

1                   IN THE COURT OF COMMON PLEAS  
2                   OF LAKE COUNTY, OHIO

3                   - - - - -

4       CAROL A. ZOELBEL,  
5       Executrix of the  
6       Estate of LORNA MOELLER,



6                   Plaintiff,

7                   vs                               Case No. 01CV001107

8       LAKE EAST HOSPITAL, et al.,  
9       Defendants.

10                  - - - - -

11                 DEPOSITION OF JULIE WARNER, LPN

12                 TUESDAY, AUGUST 13, 2002

13                  - - - - -

14                 Deposition of JULIE WARNER, LPN, a Witness  
15       herein, called by counsel on behalf of the  
16       Plaintiff for examination under the statute,  
17       taken before me, Vivian L. Gordon, a Registered  
18       Diplomate Reporter and Notary Public in and for  
19       the State of Ohio, pursuant to agreement of  
20       counsel, at Offices of Eastwood Residential,  
21       6381 N. Ridge Road, Madison, Ohio, commencing at  
22       3:10 o'clock p.m. on the day and date above set  
23       forth.

24                  - - - - -

25

1 APPEARANCES:

2

3 On behalf of the Plaintiff

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On behalf of the Defendant Eastwood Residential  
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12 On behalf of the Defendants Oh, Kessler, Heng  
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16 On behalf of the Defendants Lake East Hospital  
and Lake Hospital Systems

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

6 EXAMINATION OF JULIE WARNER, LPN  
7 BY MS. TOSTI:

8 Q. Would you please state your name for  
9 us.

10 A. Julie Warner.

11 Q. And your home address?

12 A. 181 River Street, Madison.

13 Q. Zip code?

14 A. 44057.

15 Q. Is that a single-family house?

16 A. Yes.

17 Q. Have you ever had your deposition  
18 taken before?

19 A. No.

20 Q. I'm sorry?

21 A. No.

22 Q. This is a question and answer  
23 session. It's under oath. It's important you  
24 understand the questions, if you don't  
25 understand them, let me know and I'll repeat or

1 rephrase the question.

2           You have to give all of your answers  
3 verbally because the court reporter can't take a  
4 head nod or hand motion.

5           If you were provided with any records  
6 that you wish to refer to during the course of  
7 this deposition, please feel free to do so.  
8 It's not a test of your memory whatsoever.

9           And at some point, counsel may choose  
10 to enter an objection for the record. You are  
11 still required to answer my questions unless  
12 counsel instructs you not to do so.

13           Do you understand those instructions?

14           A.     Yes, I do.

15           Q.     Tell me what you have reviewed in  
16 preparation for this deposition.

17           A.     Some parts of the medical chart.

18           Q.     And what parts did you review?

19           A.     I don't remember exactly, but they  
20 were in one of the files.

21           Q.     Did you review the Eastwood  
22 Residential records?

23           A.     Yes.

24           Q.     Did you review any of the records of  
25 Julie Heng's office?

1 A. No.

2 Q. Any of the Lake Urgicare records?

3 A. No.

4 Q. Any of the Lake East Hospital records  
5 for admission of February 1st through February  
6 2nd?

7 A. Yes.

8 Q. Did you have a complete set of  
9 records that you looked at from the hospital?

10 A. No.

11 Q. What portions did you look at?

12 A. It was a transfer form that came back  
13 with her from the hospital.

14 Q. Did you look at any of the emergency  
15 room records from Lake East Hospital?

16 A. Yes. There were a couple papers with  
17 that, yes, but it was all things that came back.

18 Q. Did you review any policies or  
19 procedures of Eastwood Residential in  
20 preparation for this deposition?

21 A. No.

22 Q. What about the report from the Ohio  
23 Department of Mental Retardation and  
24 Developmental Disabilities, did you review that?

25 A. Yes.

1 Q. Who is your current employer?

2 A. Eastwood Residential.

3 Q. And what is your title and position?

4 A. I'm an LPN and I'm the director of  
5 nurses.

6 Q. When did you first become employed by  
7 Eastwood?

8 A. '94.

9 Q. And have you been employed  
10 continuously from 1994 to the present by  
11 Eastwood?

12 A. Yes.

13 Q. Have you been a full-time employee?

14 A. No.

15 Q. What are you currently? Full time,  
16 part time?

17 A. Still part time.

18 Q. Have you been part time since the  
19 time that you were first hired?

20 A. Yes.

21 Q. How many hours a week do you work?

22 A. Anywhere from 25 to 35.

23 Q. Was that also true in February of  
24 2000?

25 A. Yes.

1           Q.     Was your title and position in  
2     February of 2000 LPN and director of nursing  
3     also?

4           A.     Yes.

5           Q.     And prior to working at Eastwood,  
6     what did you do?

7           A.     I worked at a nursing home.

8           Q.     What nursing home?

9           A.     In fact, I still do work there.  
10    Ashtabula County Nursing Home.

11          Q.     And in February of 2000, what were  
12    your duties and responsibilities at Eastwood?

13          A.     To take care of all the -- well, it  
14    would be the same as it is now. Take care of  
15    all the patients' records and the residents and  
16    oversee the resident care workers.

17          Q.     When did you first become aware that  
18    there was a lawsuit pending in this case?

19          A.     I don't remember.

20          Q.     Well, approximately when did you  
21    become aware?

22          A.     A year ago.

23          Q.     Do you have any personal notes or  
24    personal file on this case, aside from any notes  
25    that appear in the Eastwood records?

1 A. No.

2 Q. Have you ever generated any personal  
3 notes on this case?

4 A. No.

5 Q. Now, you are a licensed practical  
6 nurse in the State of Ohio; is that correct?

7 A. That's right.

8 Q. When did you receive your nursing  
9 license?

10 A. '95.

11 Q. Now, you indicated that you worked at  
12 Eastwood since 1994. What was your title?

13 A. As a resident care worker when I  
14 first started.

15 Q. You initially started as a resident  
16 care worker and then passed your licensing exam  
17 and became a licensed practical nurse here?

18 A. Yes.

19 Q. Where did you receive your LPN  
20 education?

21 A. Willoughby Eastlake.

22 Q. The high school program?

23 A. No. The vocational.

24 Q. Aside from your LPN training, do you  
25 have any additional professional training?



1           A.     I have three years of the RN  
2     training. I have one year left to go at Kent  
3     State University.

4           Q.     Do you have any plans on finishing  
5     that in the near future?

6           A.     I would like to, yes, but no definite  
7     plans, no.

8           Q.     Are you in school right now?

9           A.     No.

10          Q.     Do you hold any professional  
11     certifications?

12          A.     No.

13          Q.     Are you certified in CPR?

14          A.     Oh, I'm sorry, yes.

15          Q.     Do you have a certificate in first  
16     aid?

17          A.     No.

18          Q.     Do you have any certification in  
19     regard to medications as an LPN? Pharmacology  
20     certification?

21          A.     Yes.

22          Q.     How long have you had that?

23          A.     It came right when we did our nursing  
24     course.

25          Q.     In your training and education, did

1     you learn how to do a physical assessment on a  
2     patient?

3             A.     Yes.

4             Q.     And were you taught to recognize  
5     deviations from normal?

6             A.     Yes.

7             Q.     And were you trained to report what  
8     you considered to be a significant deviation  
9     from normal to the physician overseeing the  
10    patient's care?

11            A.     Yes.

12            Q.     You have to wait until I am done with  
13    my question and then you can answer, because she  
14    will have difficulty taking it down otherwise.

15                    Is one of the things that you do for  
16    Eastwood Residential is watch the residents for  
17    early signs and symptoms that may indicate that  
18    a resident is developing a health-related  
19    problem?

20            A.     Yes.

21            Q.     And would you agree that you have  
22    more knowledge and training in health-related  
23    matters than the resident care workers have?

24            A.     Yes.

25            Q.     Now, do the resident care workers ask

1     you questions on occasion in regard to how to  
2     handle a resident's health problem?

3             A.     Yes.

4             Q.     And would it be fair to say that the  
5     resident care workers look to you for direction  
6     in most cases when a resident develops a health  
7     problem?

8             A.     Yes.

9             Q.     Are you generally the one who  
10    contacts the resident's physicians when there is  
11    a health problem?

12            A.     Yes.

13            Q.     And do you ever accompany residents  
14    to see the doctor for a scheduled visit?

15            A.     Yes.

16            Q.     If there is a sudden illness, do you  
17    ever take the residents to the urgent care or  
18    the emergency room?

19            A.     Yes.

20            Q.     How is it determined whether you take  
21    the patient to the doctor's office or the  
22    hospital or a resident care worker does? Who  
23    makes that decision?

24            A.     Who makes that decision? Just, I  
25    don't know if I really understand. It just

1 happens. Whoever happens to be there. Like  
2 when I am not there, they would take them. If I  
3 am there, I would take them.

4 Q. If you are available, if you are at  
5 the residence and there is a resident that is  
6 ill that requires medical attention, you would  
7 be the person that would take the resident to  
8 see the doctor or to the emergency room?

9 A. Yes.

10 Q. Do you review the physician's orders  
11 when a patient has been to see a doctor and  
12 orders are given?

13 A. Yes.

14 Q. And do you on occasion call the  
15 doctor's office in order to obtain orders for a  
16 patient having a problem?

17 A. Yes.

18 Q. In your training, did you learn how  
19 to monitor patients for fluid intake and output?

20 A. Yes.

21 Q. Now, from a nursing perspective, is  
22 there any cause for concern if a patient has  
23 persistent vomiting?

24 A. Yes.

25 Q. And what would be the cause for

1 concern if there is persistent vomiting?

2 A. Dehydration, electrolyte imbalance.

3 Q. As a nurse, do you know whether  
4 persistent vomiting can lead to life-threatening  
5 complications?

6 A. Yes.

7 Q. And can it lead to life-threatening  
8 complications?

9 A. Yes.

10 Q. Have you ever asked the resident care  
11 staff at Eastwood to monitor intake and output  
12 on a resident because of concern for the  
13 patient's fluid and electrolyte imbalance?

14 A. Yes.

15 Q. I'm sorry, fluid and electrolyte  
16 balance.

17 A. Yes.

18 Q. What does it mean to push fluids?

19 A. It's increase the fluid, you know.

20 Q. You are going to have to keep your  
21 voice up a little bit because I can't hear you  
22 over the fan.

23 A. I'm sorry. Push fluids and get as  
24 many as you can into the residents.

25 Q. In your training, did you learn how

1 to do an abdominal assessment.

2 A. Yes.

3 Q. Tell me the things that you assess  
4 when you do an abdominal assessment.

5 A. You listen for bowel sounds, check to  
6 see if the abdomen is distended.

7 Q. Anything else?

8 A. If it's soft, whatever, you know.  
9 No.

10 Q. I didn't hear what you said.

11 A. I said you check to see if it's hard,  
12 if it's soft, whatever, you know, bowel sounds.

13 Q. And from a nursing perspective, what  
14 signs or symptoms would raise a concern for a  
15 bowel obstruction?

16 A. Oh, if the resident is having trouble  
17 eliminating, you know.

18 Q. So constipation?

19 A. Constipation.

20 Q. Anything else?

21 A. Or diarrhea.

22 Q. So diarrhea can be a sign of bowel  
23 obstruction; correct?

24 A. Yes.

25 Q. How about nausea and vomiting?

1 A. Yes.

2 Q. How about abdominal pain?

3 A. Yes.

4 Q. Can retained stool in some instances  
5 cause a bowel obstruction?

6 A. Yes.

7 Q. In your training, did you learn what  
8 shock was?

9 A. Yes.

10 Q. What are the signs and symptoms of  
11 shock from a nursing perspective?

12 A. Cool, clammy, diaphoretic.

13 Q. Any changes in vital signs that are  
14 frequently seen with shock?

15 A. Yes. Blood pressure drops.

16 Q. Do you have a specific recollection  
17 of Lorna Moeller? Do you remember her?

18 A. Yes.

19 Q. How long did you know Lorna Moeller?

20 A. She was there when I came, so --

21 Q. So since 1994?

22 A. Yes.

23 Q. When you were a resident care worker,  
24 were you a resident care worker in her  
25 residence?

1           A.     Yes.

2           Q.     Now, my questions are going to relate  
3     to the time period of February of 2000. So as  
4     I'm talking about things, that's the time  
5     period. If I mean some other time, I'll let you  
6     know, okay? So when I'm speaking of policies or  
7     procedures, I'm speaking of that time period.

8                     Now, in February of 2000, tell me  
9     what your usual work hours were.

10          A.     I don't have set hours.

11          Q.     Did you have different shifts that  
12     you worked? How did you know when you started  
13     and completed?

14          A.     I just would come and go as needed.

15          Q.     Who determined when you were needed?

16          A.     Well, I did, basically. Or you know,  
17     if they needed me for something, like if someone  
18     would call me to come in for an appointment or  
19     just anything, you know, if somebody was sick.

20          Q.     Well, I think you told me that you  
21     worked somewhere between, what was it, 25 to 35  
22     hours a week?

23          A.     Right.

24          Q.     And were you given a schedule like at  
25     the beginning of the week the hours you were



1     supposed to work?

2           A.     No.    They were just --

3           Q.     You showed up whenever you felt like  
4     it?

5           A.     Well, I was here, not just showed up  
6     whenever I felt like it.  When there was need.  
7     I mostly didn't have to be here during the  
8     middle of the night, but I am the only nurse  
9     here, so I would come as I needed.  If I had  
10    made doctor's appointments or to do paperwork or  
11    take someone to the doctor.

12          Q.     Would there be any way for anyone to  
13    know when you were coming?  Was there a schedule  
14    so that the resident care staff or the  
15    administrators would know when you would be at a  
16    particular facility?

17          A.     No, there is no schedule.

18          Q.     So you set your own schedule and you  
19    determined when you were going to Eastwood  
20    Residential; correct?

21          A.     Right.

22          Q.     And no one else would be able to say  
23    when you would be there and when you wouldn't be  
24    there?

25          A.     No.  Well, the administrator, if she

1     needed me for something or someone needed me for  
2     something, they would say come in. They didn't  
3     say you have to be here at a certain time, like  
4     Monday through Friday or like that.

5           Q.     And there was no schedule set up like  
6     a week in advance that would tell people when  
7     you were to be at a particular facility?

8           A.     No.

9           Q.     Did you work at more than one  
10    facility than Eastwood Residential, the group  
11    home that Lorna Moeller was in?

12          A.     Yes.

13          Q.     How many facilities did you work at?

14          A.     You mean Eastwood Residential?

15          Q.     How many group homes were you  
16    responsible for covering?

17          A.     All of them, all 32 people.

18          Q.     How many group homes?

19          A.     How many homes? Let's see. At that  
20    time, I believe there was --

21                 MR. FORBES: You can't speak under  
22    your breath. Do it to yourself and then speak.

23          A.     Four.

24          Q.     And you would divide your time  
25    between those four group homes?

1 A. Yes.

2 Q. So the 25 to 35 hours would be  
3 divided between those homes, depending on what  
4 you felt needed to be done at those various  
5 group homes; correct?

6 A. Yes.

7 Q. And you set your own schedule and you  
8 weren't required to provide that schedule to  
9 anyone in administration; correct?

10 A. Correct.

11 Q. So if someone needed to contact you,  
12 would the only way that they could contact you  
13 would be by paging you?

14 A. Yes.

15 Q. Were you on call 24 hours a day,  
16 seven days a week?

17 A. Yes.

18 Q. If you needed to come in on the night  
19 shift, would you come in on the night shift?

20 A. Yes.

21 Q. Were you the only nurse providing  
22 services in February of 2000 to Eastwood  
23 Residential?

24 A. Yes. We had another nurse, but she  
25 was doing resident care work at that time.

1 Q. Was there anyone else that was  
2 employed with the job description of nurse in  
3 February of 2000?

4 A. No.

5 Q. So any medical problems would come to  
6 you --

7 A. Yes.

8 Q. -- from the four homes that you were  
9 covering; correct?

10 A. Yes.

11 MR. FORBES: Julie, I know you know  
12 where she is going with the question, but you  
13 have to let her finish before you answer.

14 THE WITNESS: I keep thinking she is  
15 done.

16 MR. FORBES: Take a moment and make  
17 sure the question is done and then answer.

18 THE WITNESS: Okay.

19 Q. Who was your immediate supervisor?  
20 Who did you report to?

21 A. LuAnn Busch, the administrator.

22 Q. In February of 2000, did Eastwood  
23 Residential have a registered nurse consultant  
24 available to you for consultation?

25 A. Yes. Gail Remieka. I don't recall

1 if she was here then or not. In what year?

2 Q. February of 2000.

3 A. Yes, she must have been.

4 Q. And where is Gail Remieka? Does she  
5 have an office? How would you contact her if  
6 you wanted to consult with her?

7 A. Page her.

8 Q. You would page her. Does she have an  
9 office that is within the Eastwood Residential  
10 facilities anywhere?

11 A. No.

12 Q. Where is she located?

13 A. She is through, it's called PVA.

14 Q. What is PVA?

15 A. I don't know. Parent Volunteer  
16 Association, I think. New Avenues it's called  
17 now.

18 Q. And this individual, Gail, she was  
19 available if you needed to consult with someone  
20 in regard to a medical matter involving one of  
21 the residents?

22 A. Yes.

23 Q. She had a pager that you would  
24 contact her through?

25 A. Yes.

1           Q.     And during the course of your work  
2     with Eastwood Residential, did you find on  
3     occasion that you needed to consult with Gail  
4     Remieka regarding a medical problem that a  
5     resident was having?

6           A.     Yes.

7           Q.     Now, you indicated that LuAnn Busch  
8     was your immediate supervisor. Did you see  
9     LuAnn Busch on a daily basis?

10          A.     Yes.

11          Q.     Did you meet with her each day? How  
12     is it that you came in contact with her? If you  
13     were going between these four group homes, how  
14     is it that you came in contact with LuAnn each  
15     day?

16          A.     I would stop over to the office and  
17     pick up any mail and find out everything going  
18     on.

19          Q.     So you would see LuAnn at her office?

20          A.     Yes.

21          Q.     And you would stop there on a daily  
22     basis to see her?

23          A.     Yes.

24          Q.     Were you required to provide any type  
25     of a daily report regarding the residents in the

1 group homes that you were visiting?

2 A. No.

3 Q. Was Gail Remieka, the registered  
4 nurse consultant, available to you seven days a  
5 week, 24 hours a day if you wanted to consult  
6 with her?

7 A. Yes.

8 Q. Now, aside from the time that you  
9 were physically present in the Eastwood group  
10 homes, you also were on call; correct?

11 A. Yes.

12 Q. And that was 24 hours a day, seven  
13 days a week?

14 A. Yes.

15 Q. Were you paid anything additional for  
16 on-call time or was that just part of your  
17 salary?

18 A. Part of my salary.

19 Q. When you were on call in a week's  
20 time, how often would you be called?

21 MR. FORBES: Objection to the form.

22 Q. Just approximately. During the  
23 course of a week, how often would you receive a  
24 page when you were on call?

25 A. Pretty much every day.

1 Q. More than once a day?

2 A. Yes.

3 Q. How about at night, how often would  
4 you receive pages between, say, midnight and  
5 6:00 a.m.?

6 A. Well, maybe a couple times a night.

7 Q. Now, describe for me what you would  
8 consider to be a typical day. I'm just looking  
9 for a description of what you would normally do  
10 when you started out your work day. Just kind  
11 of walk through what you would do during the  
12 day.

13 A. Normally I would stop over to the  
14 main office, then I would come over to my  
15 office, you know, pick up my mail, come over for  
16 my mail.

17 Q. Where is your office located?

18 A. Right upstairs here at Eastwood.

19 Q. And that's where it was in February  
20 of 2000?

21 A. Yes.

22 Q. So it was in the same building that  
23 Lorna Moeller was a resident; is that correct?

24 A. Yes.

25 Q. You may continue.



1           A.     Pick up my mail, and then go to my  
2     office. And then go through the house, talk to  
3     the staff, talk to the clients, see if anyone  
4     needed anything. Then go to the next house and  
5     the next house and the next house and do the  
6     same thing, you know.

7                   I'd then come back, do any paperwork  
8     I had to do, or if I had an appointment,  
9     appointments to do, I would take them for  
10    appointments, or if I had more than one  
11    appointment, I would send one of the resident  
12    care workers.

13          Q.     When you would go to the house, is  
14    there anything particular you would do other  
15    than talk to people? Did you have any routine  
16    that you were checking?

17          A.     We had a communication log, nurse's  
18    log, checked that.

19          Q.     So you checked the communication log.  
20    Anything else?

21          A.     Like talk to the staff and talk to  
22    the residents.

23          Q.     Now, did you have responsibilities  
24    for overseeing the medications of the various  
25    residents?

1 A. Oh, yes.

2 Q. Did you do anything in regard to the  
3 medication logs that indicated what medications  
4 that the residents were taking and whether they  
5 were given or not given?

6 A. Yes.

7 Q. Did you review those on a routine  
8 basis?

9 A. Yes.

10 Q. Did you look over the medications  
11 that the residents were being provided?

12 A. Yes.

13 Q. Did you provide the resident care  
14 workers with any directions regarding the  
15 medications, if it was indicated?

16 A. Yes.

17 Q. Was part of your responsibilities to  
18 act as an information resource for the resident  
19 care staff regarding the health issues of the  
20 residents? Would they come to you and ask you  
21 questions about particular health issues for the  
22 residents?

23 MR. FORBES: Objection to the form.

24 A. Yes.

25 Q. Now, I think you indicated previously

1     when a physician needed to be contacted  
2     regarding a medical problem, typically you were  
3     the person that would contact a physician. Were  
4     there instances when someone else besides you  
5     would make contact with the resident's  
6     physicians?

7           A.     I would make the contact with the  
8     physician. They would take them over to the  
9     physician. Unless it was an emergency, they  
10    would call 911.

11          Q.     But typically, you did all of the  
12    contact --

13          A.     Yes.

14          Q.     -- when it came to calling a  
15    resident's physician?

16          A.     Yes.

17          Q.     Now, do you ever administer  
18    medications to the residents?

19          A.     Yes.

20          Q.     And was one of your jobs advising the  
21    resident care staff about side effects or  
22    interactions of medications that the residents  
23    were receiving?

24          A.     Yes.

25          Q.     If you were on call and a resident

1 had a medical problem, were you expected to go  
2 to Eastwood to assess the patient if the  
3 situation warranted it?

4 A. Yes.

5 Q. Have you ever found it necessary to  
6 go to Eastwood to assess a patient after  
7 receiving a page that a resident was ill?

8 A. Yes.

9 Q. Have you ever done that in the middle  
10 of the night?

11 A. Yes.

12 Q. Did the group residence where Lorna  
13 was living have written policies and procedures  
14 that the staff could refer to from time to time  
15 regarding medical emergencies?

16 A. Yes.

17 Q. How often were vital signs taken on  
18 the residents?

19 A. Normally once a month.

20 Q. And did you normally take those vital  
21 signs?

22 A. Yes.

23 Q. Were there instances upon your  
24 direction that additional sets of vital signs  
25 were taken on certain residents?

1 A. Yes.

2 Q. And did you ever train the resident  
3 care workers how to do vital signs?

4 A. Yes.

5 Q. Teach them how to do blood pressures?

6 A. Yes.

7 Q. Could all of the resident care  
8 workers do blood pressures?

9 A. Yes.

10 Q. Was there any policy or procedure  
11 that required vital signs to be taken if a  
12 resident became ill?

13 A. Yes.

14 Q. What was that policy and procedure?

15 A. Would you repeat the question?

16 (Record read.)

17 A. If they know what signs to look for,  
18 you know, they would just take the vital signs  
19 and then let me know if they are irregular.

20 Q. Well, I was asking what the policy  
21 was. So you indicated that there was a policy.  
22 So can you tell me what that policy was?

23 A. A written policy? I don't know.  
24 Just my instruction to them, you know, when we  
25 have in-service training that we taught them how

1 to do the vital signs. I don't know if there is  
2 a written policy.

3 Q. Now, if a resident became ill, was  
4 there a particular procedure that the resident  
5 care workers were to follow?

6 MR. FORBES: Objection to the form.

7 Q. What were they supposed to do if a  
8 resident became ill?

9 MR. FORBES: Objection to the form.  
10 Go ahead.

11 A. If a resident became ill, they would  
12 assess, take their vital signs, they would call  
13 me and let me know. Usually they would call me  
14 and let me know and then I would instruct them  
15 what to do.

16 Q. Was there any requirement that they  
17 notify the administrator or the program director  
18 if a resident became ill, aside from notifying  
19 you?

20 A. They would notify the administrator.

21 Q. If a resident became ill, once you  
22 were notified, were you required to notify the  
23 administrator or the program director?

24 A. Yes, the administrator.

25 Q. So if you got a call that said a

1 resident was ill, your job then would be to  
2 assess the situation and then inform the  
3 administrator?

4 A. Yes.

5 Q. Or would you assess the patient first  
6 or would you just go ahead and inform the  
7 administrator once you have been notified?

8 A. No. I would --

9 Q. Wait. We have to do this one at a  
10 time.

11 When a resident became ill and you  
12 were notified of that illness, did you  
13 immediately inform the administrator or did you  
14 go and assess the patient and then inform the  
15 administrator?

16 A. Go and assess the patient first.

17 Q. Now, if the resident care workers  
18 were unhappy with the information you were  
19 giving them regarding a resident's illness, did  
20 they have any other alternatives?

21 MR. FORBES: Objection to the form.

22 Q. Anyone else that they could talk to?

23 A. If they were unhappy with -- they  
24 could talk to the administrator or the program  
25 director.

1           Q.     Could they call the nurse, the RN  
2 consultant?

3           A.     Yes, they could call Gail.

4           Q.     Is that number available to the  
5 resident care workers?

6           A.     Yes, it is.

7           Q.     So if they felt that they needed some  
8 additional information, they could call a  
9 registered nurse and speak with the registered  
10 nurse?

11          A.     Yes.

12          Q.     Are you aware of any instances where  
13 the resident care workers ever called a  
14 registered nurse directly?

15          A.     No.

16          Q.     And the resident care workers were  
17 permitted to call 911 for emergency medical  
18 purposes if they felt it was indicated without  
19 going through you first, weren't they?

20          A.     Yes.

21          Q.     Now, are all Eastwood residents  
22 accompanied by an Eastwood staff person when  
23 they go to the hospital?

24          A.     Yes.

25          Q.     Why is that?



1 A. We have always done it that way.

2 Q. Is there a reason why?

3 A. So we will know what is happening.

4 Q. Are all of the residents capable of  
5 providing adequate medical history if they were  
6 to go individually to the hospital?

7 A. No.

8 Q. So do the Eastwood Residential staff  
9 provide medical history to the hospital if a  
10 patient has to go to the hospital?

11 A. Yes.

12 Q. And when a patient is discharged from  
13 the hospital, does an Eastwood staff person  
14 obtain discharge instructions for the resident?

15 A. Yes.

16 Q. And is that done because sometimes  
17 the residents just aren't capable of retaining  
18 that much information?

19 A. Yes.

20 Q. Now, if a resident has to go to, say,  
21 an urgent care center or a doctor's appointment  
22 and you transport them, do you use the Eastwood  
23 van to do that?

24 A. Yes.

25 Q. And is there always a vehicle

1 available 24 hours a day to transport the  
2 resident if it's required? Is that vehicle here  
3 constantly?

4 A. Yes.

5 Q. Is there just one van for the group  
6 home?

7 A. No, each house has one.

8 Q. The other group homes, are they  
9 located in this vicinity?

10 A. Yes.

11 Q. How far away are they, just  
12 approximately? Within what radius of this  
13 particular building?

14 A. Now or then?

15 Q. In February of 2000.

16 A. Right across the street, right behind  
17 us, and right across the street that way.

18 Q. And each one of those facilities had  
19 a van available; correct?

20 A. Yes. There was two here.

21 Q. And there were two at this facility?

22 A. Yes.

23 Q. That's because the house was divided  
24 into two sections at that time?

25 A. Yes.

1 Q. Now, have you filled out consumer  
2 incident reports as a staff person at Eastwood?

3 A. UIR's, unusual incident reports?

4 Q. Yes.

5 A. Yes.

6 Q. And did you have written guidelines  
7 that explained to you the circumstances under  
8 which a consumer incident report should be  
9 filled out?

10 A. Yes.

11 Q. And what is your understanding as to  
12 when a consumer incident report should be filled  
13 out?

14 A. Any unusual incident.

15 Q. Were the staff personnel supposed to  
16 read the reports when an incident occurred?  
17 Were they available in a group home for the  
18 resident care staff to read?

19 A. Yes.

20 Q. And are those reports to be made out  
21 immediately or at least by the end of the shift  
22 when they are made out?

23 A. Yes.

24 Q. Did Lorna's group home have any  
25 emergency equipment in it, medical emergency

1 equipment?

2 A. Yes.

3 Q. What type of equipment was available?

4 A. You mean like oxygen? We didn't have  
5 oxygen.

6 Q. I am asking you what was available?

7 A. What was available? CPR equipment.

8 Q. What type of CPR equipment?

9 A. Just a mask and that's all. First  
10 aid equipment.

11 Q. Where was that kept?

12 A. In the nurse's office.

13 Q. And was that under lock and key?

14 A. No.

15 Q. It was not?

16 A. The cabinet is locked, but they could  
17 get to it.

18 Q. The resident care staff had keys to  
19 that locker?

20 A. Yes.

21 Q. Now, as a nurse, when you are  
22 overseeing the administration of medications,  
23 you are supposed to know the actions of the  
24 medications and the major side effects; correct?

25 A. Correct.

1 Q. What is the drug Imodium used for?

2 A. To stop diarrhea.

3 Q. I'm going to hand you what's marked  
4 as Plaintiff's Exhibit 1.

5 - - - - -

6 (Thereupon, WARNER Deposition  
7 Exhibit 1 was marked for  
8 purposes of identification.)

9 - - - - -

10 Q. The Eastwood medication record that I  
11 have marked as Plaintiff's Exhibit 1 indicates  
12 that Lorna Moeller received Imodium for diarrhea  
13 on January 27th and on January 30th; correct?

14 A. Correct.

15 Q. Were you aware of her repeated  
16 episodes of diarrhea?

17 MR. FORBES: Objection to the form.  
18 Foundation.

19 A. Yes.

20 Q. Was that something that the staff  
21 brought to your attention?

22 A. Yes.

23 Q. Did you review the medications sheet  
24 to see what medications the residents have  
25 required beyond their normal medications? I

1 mean, would that be routine when you would come  
2 in to see if the case workers had to give them  
3 something beyond their daily doses of  
4 medications?

5 MR. FORBES: Objection to the form.

6 A. Yes.

7 Q. Now, when a patient such as Lorna  
8 Moeller is receiving Imodium, in this instance,  
9 did you instruct the resident care staff to keep  
10 track of the number and the consistency of Lorna  
11 Moeller's bowel movements?

12 A. Yes.

13 Q. And did they do that?

14 A. Yes.

15 Q. And did they record that information  
16 anywhere?

17 A. On the log.

18 Q. They recorded it on a log?

19 A. Yes. As far as I can remember.

20 Q. What does this log look like that  
21 they recorded the number and the consistency of  
22 Lorna Moeller's bowel movements?

23 A. It was like a notebook like that  
24 paper.

25 Q. And you recall seeing that?

1           A.     Yes.

2                   MS. TOSTI: I don't have a copy of  
3 any log that indicates Lorna Moeller's number  
4 and consistency of bowel movements, so if it in  
5 fact exists, I would like to have a copy of it.

6                   MR. FORBES: Just so this doesn't get  
7 buried in the depositions today, if you want to  
8 again put it in writing, then I will have it on  
9 my plate to respond to.

10          Q.     So after Lorna Moeller had this  
11 Imodium on the 27th and the 30th, do you know  
12 what her bowel pattern was?

13                  MR. FORBES: Objection to the form.

14          A.     I don't remember without looking at  
15 something.

16          Q.     Now, I think you previously told me  
17 that diarrhea could sometimes be a sign of bowel  
18 obstruction; correct?

19          A.     Correct.

20          Q.     And diarrhea could also in some  
21 instances cause the rectal area to become raw  
22 and sore; correct?

23          A.     Correct.

24          Q.     Now, did you see Lorna Moeller on  
25 February 1st of 2000, which I believe is the day

1     that she was admitted to the hospital?

2           A.     Yes.

3           Q.     What time did you see her?

4           A.     I don't remember.

5           Q.     Did you receive any calls from anyone  
6     at Eastwood on February 1st of 2000 about Lorna  
7     being ill?

8           A.     Yes.

9           Q.     Who called you?

10          A.     I believe Rita Freeborn.

11          Q.     And when were you contacted?

12          A.     I don't recall the exact time.   In  
13     the evening, I know that.

14          Q.     In the evening?

15          A.     Yes.

16          Q.     How many times were you contacted?

17          A.     Just the one time, and I told her to  
18     take her over to the medical center.

19          Q.     And do you recall what Rita told you  
20     was wrong with Lorna when she called you?

21          A.     She said that she couldn't -- I don't  
22     remember. I don't remember if at that time she  
23     said she couldn't have a bowel movement or if  
24     she was having diarrhea, I don't remember  
25     without seeing the log.



1           Q.     Do you recall any symptoms of  
2     vomiting or abdominal pain in the phone call  
3     from Rita Freeborn on February 1st?

4           A.     That would be, yeah, yes.

5           Q.     And your advice to Rita Freeborn was  
6     that she should be taken to the urgent care  
7     center?

8           A.     Yes.

9           Q.     Now, after you spoke with Rita  
10    Freeborn, did you contact anyone else?

11          A.     I don't think so, no.

12          Q.     Did you speak to any physicians that  
13    then provided care to Lorna?

14          A.     Yes.

15          Q.     Who did you speak to?

16          A.     The urgent care. I don't remember.

17          Q.     The physician at the urgent care?

18          A.     I believe so, yes, maybe. Dr. Amdur,  
19    I believe.

20                   (Discussion off the record.)

21          Q.     You spoke with Dr. Amdur, and tell me  
22    what the contents of that conversation was.

23          A.     That he was going to transfer her to  
24    Lake East to rule out a bowel obstruction.

25          Q.     Now, on the evening of February 1st

1     when she went to the urgent care, did you have  
2     any conversations with LuAnn Busch regarding  
3     Lorna Moeller?

4           A.     I don't remember.

5           Q.     You don't recall notifying LuAnn  
6     Busch that she was going to the hospital?

7           A.     Oh, yes, that she went to the  
8     hospital, of course, yes.

9           Q.     Were you the person that informed  
10    LuAnn Busch that she was going to the hospital?

11          A.     Yes. I'm sorry. Whenever they go to  
12    the emergency room, I always notify her.

13          Q.     Did you talk to LuAnn Busch after you  
14    spoke with Dr. Amdur to tell her what Lorna  
15    Moeller's disposition would be?

16          A.     Yes.

17          Q.     Now, from the urgent care center they  
18    sent her to Lake East Hospital. Did you speak  
19    to anyone in the emergency room at Lake East  
20    Hospital?

21          A.     Yes.

22          Q.     Who did you speak to in the hospital?

23          A.     I don't know the name, but I talked  
24    to an emergency room. I always call the  
25    emergency room and ask.

1 Q. Did you speak with a physician or a  
2 nurse?

3 A. A nurse.

4 Q. And what did the nurse tell you in  
5 regard to Lorna's condition?

6 A. That they were going to keep her  
7 overnight for observation.

8 Q. And what did they tell you in regard  
9 to impressions, clinical impressions?

10 A. They said there was no bowel  
11 obstruction.

12 Q. Now, were you told that they took  
13 abdominal x-rays on her?

14 A. Yes.

15 Q. And were you told that she had  
16 considerable stool visualized on the x-rays?

17 A. Yes.

18 Q. Was there any mention of  
19 constipation?

20 A. Yes.

21 Q. Did they indicate to you that she was  
22 having abdominal pain and nausea?

23 A. No.

24 Q. Did you talk to anybody that  
25 accompanied Lorna to the hospital? Did you

1 speak to a resident care worker that went with  
2 Lorna to the emergency room?

3 A. Rita Freeborn.

4 Q. Did you speak to her when she was at  
5 Lake East Hospital?

6 MR. FORBES: Objection to the form.

7 Q. I didn't hear your answer.

8 A. Yes.

9 Q. And tell me the content of that  
10 conversation with Rita Freeborn at Lake East  
11 Hospital.

12 A. I don't know the exact conversation.  
13 I just know that she said that they were going  
14 to keep her overnight to watch her to see if she  
15 did have a bowel movement.

16 Q. Now, did you ever provide the  
17 physicians caring for Lorna at Lake East  
18 Hospital with the history that she had been  
19 having diarrhea just two days before she went  
20 into the hospital?

21 A. I believe so.

22 Q. Did you think it odd that she was  
23 having diarrhea two days before she went into  
24 the hospital and they then told you that she had  
25 considerable stool that was apparent on her

1 abdominal x-ray?

2 MR. FORBES: Objection to the form.

3 A. Yes. But that's common with  
4 constipation. They have like a loose stool that  
5 comes around it.

6 Q. So you get leaking of liquid stool  
7 around retained stool; right?

8 A. Yes.

9 Q. Now, were you contacted regarding  
10 Lorna's discharge from the hospital on February  
11 2nd of 2000?

12 A. Yes.

13 Q. Who is it that contacted you?

14 A. The nurse at the hospital.

15 Q. And when were you contacted?

16 A. You mean what time of day?

17 Q. Yes.

18 A. I don't recall.

19 Q. How is it that they happened to  
20 contact you? How did they get your phone  
21 number?

22 A. Because we left it with them. When I  
23 called to ask how the resident was doing, the  
24 condition, then I leave my phone number and then  
25 I ask them to call me.

1           Q.     Was this the conversation that you  
2     had with the emergency room that you are  
3     speaking of? You told me that you had a  
4     conversation with --

5           A.     Yes, but I also talked to the nurse  
6     on the floor.

7           Q.     When was that? Was that on February  
8     1st or February 2nd?

9           A.     The morning of the day that she was  
10    discharged.

11          Q.     So on February 2nd, you spoke to  
12    somebody on the floor?

13          A.     Yes.

14          Q.     And you believe that was a nurse?

15          A.     Yes.

16          Q.     What did she tell you in regard to  
17    Lorna's condition on the morning of February  
18    2nd?

19          A.     She had gastroenteritis and I believe  
20    they were sending her home with a Colace order.  
21    I don't know exactly without looking at the  
22    record.

23          Q.     Now, when residents were discharged  
24    from the hospital, did you always receive verbal  
25    instructions from the nurses at the hospital?

1 A. Yes.

2 Q. And when Lorna was discharged from  
3 the hospital, what was your understanding as to  
4 her diagnosis?

5 A. That she had gastroenteritis, stomach  
6 flu.

7 Q. Did you understand her also to have  
8 constipation?

9 A. Yes.

10 Q. And what was your understanding of  
11 her condition at the time of discharge?

12 MR. FORBES: Objection to the form.

13 A. That she was able to come back and  
14 that she just needed to have a bowel movement.

15 Q. Were you aware of any change in her  
16 condition from the time of her admission to the  
17 time that she left the hospital?

18 A. From the time she left here --

19 Q. From the time of her admission to the  
20 hospital to the time she was discharged from the  
21 hospital, are you aware of any change in her  
22 condition? Improvement? The same?

23 A. It was about the same.

24 Q. It was about the same from the time  
25 she was admitted?

1           A.     Yes.

2           Q.     Now, when Lorna was discharged, or  
3     just prior to the time she was discharged, did  
4     you have a second conversation with the nurse  
5     discharging her on February 2nd?

6                     You said you spoke with someone in  
7     the morning. Lorna was discharged in the  
8     afternoon. Did you speak to a nurse again in  
9     the afternoon?

10          A.     No.

11          Q.     So the only conversation that you had  
12     with anybody at the hospital was the morning of  
13     February 2nd?

14          A.     I believe. Just the one call.

15          Q.     Were you given any instructions as to  
16     what should be done with Lorna after she was  
17     discharged? You said Colace. She was going to  
18     be placed on a stool softener. Anything else?

19          A.     Yes. Encourage fluids.

20          Q.     And there was some concern about her  
21     having a bowel movement; correct?

22          A.     Yes.

23          Q.     Had she had a bowel movement in the  
24     hospital?

25          A.     Not that I know.



1           Q.     Do you know whether Lorna received  
2     any medication for nausea the day that she was  
3     discharged?

4           A.     I don't know.

5           Q.     Do you know whether she was having  
6     any abdominal pain on the day she was  
7     discharged?

8           A.     Yes.

9           Q.     Yes, she was?

10          A.     Yes.

11          Q.     And where did you receive that  
12     information from?

13          A.     The transfer, I believe.

14          Q.     And are you speaking of the ambulance  
15     transfer sheet made out by the emergency medical  
16     technicians?

17          A.     The one that came from the hospital,  
18     I believe.

19          Q.     And that indicated that she was  
20     having abdominal pain at the time she was  
21     discharged?

22                 MR. FORBES:  Don't guess.

23          A.     I don't remember.

24          Q.     Now, did you see Lorna after she came  
25     back from --

1 A. Yes.

2 Q. Let me finish. After she was  
3 discharged and returned to Eastwood Residential,  
4 did you see Lorna?

5 A. Yes.

6 Q. Did you see her on the day of her  
7 discharge, February 2nd of 2000?

8 A. Yes.

9 Q. What time did you see her?

10 A. During the day.

11 Q. I believe she came back in the  
12 afternoon sometime.

13 A. Yes.

14 Q. So what was her condition when you  
15 saw her on February 2nd?

16 A. She acted tired, but she was happy to  
17 come back.

18 Q. Any nausea?

19 A. Not at the time, no.

20 Q. No vomiting that you were aware of at  
21 that time?

22 A. Not on her way in.

23 Q. Any abdominal pain?

24 A. I don't remember.

25 Q. Did she have any bowel movements that

1 day after she came back that you are aware of?

2 A. No.

3 Q. Now, did you provide Eastwood  
4 resident care staff with any instructions should  
5 Lorna begin vomiting again after her discharge  
6 from the hospital?

7 A. Yes.

8 Q. And what were the instructions that  
9 you gave the resident care staff?

10 A. To let me know. And I told them that  
11 this would be common, because she had flu-like,  
12 she would have flu-like symptoms with that  
13 diagnosis.

14 Q. And on February 2nd, did Lorna have  
15 vomiting on the day of her discharge?

16 A. No.

17 Q. After she returned to Eastwood  
18 Residential, did she have vomiting?

19 A. No. I don't know. That was the 3rd,  
20 I think. I don't know.

21 (Discussion off the record.)

22 - - - - -

23 (Thereupon, WARNER Deposition  
24 Exhibit 2 was marked for  
25 purposes of identification.)

1                                   - - - - -

2           Q.       Handing you what's been marked as  
3   Plaintiff's Exhibit Number 2, is that a clinical  
4   note that you reviewed on Lorna Moeller?

5                   MR. FORBES:  Objection to the form.

6           A.       Yes.

7           Q.       Now, in this particular clinical note  
8   on February 2nd, it indicates that Lorna Moeller  
9   received Milk of Magnesia in the evening;  
10   correct?

11          A.       Yes.

12          Q.       Did you tell the resident care staff  
13   to administer Milk of Magnesia to Lorna Moeller?

14          A.       No.

15          Q.       Now, at 11:30 p.m., it indicates that  
16   they gave Lorna Moeller Pepto-Bismol for  
17   vomiting and they notified the nurse.  Do you  
18   recall being notified of vomiting, after looking  
19   at this clinical note, on February 2nd?

20          A.       Yes.

21          Q.       Now, Pepto-Bismol is a medication  
22   that's frequently given for diarrhea, isn't it?

23          A.       Yes.

24          Q.       And in a patient that's suffering  
25   from constipation, would Pepto-Bismol be an

1 appropriate medication to give?

2 A. No.

3 Q. Did you tell the resident's staff not  
4 to give her anymore Pepto-Bismol? Did they tell  
5 you that they gave her Pepto-Bismol when they  
6 called and told you she was vomiting?

7 A. Yes.

8 Q. Did you tell them not to give anymore  
9 Pepto-Bismol?

10 A. I don't recall.

11 Q. That would have been the appropriate  
12 instruction, though, correct?

13 A. Yes.

14 Q. Now, did you provide Eastwood  
15 resident care staff with instructions on signs  
16 or symptoms that may indicate that Lorna would  
17 need medical reevaluation, things that they  
18 should watch for that would be an indication  
19 that she would need medical reevaluation?

20 MR. FORBES: Objection to the form.

21 A. Yes.

22 Q. What did you tell them they should  
23 watch for?

24 A. Constipation. She had stomach flu.  
25 For vomiting.

1           Q.     My question to you was, did you  
2     inform the resident care staff of signs and  
3     symptoms that would indicate that she may need  
4     medical reevaluation?

5                 So she came back to the group home  
6     with constipation, and you told me that you  
7     understood her to have a diagnosis of  
8     gastroenteritis. So what signs or symptoms did  
9     you tell the resident care staff to watch for  
10    that would indicate she needs to go back to the  
11    doctor?

12                MR. FORBES: Objection to the form.

13           A.     Fever. They take their vital signs.

14           Q.     A change in vital signs?

15           A.     Yes.

16           Q.     What's an ambulette?

17           A.     A small ambulance.

18           Q.     Why did Lorna Moeller require  
19    transport by an ambulette back from the hospital  
20    to the group home?

21                MR. FORBES: Objection to the form.

22           A.     I don't know.

23           Q.     Now, when Lorna Moeller came back to  
24    the group home having been hospitalized for  
25    vomiting and abdominal pain, which was

1 originally what she went in with, did you advise  
2 the resident care staff to monitor for intake  
3 and output in any way?

4 MR. FORBES: Objection to the form.

5 A. Yes.

6 Q. What did you tell them to do?

7 A. Increase the fluids. Keep track if  
8 she had a bowel movement.

9 Q. And where were they supposed to keep  
10 track if she had a bowel movement?

11 A. In a log like this.

12 Q. On the clinical log, similar to what  
13 we have marked as Plaintiff's Exhibit 2?

14 A. Yes.

15 Q. And in regard to her fluid intake,  
16 were they supposed to keep track of the amount  
17 of fluids that she took in?

18 A. Yes.

19 Q. And did they do that?

20 A. Yes.

21 Q. How do you know they did that?

22 A. Well, right here. Oh, the amounts?  
23 They would just tell me that she had been  
24 drinking, you know, drinking fluids.

25 Q. Now, intake and output refers to

1     quantifying the actual amount that somebody  
2     takes in and the amount of fluids that they put  
3     out; correct?

4           A.     Yes.

5           Q.     Did you instruct the staff that they  
6     were to keep track of how much fluids she took  
7     in?

8           A.     Yes.

9           Q.     And did they do that?

10          A.     Yes.

11          Q.     How do you know they did that?   How  
12     much fluid did she take in?

13          A.     I don't know.

14          Q.     How do you know they kept track?

15          A.     Because they told me.

16          Q.     And what did they tell you she took  
17     in?

18          A.     I don't remember.

19          Q.     Did they record this anywhere?

20          A.     On a log like this, wherever it is.

21          Q.     So we are missing another page that  
22     has fluid intake and output for Lorna Moeller on  
23     February 2nd, the day she came home?

24          A.     I don't know.   I don't know.

25          Q.     Do you recall ever seeing it written



1 down, her fluid intake, in some type of  
2 quantified manner?

3 A. No.

4 Q. So are you sure that they did it?

5 A. No.

6 Q. But you told them to do it?

7 A. Yes.

8 Q. So they were supposed to record what  
9 she was taking in?

10 A. Yes.

11 Q. And were they supposed to keep track  
12 of how much she was putting out?

13 A. Yes.

14 Q. And how were they going to do that?

15 A. Record it.

16 Q. So did they have some type of a  
17 measuring cup that they can use in the bathroom  
18 to measure a patient's output?

19 A. Yes.

20 Q. So that is available?

21 A. Yes.

22 Q. And so if the patient just passed  
23 urine into a cup, then the staff could easily  
24 measure what that amount was; correct?

25 A. Correct.

1           Q.     If they told the resident to do that,  
2     the resident would do it, or if they didn't do  
3     it, the staff would record that on the notes if  
4     you told them to keep track; correct?

5           A.     Correct.

6           Q.     And do you find any indication that  
7     they kept track of what her output was anywhere?

8           A.     It's not here.

9           Q.     In anything you reviewed prior to  
10    this deposition, did you find they had kept  
11    track of input and output on Lorna Moeller after  
12    she was discharged?

13          A.     No.

14          Q.     But that's something they should have  
15    done in a patient that had been vomiting;  
16    correct?

17          A.     Yes.

18          Q.     Now, when she began vomiting again at  
19    11:30 at night, did you reiterate your  
20    instructions that they should keep track of  
21    intake and output on her?

22          A.     I don't remember.

23          Q.     Is that something they should have  
24    been doing, though?

25          A.     Yes.

1           Q.     Do you know whether Lorna had  
2     anything to eat as far as solid food after the  
3     time she was discharged?

4           A.     No.

5           Q.     Would that be something that would be  
6     important to note in a patient that had a  
7     history of vomiting before going into the  
8     hospital and who then vomited again the evening  
9     of her discharge?

10          A.     Yes.

11          Q.     Now, the note on February 2nd  
12     indicates, the first note on February 2nd  
13     indicates she had nothing to eat for dinner;  
14     correct?

15          A.     Correct.

16          Q.     And then she had vomiting at 11:30  
17     p.m. at night; correct?

18          A.     Correct.

19          Q.     Do you know whether she had anything  
20     in between dinner time and the time she was  
21     vomiting?

22          A.     No.

23          Q.     Do you know if she had anything to  
24     eat when she was in the hospital before she came  
25     back to Eastwood?

1 A. No.

2 Q. Do you know if she had anything to  
3 eat the evening of February 1st after she was  
4 admitted to the hospital?

5 A. No.

6 Q. Wouldn't that be something that would  
7 be important to keep track of in a patient that  
8 has a history of vomiting, to know what their  
9 solid food intake is?

10 MR. FORBES: Objection to the form.

11 A. Yes.

12 Q. Now, when Lorna began vomiting again  
13 on the evening of February 2nd and the staff  
14 notified you, did you call her physician and  
15 tell the physician she is vomiting again?

16 A. Yes.

17 Q. Who did you call?

18 A. I spoke with Dr. Oh, I believe the  
19 name was.

20 Q. On the evening of February 2nd or the  
21 early morning of February 3rd?

22 A. I don't remember which day it was.

23 Q. Well, I'm speaking in regard to the  
24 vomiting. So you believe that you called a  
25 physician when she began vomiting after

1 discharge on February 2nd?

2 A. Yes.

3 Q. And you were notified at  
4 approximately 11:30 p.m.

5 Did you call the doctor right after  
6 you were notified?

7 A. No. It had to be in the morning of  
8 the 3rd.

9 Q. And you believe you spoke to Dr. Oh?

10 A. Yes.

11 Q. And what did you tell Dr. Oh?

12 A. That she hadn't had a bowel movement  
13 and that she was vomiting. He or she, I don't  
14 remember, the doctor said give her a  
15 suppository.

16 Q. Now, did you see Lorna on February  
17 3rd?

18 A. Yes.

19 Q. What time did you see her?

20 A. I don't remember.

21 Q. Did you do an assessment on Lorna on  
22 February 3rd when you saw her?

23 A. Yes.

24 Q. Did you note any deviations from  
25 normal on your assessment that you felt were

1 significant?

2 A. Not on the morning of the 3rd, no.

3 Q. Now, did you ever tell Pat Fishley,  
4 the case worker, when she was conducting an  
5 investigation, that you worked from 2:30 p.m. to  
6 6:30 p.m. on February 3rd?

7 A. I don't recall.

8 Q. Do you know whether you were there in  
9 the morning or the afternoon on February 3rd?

10 A. I don't know the exact times. I  
11 would have to see.

12 - - - - -

13 (Thereupon, WARNER Deposition  
14 Exhibit 3 was marked for  
15 purposes of identification.)

16 - - - - -

17 Q. Handing you what's been marked as  
18 Plaintiff's Exhibit 3, I believe that there is  
19 an order there for Dulcolax suppository. Is  
20 that an order that you wrote?

21 A. Yes.

22 Q. And could you tell us what time you  
23 put on that order?

24 A. 5:00 p.m.

25 Q. And is that the time that you spoke

1 with Dr. Oh and received the order for the  
2 Dulcolax suppository?

3 A. Yes.

4 Q. So is it likely that you saw Lorna in  
5 the afternoon of February 3rd?

6 A. Yes.

7 Q. And then received that order --

8 A. Yes.

9 Q. -- from Dr. Oh?

10 A. Yes.

11 Q. Did you talk to Dr. Oh directly or  
12 did you get that order from somebody at his  
13 office or her office?

14 A. Directly.

15 Q. So you spoke with Dr. Oh directly.  
16 And you believe that you told Dr. Oh that she  
17 had been vomiting?

18 A. Yes.

19 Q. Now, did you give the Dulcolax  
20 suppository to her?

21 A. Yes.

22 - - - - -

23 (Thereupon, WARNER Deposition  
24 Exhibit 4 was marked for  
25 purposes of identification.)

1                                   - - - - -

2           Q.     Handing you what's been marked as  
3     Plaintiff's Exhibit 4, is that a medication  
4     sheet from Eastwood that indicates the Dulcolax  
5     suppository that you gave to Lorna Moeller on  
6     February 3rd?

7           A.     Yes.

8           Q.     And you have written there that you  
9     gave that Dulcolax suppository at 4:00 p.m.;  
10    correct?

11          A.     Yes.

12          Q.     And the order that you received from  
13    Dr. Oh you have written and timed at 5:00 p.m.;  
14    correct?

15          A.     Correct.

16          Q.     Did you give that Dulcolax  
17    suppository before you had an order from Dr. Oh  
18    to give it?

19          A.     According to this, but, no, I didn't.

20          Q.     Now, on the order from Dr. Oh, you  
21    have written that 5:00 p.m. time three different  
22    places; correct?

23          A.     Yes.

24          Q.     Do you have any explanation why the  
25    medication sheet that you have signed off on



1 indicates you gave that drug at 4:00 p.m. and  
2 yet the order from the doctor says that you  
3 didn't receive the order until 5:00 p.m.?

4 A. No.

5 Q. You don't have authority to  
6 administer a drug to a resident of Eastwood  
7 without a doctor's order, do you?

8 A. No, not unless it's a standing order.

9 Q. And you would agree that the record  
10 indicates that you gave that suppository, the  
11 Dulcolax suppository an hour before you had an  
12 order; correct?

13 A. Correct.

14 Q. Now, after you gave the suppository  
15 to Lorna at 4:00 p.m., did Lorna have any  
16 episodes of vomiting before you went off duty?

17 A. No.

18 Q. Did you ever tell Pat Fishley of the  
19 Ohio Board of Mental Retardation and  
20 Developmental Disabilities that you contacted  
21 the doctor's office around 6:00 p.m. after Lorna  
22 vomited a large amount of brownish matter?

23 A. No.

24 Q. You deny saying that to her?

25 A. Yes.

1 Q. And you never witnessed Lorna  
2 vomiting on February 3rd in the evening?

3 A. No.

4 Q. And you would disagree with any of  
5 the Eastwood staff if they said you were present  
6 and saw Lorna vomiting around 6:00 p.m. on  
7 February 3rd of 2000; correct?

8 A. Correct.

9 Q. Now, did you call the urgent care  
10 staff on the evening of February 3rd in regard  
11 to Lorna Moeller?

12 A. No.

13 - - - - -

14 (Thereupon, WARNER Deposition  
15 Exhibit 5 was marked for  
16 purposes of identification.)

17 - - - - -

18 Q. I'm handing you what's been marked as  
19 Plaintiff's Exhibit Number 5, which, I believe,  
20 is a record of telephone calls made to Madison's  
21 Medical Campus. And there is a call indicated  
22 at 1800 hours, 6:00 p.m. on February 3 of 2000.  
23 It says, I believe, Eastwood care provider call  
24 in regard to Lorna Moeller. She was trying to  
25 get ahold of Dr. Heng and Dr. Kessler's office,

1 but no answer. I gave her the 428-8292 number  
2 and told her this would give them the answering  
3 service. They would page them and have them  
4 call. Also advised them if unable to get ahold  
5 of them or gets worse, call 911.

6 Was that call to Madison Medical  
7 Campus made by you on February 3rd of 2000?

8 A. Yeah.

9 Q. And you were instructed if you were  
10 unable to get ahold of the doctor that you  
11 should call 911; correct?

12 A. Yes.

13 Q. Were you able to get ahold of the  
14 doctor?

15 A. Yes. Dr. Oh.

16 Q. I'm sorry, did you answer my  
17 question? Were you able to get ahold of the  
18 doctor?

19 MR. FORBES: She answered. Can you  
20 read it back.

21 (Record read.)

22 Q. You spoke to Dr. Oh?

23 A. Yes.

24 Q. What time did you speak with Dr. Oh?

25 MR. FORBES: Don't guess.

1 A. I don't know.

2 Q. Now, there is another call on  
3 February 4th of 2000 on this sheet at 8:30 in  
4 the morning. Caregiver called today at 8:30  
5 again about Lorna Moeller. She stated she  
6 talked to Dr. Oh last night.

7 Is that a description of the call  
8 that you made on February 4th to the Madison  
9 Urgent Care?

10 A. Yes.

11 Q. Now, when you spoke with Dr. Oh after  
12 6:00 p.m. on February 3rd, what was that in  
13 regard to?

14 MR. FORBES: Objection to the form of  
15 the question. That's a mischaracterization of  
16 her testimony. You may answer.

17 Q. Well, let me back up here.

18 MR. FORBES: You are assuming the  
19 times in the documents are all correct.

20 Q. Do you have any reason to feel that  
21 this time for the February 3rd of 2000 phone  
22 conversation that is documented here at 1800  
23 hour is an inappropriate time?

24 MR. FORBES: Objection to the form.

25 Q. Do you feel that the time that is

1 listed at 1800 hour at 6:00 p.m. is incorrect as  
2 to when you called the Madison Urgent Care  
3 Center?

4 A. Yes.

5 Q. What time do you think you called?

6 A. 5:00 p.m.

7 Q. So you believe that you made a phone  
8 call before 5:00 p.m. to the Madison Urgent Care  
9 Center.

10 MR. FORBES: No, before 6:00 p.m.,  
11 Jeanne.

12 MS. TOSTI: She just said 5:00 p.m.

13 MR. FORBES: You asked her if 6:00  
14 p.m. was correct.

15 MS. TOSTI: See said no.

16 MR. FORBES: She said, I think I  
17 called at 5:00, so your question was you believe  
18 you made a call before 5:00 p.m.

19 Q. What time did you talk to Dr. Oh?

20 MR. FORBES: Do not guess here.

21 A. I don't know for sure.

22 Q. Now, you have looked at the  
23 medication order that you wrote three different  
24 places 5:00 p.m.; correct?

25 A. Correct.

1 Q. Is it likely that you spoke to Dr. Oh  
2 at around 5:00 p.m. in order to get that order?

3 A. Yes.

4 Q. So do you believe that you called the  
5 urgent care center before 5:00 p.m.?

6 A. No. It would have to be after,  
7 because he was the one on call, or she.

8 Q. So you think that after you received  
9 the order from Dr. Oh at 5:00 p.m., you then  
10 called the urgent care center?

11 MR. FORBES: Objection to the form.

12 A. I don't remember.

13 Q. So you don't know when you made this  
14 call; is that correct?

15 MR. FORBES: By this call, you  
16 mean --

17 MS. TOSTI: I'm speaking of the one  
18 that is documented here at 1800 hour on February  
19 3rd of 2000.

20 A. 5:00 o'clock is what I have down.

21 MR. FORBES: Do you have an  
22 independent recollection of when you made the  
23 call?

24 THE WITNESS: No, I don't.

25 Q. 5:00 o'clock is what you have down.

1 Where do you have 5:00 o'clock down?

2 A. On the order.

3 Q. Dr. Oh wasn't at the Madison Medical  
4 Campus, was she, or he?

5 A. No. This is the answering service.

6 Q. So you believe this is the answering  
7 service?

8 A. Yes.

9 Q. Even though it's stamped the urgent  
10 care?

11 A. I thought it was the answering  
12 service. I don't recall who I talked to. I  
13 just remember that they said that we will call  
14 the doctor at home.

15 Q. Did you ever call the urgent care on  
16 the evening of February 3rd, 2000, in regard to  
17 Lorna Moeller?

18 MR. FORBES: Are you referring to  
19 Lake Hospital?

20 MS. TOSTI: I'm referring to Madison  
21 Urgent Care. I asked her if she ever called  
22 Madison Urgent Care on February 3rd, 2000, in  
23 the evening.

24 A. Yes.

25 Q. You called the Madison Urgent Care;

1 correct?

2 A. Yes.

3 Q. Why did you call them?

4 A. To speak with Dr. Heng.

5 Q. Why did you think Dr. Heng would be  
6 at Madison Urgent Care?

7 A. Because that's where you called to  
8 get their answering service. They are all at  
9 the Madison Medical Campus. That's where their  
10 office is.

11 Q. So when you call for Prime Health  
12 Physicians, you called the Madison Urgent Care  
13 number?

14 A. No. I would have dialed their  
15 number. I mean, they are all at the Madison  
16 Medical Campus, but they have a separate number,  
17 like they had 8292; 6800 for the walk-in's for  
18 urgent care.

19 Q. So you believe you called the  
20 doctor's office and that the doctor's office  
21 then provided you with the information that's  
22 documented here at 1800 hour; correct?

23 MR. FORBES: Objection to the form.

24 A. Yes.

25 Q. And you think that the time that is



1       documented here at 1800 hour is incorrect?

2           A.       Yes.

3           Q.       What time do you think is correct?

4           A.       I don't know. Around 5:00 o'clock.  
5       I don't know for sure.

6           Q.       Now, do you recall Lorna having a  
7       large brown emesis on the evening of February  
8       3rd of 2000, around 6:00 p.m.?

9           A.       No.

10          Q.       Do you recall ever telling Pat  
11       Fishley that she did?

12                   MR. FORBES: Objection. Asked and  
13       answered. Jeanne, we have already been through  
14       this.

15                   Don't answer that, we have been  
16       through this.

17                   MS. TOSTI: I am requesting that you  
18       answer that again.

19                   MR. FORBES: If you want to go back,  
20       we can go back into the transcript and reread  
21       these. We are not going back over this.

22                   MS. TOSTI: Well then, I would like  
23       an answer to that question. Could you look back  
24       and see whether she saw the vomiting.

25                   (Recess had.)

1           Q.     On the evening of February 3rd, did  
2     you receive a call from anyone at Eastwood  
3     indicating to you that Lorna Moeller was having  
4     additional vomiting?

5           A.     On the morning?

6           Q.     The evening.

7           A.     The evening? No.

8           Q.     I would like you to look at  
9     Plaintiff's Exhibits 2. At 9:30 p.m. on  
10    February 3rd, it indicates Lorna Moeller is  
11    still vomiting, no bowel movement, gave her a  
12    suppository.

13                   Rita Freeborn didn't notify you that  
14    she was having additional vomiting on the  
15    evening of February 3rd?

16           A.     No.

17           Q.     Should she have notified you that she  
18    was having vomiting on that evening?

19           A.     Yes.

20           Q.     If she had notified you that she was  
21    having additional vomiting, would you have  
22    directed the resident care staff to take her to  
23    the hospital for evaluation?

24           A.     I don't know.

25           Q.     Now, Rita Freeborn gave her a

1     suppository for temperature of 97.

2           A.     And she had a temperature of 97.9.

3           Q.     Did Lorna Moeller have an order for  
4     any type of suppository?

5           A.     No.

6           Q.     The Dulcolax suppository that you  
7     gave was a one-time order from the doctor;  
8     correct?

9           A.     Correct.

10          Q.     So if Rita Freeborn gave Lorna  
11     Moeller a suppository, it was without a doctor's  
12     order; correct?

13          A.     Correct.

14          Q.     And she didn't call you to tell you  
15     she have giving a suppository, did she?

16          A.     No.

17          Q.     Now, after you left Eastwood on  
18     February 3rd, how many times were you paged by  
19     the resident care staff before you arrived on  
20     duty on February 4th?

21          A.     There were four calls on my pager.

22          Q.     And what time were you paged?

23          A.     I don't recall.

24          Q.     Do you recall how many of those were  
25     before midnight and how many were after

1 midnight?

2 A. No.

3 Q. You don't recall ever telling Pat  
4 Fishley that you were paged at 2:54 in the  
5 morning, 3:15 in the morning, 6:00 a.m., and  
6 7:11 a.m.?

7 A. Yes.

8 Q. Do those sound accurate as far as the  
9 times?

10 A. I don't recall the times, but I gave  
11 them to her off my pager.

12 Q. So you had your pager with you when  
13 you were speaking with Pat Fishley and you read  
14 her the times?

15 A. Yes.

16 Q. Why were you paged the first time?

17 A. I don't remember. I mean, if I saw  
18 the record I probably --

19 Q. What record are you speaking of?

20 A. Her medical record.

21 Q. What document would help you to know  
22 why you were paged?

23 MR. FORBES: Do you want the Eastwood  
24 log for that evening?

25 THE WITNESS: Yes, the Eastwood log.

1 MR. FORBES: I believe you marked as  
2 an exhibit previously Marquita Burton's note. I  
3 think that's what Ms. Warner is referring to.

4 MS. TOSTI: This is Plaintiff's  
5 Exhibit 1, Cherry. Is this the one you are  
6 referring to?

7 MR. FORBES: It has an entry on the  
8 morning of 2-4. Does that help refresh your  
9 recollection regarding why you were paged?

10 THE WITNESS: Yes.

11 Q. You said you were paged four times,  
12 so we are going to go through each of those four  
13 times.

14 So why were you paged the first time?

15 MR. FORBES: Objection. Asked and  
16 answered. She said she didn't remember.

17 MS. TOSTI: She said if she could  
18 look at the log it may refresh her memory, so I  
19 am asking that question again.

20 MR. FORBES: That's not the way you  
21 phrased it. Is that the question that is  
22 pending? State it so we have an answer to a  
23 question pending.

24 (Record read.)

25 MR. FORBES: I'm going to reiterate

1 my objection based on the way that question was  
2 phrased. If you wish to rephrase it, because  
3 she has answered that question and she said she  
4 didn't know and she is not going to answer it as  
5 phrased.

6 Q. You were contacted by the resident  
7 care worker during the night between February  
8 3rd and February 4th; correct?

9 A. Correct.

10 Q. And you spoke to a resident care  
11 worker after each one of those pages; is that  
12 correct?

13 A. Yes.

14 Q. Can you tell me what the content of  
15 each of those conversations was, to the best of  
16 your recollection; why you were called and what  
17 your response was? What information you were  
18 given when you were called and what your  
19 response was.

20 A. They had called to let me know that  
21 she had no fever, because I told them to monitor  
22 her, so they would usually call and let me know  
23 during the night what things were happening.  
24 She had the flu and they said she had no fever.  
25 That's 1:00 a.m. They said that she was like

1     spitting up on her nightgown, but not vomiting,  
2     just like spitting up, enough where they would  
3     have to change it. And I instructed them to  
4     take the vital signs and they told me what the  
5     vital signs were.

6           Q.     Was that after the first call? Were  
7     those instructions for the first call?

8           A.     Yes.

9           MR. FORBES: Julie, I'm going to ask  
10    you to think carefully about whether you can  
11    remember the responses to each specific call.  
12    If you can, feel free to testify that way. If  
13    you don't remember, then that's the answer you  
14    have to give.

15          Q.     I want you to be as accurate as you  
16    can. If you don't know, then you need to tell  
17    me that.

18                 So do you recall why you were paged  
19    the first time; what you were told by the  
20    resident staff?

21          A.     No, I don't recall.

22          Q.     Do you recall any instructions that  
23    you gave to the resident staff after you  
24    received the first page?

25          A.     No.

1           Q.     Do you recall what the reason was  
2     that you were called the second time, you were  
3     paged the second time? Any information that you  
4     were given about Lorna Moeller when you were  
5     paged the second time?

6           A.     No, I don't recall which time was  
7     which.

8           Q.     Do you recall any instructions that  
9     you gave to the staff after the second page?

10          A.     To take the vital signs.

11          Q.     Did the staff do that?

12          A.     Yes.

13          Q.     You were paged a third time. Do you  
14     recall what the content of that conversation  
15     was?

16          A.     No.

17          Q.     Did the staff report back the vital  
18     signs to you?

19          A.     Yes.

20          Q.     What was the blood pressure when the  
21     staff reported the vital signs to you?

22          A.     90 over 60.

23          Q.     Was that 90 over 60 cause for concern  
24     in Lorna Moeller's case?

25          A.     No, because she had the flu, and when



1     you have the flu, you throw up, your blood  
2     pressure does go down.

3           Q.     So it's your understanding that  
4     vomiting causes hypotension?

5           A.     Yes.

6           Q.     In Lorna Moeller's case, what did  
7     your usual blood pressure run?

8           A.     I don't recall.

9           Q.     You took it every month, didn't you?

10          A.     Yes, but I have 32 residents.

11          Q.     Assuming her blood pressure ran 130  
12     or hyper, usually, would a drop to 90 over 60 be  
13     cause for concern?

14          A.     Yes.

15          Q.     Would that be cause for concern that  
16     she should receive immediate medical attention?

17                 MR. FORBES:  Objection to the form.

18          A.     No.

19          Q.     Did you instruct the resident care  
20     staff to go check to see what her usual blood  
21     pressure was when they reported to you 90 over  
22     60 as her blood pressure?

23          A.     I don't recall.

24          Q.     Wouldn't that be the appropriate  
25     thing to do?

1 MR. FORBES: Objection to the form.

2 A. Yes.

3 Q. And in a patient who has a blood  
4 pressure of 90 over 60 and is described as being  
5 cool and clammy and has been vomiting, wouldn't  
6 that raise a concern for shock?

7 A. I wasn't told that she was cool and  
8 clammy.

9 Q. And you also didn't inquire as to  
10 what her normal blood pressure was based on the  
11 records that were available at Eastwood at the  
12 time; correct?

13 A. I don't recall.

14 Q. That would have been the appropriate  
15 thing to do, though; correct?

16 MR. FORBES: Objection to the form.

17 A. Yes.

18 Q. Do you know how many times she had  
19 vomited during the night before you arrived at  
20 Eastwood on the morning of February 4th?

21 A. No.

22 Q. Do you know if it was more than once?

23 A. No.

24 Q. When it was reported to you that her  
25 blood pressure was 90 over 60, did it raise any

1 type of concern in your mind that her condition  
2 had changed?

3 MR. FORBES: Objection. Asked and  
4 answered. You may answer again.

5 A. Yes.

6 Q. When it was reported to you that her  
7 blood pressure was 90 over 60, did you attempt  
8 to contact Lorna's doctors?

9 A. Yes, when I came in, I did.

10 Q. What time was that?

11 A. I don't recall the exact time.

12 Q. Well, approximately what time was  
13 that?

14 A. Around 7:00.

15 Q. Is there a reason why when the  
16 resident staff reported it to you earlier that  
17 you didn't call the doctor at that point in  
18 time?

19 A. I don't remember the exact  
20 circumstance.

21 Q. So you didn't make any attempts to  
22 contact the doctor until you arrived here at  
23 Eastwood?

24 A. So I could assess her myself.

25 Q. You arrived around 7:00. What time

1 did you attempt to contact the doctor?

2 A. I don't remember the exact time.

3 Q. How much after you arrived?

4 A. After I had had time to take her  
5 vital signs and call her.

6 Q. Now, did you do an assessment when  
7 you arrived?

8 A. Yes.

9 Q. What did you find on your assessment?

10 A. I don't remember.

11 Q. Did you retake her vital signs?

12 A. Yes.

13 Q. What did you get on her vital signs?

14 A. I don't remember that either.

15 Q. Is there anybody that saw you at or  
16 close to the time of your arrival at Eastwood?

17 A. Yes.

18 Q. Who?

19 A. Tracey Cherry.

20 Q. Anybody else?

21 A. I don't know.

22 Q. Is there a sign-in sheet that you  
23 sign in on when you arrive?

24 A. No.

25 Q. Do you know what hours you were

1 scheduled to work on February 4th of 2000?

2 A. I don't have a schedule.

3 Q. Do you know what hours you worked on  
4 February 4th of 2000?

5 A. I don't recall.

6 Q. After you arrived at Eastwood, you  
7 indicated that you did an assessment of Lorna?

8 A. Yes.

9 Q. Did you then attempt to call the  
10 doctor right after you did your assessment?

11 A. Yes.

12 Q. And who is it that you contacted?

13 A. Dr. Heng.

14 Q. Did you speak with Dr. Heng directly?

15 A. Yes.

16 Q. Where was Dr. Heng when you spoke  
17 with Dr. Heng?

18 A. I don't know. I put the call in and  
19 she called me back.

20 Q. Did you speak with Dr. Heng's  
21 answering service or Dr. Heng's office when you  
22 made that phone call?

23 A. Answering service, I believe.

24 Q. Answering service. And you asked for  
25 the doctor to call you back?

1 A. Yes.

2 Q. Did Dr. Heng then call you back?

3 A. Yes.

4 Q. How long did it take for Dr. Heng to  
5 call you back?

6 A. I don't know.

7 Q. And when Dr. Heng called you back,  
8 what was the content of that discussion?

9 A. She told me that it probably was a  
10 high impaction and I should go to the drugstore  
11 and purchase mag citrate and give her that.

12 Q. Your testimony is that you spoke to  
13 Dr. Heng directly and Dr. Heng gave you that  
14 order over the phone directly; correct?

15 A. Correct.

16 Q. That wasn't an order that was  
17 transmitted by Dr. Heng's office; correct?

18 A. Correct.

19 Q. And you would disagree with anybody  
20 that said that you received that order from the  
21 office staff rather than Dr. Heng; correct?

22 A. Correct.

23 Q. Did you tell Dr. Heng when you had  
24 the first conversation that Lorna Moeller had  
25 been vomiting all night?

1 MR. FORBES: Objection to the form.

2 A. I gave her the vital signs and told  
3 her that she had been vomiting.

4 Q. You told Dr. Heng that the blood  
5 pressure was 90 over 60; correct?

6 A. Correct.

7 Q. Now, Dr. Heng gave you an order for  
8 magnesium citrate; correct?

9 A. Correct.

10 Q. That's a laxative; correct?

11 A. Yes.

12 Q. That's a liquid laxative; correct?

13 A. Yes.

14 Q. Large volume?

15 A. Yes.

16 Q. What is it, about 240 cc's, about a  
17 half pint of liquid?

18 A. Yes.

19 Q. Did you think that that was an  
20 inappropriate order given the fact that Lorna  
21 Moeller was going to have to drink this down and  
22 she had been vomiting all night?

23 MS. JENNY: Objection.

24 A. No.

25 Q. So you thought you would be able to

1 have Lorna drink this even though she had been  
2 vomiting?

3 A. Yes.

4 Q. Now, Lorna Moeller didn't have her  
5 7:00 o'clock medications. They were all held,  
6 correct, on February 4th?

7 A. Correct.

8 Q. Did you order that those medications  
9 be held?

10 A. I don't remember.

11 Q. So if she was unable to take her  
12 pills, how was she going to take 240 cc's, a  
13 half pint of mag citrate?

14 A. Because she was up at the table  
15 sitting and talking and drinking Kool-aid and  
16 ginger ale.

17 Q. Then why were her medications held at  
18 7:00 o'clock in the morning?

19 MR. FORBES: Objection to the form.

20 A. Because she was on a liquid diet.

21 Q. Was it your impression that she  
22 wasn't to take her medications?

23 A. I don't recall.

24 Q. Didn't you tell me that the discharge  
25 instructions was she was supposed to take



1 Colace?

2 A. Yes.

3 Q. Is Colace a pill?

4 A. Yes.

5 Q. So why was her 7:00 o'clock  
6 medications held in the morning?

7 MR. FORBES: Objection. That's been  
8 asked and answered. You can answer again. Do  
9 you know why they were held?

10 THE WITNESS: I don't recall.

11 Q. On Plaintiff's Exhibit 4, at 7:00  
12 a.m., is that your handwriting?

13 A. Yes.

14 Q. Would you read what it says at 7:00  
15 a.m.?

16 A. All a.m. meds held, unable to keep  
17 down.

18 Q. Is that your initials next to that?

19 A. Yes.

20 Q. So is that something that you wrote  
21 on the morning of February 4th?

22 A. Yes.

23 Q. So you were aware that she was unable  
24 to take her 7:00 o'clock medications because she  
25 was unable to keep them down; correct?

1           A.     Yes.

2           Q.     And when you got that order from  
3     Dr. Heng, did you ever question Dr. Heng and say  
4     how is she going to take this medication if she  
5     can't even keep her pills down?

6           A.     No.

7           Q.     When you arrived on the morning of  
8     February 4th, did you think that Lorna Moeller  
9     needed to see a physician when you conducted  
10    your assessment? Did you think she needed to be  
11    reevaluated to go to the hospital or see the  
12    doctor?

13          A.     Yes.

14          Q.     When you spoke with Dr. Heng, did you  
15    say anything to Dr. Heng about it?

16          A.     Yes.

17          Q.     What did you say to Dr. Heng?

18          A.     I gave her the vital signs and let  
19    her know that she had been vomiting.

20          Q.     Did you say to Dr. Heng, I think she  
21    needs to be seen?

22          A.     I don't recall the exact  
23    conversation.

24          Q.     Did you ever tell Tracey Cherry to  
25    get Lorna Moeller dressed because I'm going to

1 take her to the doctor when I arrive?

2 A. Yes, I remember that.

3 Q. Was that your intention when you  
4 arrived; to take Lorna Moeller to the doctor?

5 A. Yes.

6 Q. When did you intend to do that?

7 A. After I called the doctor.

8 Q. When you called the doctor, did you  
9 say to the doctor, I would like to bring her in  
10 so that you can take a look at her?

11 A. I don't recall the exact  
12 conversation.

13 Q. Now, the order for magnesium citrate  
14 is recorded on Plaintiff's Exhibit Number 3. Is  
15 that an order that you wrote out for magnesium  
16 citrate?

17 A. Yes.

18 Q. And the time on that order, would you  
19 tell us what time you took that order from  
20 Dr. Heng?

21 A. 8:30.

22 Q. And you have actually recorded that  
23 time of 8:30 in several different places on this  
24 order; correct?

25 A. Correct.

1 Q. So you didn't talk with Dr. Heng  
2 until 8:30 in the morning then; correct?

3 MR. FORBES: Objection.

4 A. I don't recall.

5 Q. Well, this is your signature on this  
6 order for mag citrate timed at 8:30 in the  
7 morning, isn't it?

8 A. Yes.

9 Q. And you indicated that the first time  
10 you talked with Dr. Heng, you got the order for  
11 mag citrate; correct?

12 A. Correct.

13 Q. And you are required to write the  
14 order and indicate the time when you receive it;  
15 correct?

16 A. Correct.

17 Q. So isn't it likely that you spoke  
18 with Dr. Heng about 8:30 in the morning on  
19 February 4th?

20 A. Yes.

21 Q. Now, after you got the order for mag  
22 citrate from Dr. Heng, what did you do?

23 A. I went to the store and bought it and  
24 came back.

25 Q. Where did you go to get the mag

1     citrate?

2           A.     Rite-Aid.

3           Q.     How far away is that?

4           A.     I don't know exact mileage.   Just  
5     right up the street.

6           Q.     How long were you gone to get the mag  
7     citrate?

8           A.     About ten minutes, approximately.

9           Q.     Now, if Lorna Moeller was sick and  
10    you knew her blood pressure was 90 over 60, why  
11    didn't you send a resident care worker for the  
12    mag citrate and you stay with the patient?

13          A.     So much was going on, she gave me the  
14    order and I went and got it.

15          Q.     Wouldn't it have been prudent for the  
16    person with the medical training to stay with  
17    the sick patient and send a resident care worker  
18    for that medication?

19          A.     Yes.

20          Q.     Now, you received the order at 8:30.  
21    Did you go immediately after you received the  
22    order to obtain the medication?

23          A.     Yes.

24          Q.     And I'm sorry, I don't recall if you  
25    told me how long you were gone; how long it took

1     you to go and come back.

2                   MR. FORBES:  Objection.  Asked and  
3     answered.  You can go ahead if you remember what  
4     you said.

5           A.     Five or ten minutes.

6           Q.     And who was caring for Lorna Moeller  
7     when you were gone?

8           A.     Tracey Cherry.

9           Q.     Did you give Tracey Cherry any  
10    particular directions as to how she was to care  
11    for Lorna Moeller in your absence?

12          A.     I don't recall the exact thing.  She  
13    was sitting at the table drinking some juice and  
14    I left and she seemed well enough to be with  
15    her.

16          Q.     Now, tell me when you returned to  
17    Eastwood what you found.

18          A.     She was back in her room.

19          Q.     Was she in bed?

20          A.     Yes.

21          Q.     Lying down?

22          A.     Yes.

23          Q.     On her back?

24          A.     I don't remember if she was on her  
25    back or not.

1 Q. Where was Tracey Cherry?

2 A. With her.

3 Q. What was happening?

4 A. She was laying down. She said she  
5 was tired and we sat her up to give her the mag  
6 citrate.

7 Q. Were you able to give her any of the  
8 mag citrate?

9 A. No.

10 Q. Why not?

11 A. Because as soon as we sat her up, she  
12 threw up.

13 Q. And what was she throwing up? What  
14 did the vomit look like?

15 A. Brown liquid.

16 Q. A large amount?

17 A. Yes.

18 Q. What did you do?

19 A. Called 911.

20 Q. Did you call 911?

21 A. No, I had Tracey do it.

22 Q. And what did you do in the meantime?

23 A. Started to keep her on her side so  
24 that it would come out until they came. There  
25 was no way to do CPR on her. She was too full.

1 Q. Did she lose her pulse? Were you  
2 checking her pulse during that period of time?

3 A. Yes.

4 Q. Did she lose her pulse at any point  
5 in time?

6 A. It was getting faint.

7 Q. Did you ever lose it?

8 A. I don't remember.

9 Q. Do you know whether or not she  
10 expired before the EMS arrived?

11 MR. FORBES: Objection to the form.

12 A. I don't remember. It all happened so  
13 fast. They were there. I thought she had  
14 passed away and then the next thing I know they  
15 said they had brought her back on the way to the  
16 hospital.

17 Q. When you thought she passed away, was  
18 the EMS there?

19 A. Yes.

20 Q. Did you take any type of emergency or  
21 resuscitative measures?

22 A. You couldn't on account of all the  
23 fluid.

24 Q. Did you have an airway available in  
25 the Eastwood home?



1           A.     Yes, but she was, you know, throwing  
2     all this up. By that time they were there, so  
3     they took over.

4           Q.     Now, the emergency room record  
5     indicates that this was no bystander CPR and  
6     that she was down for ten minutes. Do you  
7     disagree with that?

8           A.     There was no bystander CPR.

9           Q.     And that she was down for  
10    approximately ten minutes before EMS arrived.

11          A.     No. I don't recall.

12          Q.     After you returned from the pharmacy,  
13    did you ever take a set of vital signs on her  
14    again?

15          A.     No.

16          Q.     Was Lorna coherent when you arrived  
17    back from the pharmacy?

18          A.     Yes.

19          Q.     Was she able to talk to you?

20          A.     Yes.

21          Q.     And that when you sat her up, she  
22    developed problems?

23          A.     Yes.

24          Q.     Did she lose consciousness?

25          A.     Yeah. Just as soon as we sat her up,

1 she just started throwing up.

2 Q. But was she able to talk in between  
3 any of this? Was she awake?

4 A. In between it? No.

5 Q. Was she moving her arms and legs?  
6 I'm trying to determine what condition she was  
7 in at the point that she was having this emesis.

8 A. No.

9 Q. And from your position as a medical  
10 professional, what was her condition when she  
11 started vomiting?

12 MR. FORBES: Objection to the form.

13 A. We called 911. What was her  
14 condition? Bad, poor.

15 Q. But was she conscious?

16 A. I don't remember.

17 Q. Now, is it your testimony that you  
18 only made one phone call to Dr. Heng that  
19 morning; is that correct?

20 A. That's right.

21 Q. And the one phone call that you made  
22 to Dr. Heng only involved the mag citrate.  
23 Dr. Heng never said to you, you should call 911  
24 and send her to the hospital; correct?

25 MS. JENNY: Objection.

1 A. Correct.

2 Q. And you would disagree with Dr. Heng  
3 if Dr. Heng testified that she told you that you  
4 should take Lorna Moeller to the hospital, call  
5 EMS, 911, and have her taken to the hospital?

6 MR. FORBES: Objection to the form.

7 MS. JENNY: Objection.

8 A. Right.

9 Q. And you would disagree with Dr. Heng  
10 if she said she never talked to you directly and  
11 gave you an order for mag citrate; correct?

12 MR. FORBES: Objection to the form.  
13 Asked and answered.

14 MS. JENNY: Objection.

15 A. Yes.

16 Q. When the EMS technicians arrived, did  
17 you provide any information to them in regard to  
18 Lorna Moeller as to what had occurred over the  
19 course of the last several days?

20 MR. FORBES: Objection to the form.

21 A. I don't recall what was said.

22 Q. Did the EMS say anything to you in  
23 regard to her condition at the time that they  
24 arrived?

25 A. I'm sure they did, but I don't recall

1 the conversation.

2 Q. Did anyone from Eastwood that you are  
3 aware of accompany Lorna to the hospital in the  
4 EMS vehicle?

5 A. No.

6 Q. When she was taken to Geneva  
7 Hospital, did you speak to anyone in the  
8 emergency room at Geneva Hospital?

9 A. No.

10 Q. After Lorna was taken to the hospital  
11 by Emergency Medical Services, what did you do?

12 A. After she was revived you mean?

13 Q. After they wheeled her out the front  
14 door, what did you do?

15 A. LuAnn took over, LuAnn Busch.

16 Q. I'm asking what you did.

17 A. I don't recall what I did.

18 Q. Did you stay here? Did you go  
19 somewhere else? What did you do the rest of the  
20 day?

21 A. I stayed here, yes.

22 Q. And did you have a meeting with LuAnn  
23 Busch? Did you meet with her that morning?

24 A. That day? I don't remember.

25 Q. Did you review a consumer incident

1 report on February 4th, 2000, on the morning  
2 after the incident?

3 MR. FORBES: Objection to the form.  
4 I really can't follow that one.

5 Q. On February 4th, 2000, did you sit  
6 down and review a consumer incident report made  
7 out by Tracey Cherry describing the incidents of  
8 that morning?

9 A. That day? I don't remember.

10 Q. This is marked as Cherry Plaintiff's  
11 Exhibit 5. Would you please turn to page two.  
12 Does your signature appear on that copy of a  
13 consumer incident report?

14 A. Yes.

15 Q. Did you review that consumer incident  
16 report on February 4th?

17 A. Yes.

18 Q. Did you mark down that you did that  
19 at 10:00 in the morning?

20 A. Yes.

21 Q. So shortly after the time that Lorna  
22 Moeller was removed from Eastwood Residential to  
23 the hospital, you reviewed the facts as written  
24 by Tracey Cherry in this consumer incident  
25 report; correct?

1 A. Yes.

2 Q. Now, by signing this, does that mean  
3 that you agree with the content of it?

4 A. That I reviewed it.

5 Q. Did you agree with the content of it  
6 when you signed it?

7 A. No. It's just that I read it, that I  
8 was contacted, and that I was notified is what  
9 this is for.

10 Q. You were the only medical  
11 professional present. Is there a reason why you  
12 didn't fill out a report indicating your medical  
13 observations in regard to Lorna Moeller on the  
14 morning of February 4th, 2000?

15 A. I don't know that I didn't.

16 Q. Do you recall doing another report  
17 other than this one that you signed, other than  
18 Plaintiff's Exhibit Cherry 5?

19 A. I don't recall.

20 Q. Did you meet with LuAnn Busch to  
21 discuss the incident on the morning of February  
22 4th, 2000?

23 MR. FORBES: Objection to the form.  
24 The phrase is confusing.

25 A. She was there.

1           Q.     No, I'm asking if you sat down and  
2     talked with her about the events that occurred  
3     from the time you arrived at Eastwood on  
4     February 4th until the time that Lorna Moeller  
5     was removed to the hospital? Did you sit down  
6     and discuss that with LuAnn Busch?

7           A.     I don't remember, but I'm sure I did.

8           Q.     And you don't recall what time you  
9     left the Eastwood residence on the 4th?

10          A.     I don't know.

11          Q.     Did anyone ever indicate to you that  
12     the actions you took on February 3rd or February  
13     4th in regard to Lorna Moeller's last illness  
14     was inadequate in any way?

15                 MR. FORBES: Objection. That question  
16     seeks information protected by the peer review  
17     statute and I'm going to object and instruct  
18     Ms. Warner not to answer.

19          Q.     Were you ever the subject of any  
20     disciplinary action as a result of the care that  
21     you provided to Lorna Moeller?

22                 MR. FORBES: Objection. Same  
23     objection, same instruction.

24          Q.     Were you ever interviewed by Patricia  
25     Fishley from the Department of Mental

1 Retardation and Developmental Disabilities as  
2 part of an investigation in regard to Lorna  
3 Moeller's death?

4 A. Yes.

5 Q. Following Pat Fishley's  
6 investigation, did you ever attend any mandatory  
7 in service on how to handle medical emergencies  
8 at Eastwood?

9 A. I come to them all the time.

10 Q. None that you can relate specifically  
11 that were mandatory as a result of that  
12 investigation; correct?

13 A. No.

14 Q. And if LuAnn Busch testified that you  
15 did, would you disagree with her?

16 A. I don't remember. I mean, I don't  
17 remember if there is one related to this or not.

18 Q. Did you ever review a copy of  
19 Patricia Fishley's report in regard to her  
20 investigation into the matter of Lorna Moeller's  
21 death?

22 MR. FORBES: Objection. Just so we  
23 are sure you are talking about the same thing,  
24 you might want to show her the document to see  
25 if she has reviewed it.



1           Q.     Handing you what's marked as Schubert  
2     Plaintiff's Exhibit 5, I would ask if you have  
3     ever reviewed a copy of that, what is titled MUI  
4     Synopsis?

5           A.     I never saw this paper before.

6           Q.     When Lorna Moeller was discharged  
7     from the hospital on February 2nd, do you  
8     believe that she was ready for discharge back to  
9     Eastwood?

10           MS. JENNY:  Objection.

11           MR. SCHMITZ:  Objection.

12           MR. FORBES:  Also object.

13           A.     I took the doctor's order.

14           Q.     So you don't have an opinion one way  
15     or another?

16           A.     No.

17           Q.     Are you critical of any of the  
18     physicians or Lake Hospital for the care that  
19     they provided to Lorna Moeller?

20           MS. JENNY:  Objection.

21           MR. SCHMITZ:  Objection.

22           A.     No.

23           Q.     Is there a point in time that you  
24     believe Lorna Moeller should have been returned  
25     to the hospital for reevaluation?

1 MR. FORBES: Objection to the form.

2 A. No.

3 Q. Are you critical of Dr. Heng in any  
4 way in regard to her advice on the morning of  
5 February 4th, 2000?

6 MS. JENNY: Objection.

7 MR. FORBES: Objection.

8 A. No.

9 Q. Do you feel that Lorna Moeller should  
10 have been evaluated by a physician on the  
11 morning of February 4th, 2000?

12 MR. FORBES: Objection to the form.

13 MS. JENNY: Objection.

14 Q. You may answer.

15 A. Yes.

16 Q. And why is that?

17 A. Because she was throwing up and I  
18 called them to find out what to do.

19 Q. If you felt she needed to be seen by  
20 a doctor, why didn't you take her to the urgent  
21 care or the emergency room?

22 A. Because I called and got the doctor's  
23 orders.

24 Q. So the reason you didn't take her to  
25 the urgent care or the emergency room was

1 because the doctor didn't tell you to?

2 MS. JENNY: Objection.

3 A. I didn't feel it was that necessary.  
4 I thought it was okay to call the doctor to find  
5 out what they wanted me to do.

6 Q. But I think you previously testified  
7 that you never said to the doctor, can I bring  
8 her in; correct?

9 A. I don't remember that.

10 Q. After Lorna Moeller passed away, did  
11 you have any contact with her family members?

12 A. Yes. I saw them at the funeral.

13 Q. Other than at the funeral, did you  
14 have any phone calls or any other contacts with  
15 them?

16 A. Personally, no.

17 Q. Did you ever have any discussion at  
18 the funeral in regard to any of the events that  
19 occurred prior to the time that she passed away?

20 A. I don't remember.

21 MS. TOSTI: I'm done. I don't have  
22 any further questions.

23 MR. SCHMITZ: No questions.

24 MS. JENNY: No questions.

25 MR. FORBES: We will read.

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- - - - -

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(Deposition concluded at 5:40 p.m.)

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(Signature not waived.)

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1 AFFIDAVIT

2 I have read the foregoing transcript from  
3 page 1 through 108 and note the following  
4 corrections:

5 PAGE LINE REQUESTED CHANGE

6

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17

JULIE WARNER, LPN

18

19

20 Subscribed and sworn to before me this  
21 day of , 2002.

22

23 Notary Public

24

25 My commission expires .

CERTIFICATE

State of Ohio,

SS:

County of Cuyahoga.

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named JULIE WARNER, LPN was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 21st day of August, 2002.



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

My commission expires June 8, 2004.

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