give report to the 3:00 to 11:00 nurse?

23 A. I did.

24 Q. Did you inform the 3:00 to 11:00 nurse
25 that you had discovered that he had a positive

1 Homans' sign in his right calf?

2 A. Yes, I did.

3 Q. Okay. Did she say anything about what
4 she was going to do to follow up on it?

5 MR. FALLON: Wait a minute. She was
6 the 3:00 to 11:00.

7 MS. TOSTI: I'm sorry, on the 11:00 to
8 7:00. Let me correct that.

9 Q. When you cared for him on the 3:00 to
10 11:00 shift on Sunday and you gave report to the
11 night nurse, did she say she was going to do
12 anything to follow up on your findings of a
13 positive Homans' sign?

14 A. Not specifically. I don't recall, but
15 -- there really isn't anything that the night
16 shift can really do on a Sunday night except to
17 monitor the patient.

18 Q. There was not a physician at Judson on
19 Sunday that examined Mr. Hayes after you reported
20 finding a positive Homans' sign; correct?

21 A. Correct.

22 Q. Do you know if any physician checked
23 for that Homans' sign between Sunday and when you
24 cared for him on the 26th?

25 A. May I check the physician's notes?

1 MR. FALLON: Objection. Go ahead.

2 Q. I am not asking you to go through the
3 whole record. I am just asking if you are aware
4 in your previous review of the record of anyone
5 else who checked this patient for Homans' sign?

6 A. No.

7 Q. Okay. Do you know of any reason why
8 Mr. Hayes did not receive a DVT study on November
9 25th, '97 as it was ordered?

10 A. I have no idea why it wasn't done.

11 Q. Now, you indicated that you were aware
12 that Mr. Hayes had died. Do you recall when you
13 learned that he had died?

14 A. When I came into work the next day.
15 When I was getting a report on second shift.

16 Q. And at some point, did you learn that
17 he had died of a pulmonary emboli?

18 MR. FALLON: Objection.

19 A. I didn't know specifically that that's
20 what he died of. I just knew that he had lost
21 consciousness.

22 Q. Do you know now that he died of a
23 pulmonary emboli?

24 A. I do now.

25 MR. FALLON: Objection.

1 Q. Has that been through counsel or
2 through another source?

3 MR. GOLDSTEIN: Objection. She is not
4 going to tell you what counsel told her.

5 Q. Outside of counsel and what
6 conversations you had with him, did you learn
7 that this patient had died of a pulmonary
8 emboli?

9 MR. FALLON: Objection.

10 A. No, but I -- no.

11 Q. Did Dr. Atkinson or Dr. O'Toole ever
12 approach you to discuss what happened in regard
13 to Mr. Hayes' DVT study?

14 A. No.

15 Q. Did you ever talk to the director of
16 nursing as to why the DVT study was never carried
17 out?

18 A. No.

19 Q. Did you ever ask the unit secretary
20 why it never was done?

21 A. No, I didn't.

22 Q. After the director of nursing asked
23 you to write that addendum note, it didn't occur
24 to you to ask the unit secretary what happened
25 here; why didn't this study get carried out?

1 MR. GOLDSTEIN: Objection.

2 A. I guess I didn't know for sure that
3 the study wasn't carried out. I wasn't clear
4 about that.

5 Q. The director of nursing didn't tell
6 you?

7 A. No.

8 Q. Didn't you think it was odd then that
9 you had to write this addendum note?

10 MR. GOLDSTEIN: Objection.

11 Q. I mean, what was your understanding,
12 aside from the fact that the Hayes family might
13 be contemplating a lawsuit, what was your
14 understanding as to why you were supposed to
15 produce this addendum note long after the patient
16 died and put it in the patient's medical records?

17 A. She had said that they were reviewing
18 the chart because they thought that there was
19 some problem with a possible lawsuit from the
20 family, and when they read my note from the
21 admission, they felt that it could have been more
22 descriptive and she wanted me to be more
23 descriptive in regard to what his complaints were
24 about the room and what I specifically said to
25 Dr. Ahmed, and that's all.

1 Q. Do you feel that Dr. Ahmed had any
2 other responsibilities in this case that he
3 didn't carry out?

4 MR. GOLDSTEIN: Objection. Go ahead
5 if you can answer that.

6 A. Well, I would've thought that he would
7 have put the patient on heparin and I think I
8 might have asked him or mentioned that I thought
9 it was a curiosity that he wasn't on heparin and
10 hadn't been on heparin in the hospital since he
11 had had a bilateral knee done.

12 Q. Do you know if there was any
13 contraindications as to why he couldn't be on
14 heparin?

15 A. None that were listed that I knew of.

16 Q. The fact that he wasn't on heparin,
17 doing a **DVT** study might be a good way of checking
18 to see if there was a problem developing;
19 correct?

20 A. Yes.

21 Q. Now, other than that, other than not
22 putting the patient on heparin, anything else
23 that you think Dr. Ahmed should have done in this
24 case that he didn't do?

25 MR. GOLDSTEIN: Objection.

1 MR. FALLON: Objection.

2 Q. You may answer if you can.

3 A. No, but I thought maybe he might have
4 sent him back to the hospital so they could do
5 that test that night, but he just said, wait,
6 just go ahead and wait. But that was just my
7 professional opinion.

8 Q. Go ahead and wait and do it Tuesday,
9 when it was ordered?

10 A. Yeah. I mean, I didn't think that it
11 was -- but I am a nurse. I can't judge what the
12 doctors say or do. I mean, there is a method to
13 their madness.

14 Q. You didn't think he was supposed to
15 make the arrangements for the test?

16 THE WITNESS: Don't laugh at me.

17 MR. JONES: I'm sorry.

18 Q. You didn't think Dr. Ahmed had any
19 responsibility as far as making that arrangement
20 for the test at the hospital?

21 A. Not at Hillcrest, but I thought he
22 might have said why don't you send him back to
23 the hospital so they can do the test if it's
24 positive, but that's just my unsolicited
25 unprofessional, professional opinion.

1 Q. This test was supposed to be done at
2 Hillcrest Hospital, the DVT study?

3 A. Yes.

4 Q. Following Mr. Hayes' death, was there
5 any discussion on the floor among the nurses or
6 with any of the geriatric fellows as to what
7 happened to Mr. Hayes?

8 MR. GOLDSTEIN: Objection. Go ahead.

9 A. No, there wasn't.

10 Q. Did anybody question anything about
11 the DVT study not being done after he died?

12 A. Nobody questioned me about it, no.

13 Q. And you weren't aware of any other
14 questions that were raised about the DVT study
15 not being done?

16 A. No.

17 Q. Dr. Atkinson and Dr. O'Toole never
18 made any inquiry to you as to what happened with
19 the study?

20 A. No.

21 Q. Did you have any conversations with
22 the Hayes family after he passed away?

23 A. No.

24 Q. And the last time you cared for him
25 was on the **26th**; correct?

1 A. Yes.

2 Q. When you wrote that addendum note,
3 were you concerned that you might be blamed for
4 not arranging for that DVT study?

5 A. No, I wasn't concerned at all.

6 Q. Are you critical of anyone for not
7 making arrangements for Mr. Hayes' DVT study?

8 MR. GOLDSTEIN: Objection.

9 A. No. I am just confused as to why it
10 wasn't done or if it was ever even scheduled. I
11 mean, it's still a mystery.

12 Q. You agree that based on the orders, it
13 should have been scheduled; correct?

14 A. Yes.

15 Q. And it should have been scheduled for
16 the 25th, as it was ordered; correct?

17 A. Yes.

18 MS. TOSTI: I don't have any further
19 questions.

20 MR. JONES: I don't have any.

21 MS. ROLLER: No questions.

22 MR. FALLON: No questions. Thanks for
23 your time.

24 MR. GOLDSTEIN: Do you want to read
25 this? It will be typed up and you can review it

1 and read it to make sure that the questions and
2 answers are accurate.

3 (Thereupon, a discussion was had off
4 the record.)

5 MR. GOLDSTEIN: We will read it.

6 - - - -

7 (Deposition concluded at 3:35 p.m.;
8 signature not waived.)
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AFFIDAVIT

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

PAGE LINE	REQUESTED CHANGE
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LAUREL THILL, R.N.

Subscribed and sworn to before me this _____
day of _____, 2000.

Notary Public

My commission expires _____

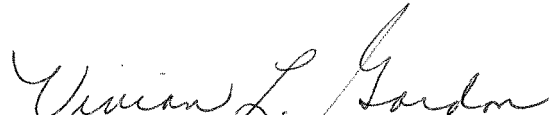
1 CERTIFICATE

2 State of Ohio,)
3) SS:
4 County of Cuyahoga.)

5 I, Vivian L. Gordon, a Notary Public within
6 and for the State of Ohio, duly commissioned and
7 qualified, do hereby certify that the within
8 named LAUREL THILL, R.N., was by me first duly
9 sworn to testify to the truth, the whole truth
10 and nothing but the truth in the cause aforesaid;
11 that the testimony as above set forth was by me
12 reduced to stenotypy, afterwards transcribed, and
13 that the foregoing is a true and correct
14 transcription of the testimony.

15 I do further certify that this deposition
16 was taken at the time and place specified and was
17 completed without adjournment; that I am not a
18 relative or attorney for either party or
19 otherwise interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand and affixed my seal of office at Cleveland,
22 Ohio, on this 1st day of May, 2000.

23 

24 Vivian L. Gordon, Notary Public
25 Within and for the State of Ohio

My commission expires June 8, 2004.

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