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2 BEFORE THE KANSAS STATE BOARD OF HEALING ARTS

3 .

4 IN THE MATTER OF) Docket No. 10-HA00129

5 ANN K. NEUHAUS, M.D.) OAH No. 10-HA0014

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7 Kansas License No. 04-21596

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11 TRANSCRIPT OF

12 PROCEEDINGS

13 taken on the 4th day of November, 2011, beginning

14 at 9:02 a.m., at the Kansas State Board of Healing

15 Arts, 800 Southwest Jackson, Lower Level, in the

16 City of Topeka, County of Shawnee, and State

17 Kansas, before, Edward J. Gaschler, Presiding

18 Officer.

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1 ALSO PRESENT :

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3 Ms. Hester Jay

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1 PRESIDING OFFICER: All right. We're
2 back on the record in the matter of Ann K.
3 Neuhaus, M.D. Docket No. 10-HA00129. Today's date
4 is November 4th, 2011. The presiding officer is
5 Ed Gaschler, Office of Administrative Hearings.
6 Will the parties please state their appearances
7 for the record.

8 MR. HAYS: Reese Hays and Jessica Bryson
9 for the Kansas State Board of Healing -- Healing
10 Arts.

11 MR. EYE: Good morning. For the
12 respondent, Robert Eye and Kelly Kauffman.

13 PRESIDING OFFICER: I think when we
14 adjourned last time, you were in the middle of
15 your cross-examination of Doctor K. Allen Greiner,
16 correct?

17 MR. HAYS: Yes, sir.

18 PRESIDING OFFICER: And are you ready to
19 resume?

20 MR. HAYS: Yes, sir.

21 PRESIDING OFFICER: All right. Doctor,
22 you're still under oath.

23 CONTINUATION OF CROSS EXAMINATION

24 BY MR. HAYS:

25 Q. Doctor Greiner, I believe when we left

1 off, I had asked you whether you had an
2 opportunity to make any corrections to the
3 deposition after it was produced, correct?

4 A. Correct.

5 Q. Okay. And you've had the -- your
6 statutory 30 days after being notified by the
7 court reporter that the transcript is available to
8 review to make any corrections, correct?

9 A. Correct.

10 Q. And you have not submitted any changes in
11 form or substance within that 30-day time limit to
12 the court reporter, correct?

13 A. Correct.

14 Q. Okay. And during that deposition, I
15 advised you that if you did not understand any
16 questions that I asked, that I ask you to stop me
17 and I would phrase -- rephrase the question,
18 correct?

19 A. Correct.

20 Q. And the question that I was referring to
21 on the deposition was -- or the last question that
22 you had asked -- answered was that you had to go
23 to Doctor Neuhaus to personally ask her if some of
24 the pertinent evaluations were performed with all
25 of the 11 patients, correct?

1 A. Correct.

2 Q. Okay. And you testified in your
3 deposition -- or you were asked in your
4 deposition, what did you specifically ask her
5 about her assessments? And you responded, so each
6 of the patients, except for one, I believe had a
7 global assessment of functioning, document
8 completed and available in that chart. And I
9 really just wanted to clarify with her, you know,
10 did the -- were those assessments really done on
11 everyone?

12 Was that your testimony?

13 A. I believe so, yes.

14 Q. And is that still true today?

15 A. Yes.

16 Q. And you also had to ask Doctor Neuhaus if
17 each of the patients had a GAF and a SIGECAPSS
18 performed in their evaluation, correct?

19 A. Correct.

20 Q. And you had to confirm this with her
21 because a couple of the records did not contain
22 this information, correct?

23 A. Yes. And because I didn't believe that
24 -- that that information would routinely be
25 collected on every patient in that setting.

1 Q. Okay. Let's talk about how you went
2 about reviewing her records. You were provided
3 the material on the CD -- on a CD, correct?

4 A. Correct.

5 Q. And you do not have possession of that CD
6 anymore, correct?

7 A. I believe the CD's in my locked storage
8 in my off -- new office. We moved offices between
9 the time when I got the CD and the deposition
10 began.

11 Q. And you were asked to provide a copy of
12 that during the deposition, correct?

13 A. Correct.

14 Q. And you were given some additional time
15 to provide that, correct?

16 A. Correct.

17 Q. And you were unable to provide that CD,
18 correct?

19 A. I haven't gone down to the basement
20 storage to -- to try to dig it out, no.

21 Q. And you reviewed each chart from the
22 beginning to the end, correct?

23 A. Correct.

24 Q. And when you performed your initial
25 review of the patient records to provide your

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1 opinion, you believe the records for each patient
2 contained only one medical chart instead of two
3 medical charts from two separate doctors, correct?

4 A. Correct.

5 Q. And it was not until the date of your
6 deposition that you came to the understanding that
7 Doctor Neuhaus had her own individual patient
8 records and Doctor Tiller had his own individual
9 patient records, correct?

10 A. Correct.

11 Q. So your opinion letter was based on your
12 belief that there was only one patient record for
13 each patient, correct?

14 A. Correct.

15 Q. Now let's talk about the PsychManager
16 Lite program, the DTREE and the GAF. You have not
17 reviewed the PsychManager Lite program that was
18 used to create the DTREE and GAF reports found in
19 Doctor Neuhaus' patients' records, correct?

20 A. Reviewed how?

21 Q. You have not --

22 A. Use the software?

23 Q. Use the software, correct.

24 A. No.

25 Q. You are not familiar with the

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1 PsychManager Lite software, correct?

2 A. Correct.

3 Q. In all of the peer review you have
4 performed, this is the only time that you've seen
5 the use of this program, correct?

6 A. Correct.

7 Q. You have made assumptions upon how the
8 DTREE report is created, correct?

9 A. Assumptions about the software, yes.

10 Q. At the time of your opinion letter, you
11 did not know specifically how the DTREE report was
12 created, correct?

13 A. Correct.

14 Q. Okay. Let's take a look at Patient 1, if
15 you'd like to turn to Exhibit No. 23. It'll be in
16 the smaller notebook that you have in front of
17 you. Do you have that exhibit in front of you?

18 A. Yes.

19 Q. Okay. Upon your initial review of the
20 patient's record, you reviewed Doctor Neuhaus's
21 patient record, Exhibit 23, and Doctor Tiller's
22 patient record together as one patient record,
23 correct?

24 A. Correct.

25 Q. If you look just at Exhibit No. 23,

1 Doctor Neuhaus's patient record for Patient 1, you
2 can not tell from that patient record who the
3 physician was for that patient, correct?

4 A. Correct.

5 Q. You can not tell from the patient's
6 record who completed the document -- documentation
7 within that record, correct?

8 A. Correct.

9 Q. From the record, you can not tell the
10 questions that were asked of the patient, correct?

11 A. That's incorrect.

12 Q. Do you remember testifying during your
13 deposition and being asked, can you tell me what
14 questions were asked of the patient to form the
15 basis of that patient record, and you responded
16 no? Do you remember that testimony?

17 A. No, I don't remember that testimony. I
18 believe I stated on a number of these records that
19 I felt like I could tell the questions that were
20 asked based on the reports that were generated.

21 MR. HAYS: May I approach the witness?

22 PRESIDING OFFICER: (Nods head.)

23 MR. HAYS: I'm showing --

24 MR. EYE: Do you have a page and line to
25 -

1 MR. HAYS: I will here in a moment.

2 MR. EYE: Okay. Thanks.

3 BY MR. HAYS:

4 Q. I'm showing you Volume I of the
5 transcript that contains the deposition of Doctor
6 Greiner, Volume I. And we'll get to that just
7 momentarily. Could you turn to page number 180 --
8 oh, sorry about that, I was looking at the wrong
9 one. Page 176. Could you read Lines 5 through 8
10 for me.

11 A. On 176?

12 Q. Correct.

13 A. Referred to as Axis I, Axis II, Axis III,
14 Axis IV and Axis V.

15 Q. Oh, sorry about that. It's supposed to
16 -- I'm going to hand you Volume II, page 176.

17 MR. HAYS: Can I have a moment real
18 quick, sir?

19 PRESIDING OFFICER: (Nods head.)

20 (THEREUPON, a discussion was had off the
21 record.)

22 MR. HAYS: Can we take five minutes?

23 (THEREUPON, a recess was taken.)

24 MR. HAYS: I've got Volumes I through
25 III, I'm just going to provide those to him. Do

1 you have any objection to that?

2 MR. EYE: I do not.

3 MR. HAYS: It might be a moment.

4 BY MR. HAYS:

5 Q. And page 176.

6 A. Okay.

7 Q. And can you read -- sorry about that.

8 Can you read Lines 5 through 8?

9 A. Yeah, can you tell me what questions were
10 asked of the patient to form the basis of that
11 patient record? No.

12 Q. Patient 1 was diagnosed with anxiety
13 disorder NOS, correct?

14 A. Correct.

15 Q. And that diagnosis is documented on the
16 DTREE printout, correct?

17 A. Correct.

18 Q. And the DTREE printout does not document
19 the basis for the diagnosis, correct?

20 A. Correct.

21 Q. And you are of the opinion that the
22 information alone documented on the GAF report
23 contains sufficient information to support your
24 opinion that Doctor Neuhaus met the standard of
25 care in coming to a diagnosis for this patient,

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1 correct?

2 A. Correct.

3 Q. You are also of the opinion the GAF
4 report contains documentation of Patient 1's
5 psychological symptoms and findings, correct?

6 A. Correct.

7 Q. And it is your opinion that this
8 patient's GAF report documents specific
9 information that applies to the diagnosis of the
10 anxiety disorder NOS, correct?

11 A. Correct.

12 Q. So hypothetically, if this patient was
13 diagnosed with substance dependence, the GAF
14 reported -- report located within her patient
15 record would not support that diagnosis because
16 the GAF report supports the diagnosis of anxiety
17 disorder NOS, correct?

18 A. Substance abuse disorder?

19 Q. Yes, sir.

20 A. Let me just review it more closely to
21 make sure.

22 Q. And it's substance dependence.

23 A. Substance dependence.

24 Q. Yes.

25 A. Correct.

1 Q. Okay. So let's take a look at the GAF
2 report for Patient 1. Do you have that in front
3 of you?

4 A. Yes.

5 Q. The GAF rating for Patient 1 is 45,
6 correct?

7 A. Correct.

8 Q. And that GAF rating for this patient is
9 based upon a serious impairment in social,
10 occupational or school functioning, correct?

11 A. Correct.

12 Q. So -- so hypothetically, could a patient
13 that has been diagnosed with substance dependence
14 have serious impairment in social, occupational or
15 school fun -- functioning?

16 A. Yes.

17 Q. So it's true that the information
18 contained within the GAF could be applicable to a
19 psychiatric diagnosis other than anxiety disorder?

20 A. Correct.

21 Q. The GAF measures the level of severity of
22 the patient's symptoms or the level of functioning
23 of the patient, correct?

24 A. Correct.

25 Q. And you would agree that the standard of

1 care requires more than a GAF determination to be
2 made during a mental health evaluation, correct?

3 A. It depends on the situation.

4 Q. Do you remember being asked the question,
5 is there more required in a mental health
6 evaluation than just a GAF determination, and your
7 response was yes?

8 A. No, I don't recall that.

9 Q. Could you turn to page 179 in your
10 deposition. Can you read Lines 1 through 3.

11 A. Yes. Is there more required in a mental
12 health evaluation than just a GAF determination?
13 Yeah.

14 Q. And that was your testimony that day,
15 correct?

16 A. Correct.

17 Q. You would also agree that this patient's
18 record does not document a performance of a
19 complete mental health evaluation, correct?

20 A. That's correct.

21 Q. And you would also agree that the
22 standard of care requires more than a GAF
23 determination to met -- to be made during a mental
24 status examination, correct?

25 A. Mental status evaluation, yes, correct.

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1 Q. Mental status examination?

2 A. Examination, correct.

3 Q. You would also agree that this patient's
4 record does not document the performance of a
5 complete mental status exam, correct?

6 A. Correct.

7 MR. EYE: Would you repeat the question,
8 please?

9 MR. HAYS: Would you also agree that this
10 patient's record does not document the performance
11 of a complete mental status exam?

12 MR. EYE: Thank you.

13 A. Mental status examination, correct, it
14 does not.

15 BY MR. HAYS:

16 Q. Let's change gears a bit and speak about
17 how this patient presented to Doctor Neuhaus
18 supporting the diagnosis of anxiety disorder NOS.
19 The diagnostic criteria for anxiety dis --
20 disorder NOS is the patient has a condition with
21 symptoms, of prod -- prominent anxiety or phobic
22 avoidance, but does not meet the criteria for any
23 specific anxiety disorder, adjustment disorder
24 with anxiety or adjustment disorder with mixed
25 anxiety and depressed mood. Correct?

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1 A. I'm not aware of where that information
2 comes from.

3 Q. Do you use the DSM-IV? You're familiar
4 with that, correct?

5 A. I'm familiar with it, yes.

6 MR. HAYS: May I approach?

7 MR. EYE: (Nods head.)

8 BY MR. HAYS:

9 Q. What I'm presenting you is a copy of the
10 DSM-IV-TR, correct?

11 A. Yes, correct.

12 Q. And could you turn to page 484.

13 A. (Witness complies).

14 Q. And that's the page in which the
15 diagnostic criteria for anxiety disorder NOS is
16 located, correct?

17 A. Correct.

18 Q. And after reviewing that information,
19 would you agree the patient has a condition with
20 symptoms of prominent anxiety or phobic avoidance,
21 but does not meet criteria for any specific
22 anxiety disorders, adjustment disorder with
23 anxiety or adjustment disorder with mixed anxiety
24 and depressed mood? That's the diagnostic
25 criteria for anxiety disorder NOS, correct?

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1 A. What -- can you repeat the question
2 again?

3 Q. The diagnostic criteria for anxiety
4 disorder NOS is the patient has a condition with
5 symptoms of prominent anxiety or phobic avoid --
6 avoidance, but does not meet the criteria for any
7 specific anxiety disorders, adjustment disorder
8 with anxiety or adjustment disorder with mixed
9 anxiety and depression -- correction -- and
10 depressed mood, correct?

11 A. That's the DSM documented criteria, yes.

12 Q. You can not determine from this patient's
13 record whether this patient had symptoms of
14 prominent anxiety or phobic avoidance, correct?

15 A. Correct.

16 Q. And it's your understanding the patient
17 had traveled from New York, correct?

18 A. I don't believe we have any information
19 about where the prep -- patient traveled from.

20 Q. Okay. She was in her third trimester of
21 an unwanted pregnancy, correct?

22 A. Correct.

23 Q. She was 14 years of age, correct?

24 A. Correct.

25 Q. And she came to Wichita, Kansas seeking

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1 an abortion, correct?

2 A. Correct.

3 Q. And you would agree that it's possible
4 that all those factors could have been causing the
5 patient to present acutely distressed and not
6 suffering from a psychiatric disorder, correct?

7 A. Incorrect.

8 Q. That's not possible?

9 A. I don't agree with that statement.

10 Q. Is it a possibility?

11 A. It's a possibility, yes.

12 Q. And you would agree a physician who is
13 evaluating that patient would need to determine
14 whether the patient's presentation of distress was
15 related to a psychiatric disorder rather than
16 distress caused by her circumstances to come to
17 the diagnosis of anxiety disorder NOS, correct?

18 A. Incorrect.

19 Q. You would also agree that there is no
20 documentation of how this patient's possible
21 presentation of distress was related to a
22 psychiatric disorder rather than being caused by
23 her distress of her circumstances, correct?

24 A. My understanding of these evaluations is
25 that they're totally related to the pregnancy and

1 not supposed to be unrelated.

2 Q. But you would agree that there is no
3 documentation of how this patient's possible
4 presentation of distress was related to a
5 psychiatric disorder rather than being caused by
6 distress of her circumstances, correct?

7 MR. EYE: Objection, asked and answered.

8 PRESIDING OFFICER: Go ahead and answer.

9 A. Can you reask the question? Sorry.

10 BY MR. HAYS:

11 Q. You would agree that there is no
12 documentation of how this patient's possible
13 presentation of distress was related to a
14 psychiatric disorder rather than being caused by
15 distress of her circumstances, correct?

16 A. Correct.

17 Q. Doctor Neuhaus's patient record does not
18 reflect a treatment performed by Doctor Neuhaus,
19 correct?

20 A. Correct.

21 Q. It also does not reflect the treatment
22 recommended by Doctor Neuhaus, correct?

23 A. Correct.

24 Q. You can not tell from the patient's
25 record what, if any, records Doctor Neuhaus may

1 have used in the performance of her evaluation of
2 Patient 1, correct?

3 A. Based on this record here, no.

4 Q. You can not tell from the patient's
5 record whether or not the patient's legal guardian
6 was interviewed, correct?

7 A. Correct.

8 Q. Let's move on to Patient 11, that's
9 Exhibit 33. Can you turn to that -- turn to that
10 exhibit for me. And just tell me when you're
11 there.

12 A. Yep.

13 Q. Okay. This patient was diagnosed with
14 major depressive disorder, a single episode,
15 severe without psychotic features, correct?

16 A. Correct.

17 Q. The diagnostic criteria Doctor Neuhaus
18 used to diagnose these patients was based upon the
19 diagnostic criteria found in the DSM, correct?

20 A. Correct.

21 Q. Let's take a look at the diagnostic
22 criteria for major de -- depressive disorder in
23 the DSM. It's found on page 356 and 375. And
24 more specifically, page 3 -- fix -- 56. It's also
25 Exhibit 91, too. And tell me when you've turned

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1 to that page.

2 A. Okay. 356, yep.

3 Q. Criteria A has several parts, so let's
4 look at each part separately. And the first part
5 of criteria A is the patient has to have five or
6 more symptoms, is that correct?

7 A. Correct.

8 Q. And those symptoms have to be present for
9 the same two-week period, is that correct?

10 A. Correct.

11 Q. And you're of the opinion that this
12 criteria does not have to be met in order to come
13 to a diagnosis of major depressive disorder,
14 correct?

15 A. Based on DSM criteria or the standard of
16 care?

17 Q. To meet the standard of care.

18 A. Correct.

19 Q. And the next criteria is those symptoms
20 have to represent a change from the patient's
21 previous functioning, is that correct?

22 A. Correct.

23 Q. And at least one of the symptoms has to
24 be either a depressed mood or a loss of interest
25 or pleasure, is that correct?

1 A. Correct.

2 Q. And the final note on criteria A says not
3 to include symptoms that are clearly due to a
4 general medical condition, is that correct?

5 A. Correct.

6 Q. And this patient had a medical condition,
7 correct?

8 A. Correct.

9 Q. In fact, she had two medical conditions,
10 correct?

11 A. I'm not aware of her two medical
12 conditions.

13 Q. The patient was pregnant, correct?

14 A. Correct.

15 Q. And the patient also had are --
16 arthritis, correct?

17 A. Okay. Yeah, arthritis. Yep.

18 Q. And you cannot explain from Doctor
19 Neuhaus's patient record what medical conditions
20 she ruled out to come to her diagnosis, correct?

21 A. Correct.

22 Q. And the DTREE report does not indicate
23 that the patient was suffering from a depressed
24 mood, correct?

25 A. Correct.

1 Q. The DTREE states there has also been a
2 period of markedly diminished interest or pleasure
3 in all or almost all activities with a duration of
4 at least two weeks in which diminished interest
5 lasts for most of the day, nearly every day,
6 correct?

7 A. Correct.

8 Q. And you cannot determine from the
9 patient's record whether the patient had a loss of
10 interest or a loss of pleasure in those
11 activities, correct?

12 A. Correct.

13 Q. The DTREE report indicates significant
14 weight loss or weight gain or decrease or increase
15 in appetite nearly every day, correct?

16 A. Correct.

17 Q. It does not say how long the significant
18 weight loss or gain has been occurring, correct?

19 MR. EYE: Objection, it's vague in terms
20 of what it -- what is the "it."

21 MR. HAYS: The DTREE report.

22 MR. EYE: Thank you.

23 A. Can you ask the question again?

24 BY MR. HAYS:

25 Q. The DTREE report does not say how long

1 the significant weight loss or gain has been
2 occurring, correct?

3 A. Correct.

4 Q. And the D -- and it is not possible to
5 have significant weight gain or weight loss
6 together, correct?

7 A. Correct.

8 Q. And you cannot tell whether the patient
9 had a weight gain or a weight loss, correct?

10 A. Correct.

11 Q. And you would agree it can be normal for
12 a pregnant woman to have weight changes during
13 their pregnancy, correct?

14 A. Correct.

15 Q. And you cannot tell whether the patient
16 had an increased or decreased appetite, correct?

17 A. Correct.

18 Q. The DTREE report indicates insomnia or
19 hypersomnia nearly every day, correct?

20 A. Correct.

21 Q. And the DTREE report does not indicate
22 what the duration of time the insomnia or
23 hypersomnia had occurred, correct?

24 A. Correct.

25 Q. Insomnia (sic) is the ability to sleep in

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1 the absence of external impediments such as noise,
2 a bright light, et cetera, correct?

3 A. Correct.

4 Q. And hypersomnia is the inverse of
5 insomnia in which the individual's sleep periods
6 are excessively long, correct?

7 A. Correct.

8 Q. You cannot determine whether the patient
9 had insomnia or hypersomnia, correct?

10 A. Correct.

11 Q. And you would also agree it is not
12 unusual for a pregnant woman to have changes in
13 sleep habits, correct?

14 A. Correct.

15 Q. The DTREE report indicates psychomotor
16 agitation or retardation nearly every day,
17 observable by others, not merely subjective
18 feelings of restlessness or being slowed down,
19 correct?

20 A. Correct.

21 Q. Which of those symptoms did the patient
22 have, psychomotor agitation or psychomotor
23 retardation?

24 A. We don't know.

25 Q. And this -- this symptom must also be

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1 observable by others, correct?

2 A. Correct.

3 Q. And you cannot determine who made this
4 observation regarding the change in the patient's
5 behavior, correct?

6 A. Correct.

7 Q. The DTREE report does not indicate the
8 duration the patient was exhibiting the
9 psychomotor agitation or retardation nearly every
10 day, correct?

11 A. Correct.

12 Q. The DTREE reports indicates there has
13 been a fatigue or loss of energy nearly every day,
14 correct?

15 A. Correct.

16 Q. And the DTREE report does not indicate
17 the duration the patient was exhibiting the
18 fatigue or loss of energy nearly every day,
19 correct?

20 A. Correct.

21 Q. And you would also agree it is possible
22 for a pregnant woman to feel fatigued because she
23 is pregnant, correct?

24 A. Correct.

25 Q. The patient's record does not indicate

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1 how the patient's fatigue is not related to the
2 patient's medical conditions, correct?

3 A. Correct.

4 Q. The DTREE report indicates feelings of
5 worthlessness or excessive or inappropriate guilt
6 nearly every day, correct?

7 A. Correct.

8 Q. The patient's record does not indicate
9 how long the patient was suffering from those
10 possible symptoms, correct?

11 A. Correct.

12 Q. There's no indication as to what the
13 patient felt guilty about, correct?

14 A. Correct.

15 Q. Since you don't know what the patient
16 felt guilty about, you cannot determine whether
17 the guilt was -- was or was not appropriate for
18 her situation, correct?

19 A. Correct.

20 Q. The DTREE report indicates a diminished
21 ability to think or concentrate or indecisiveness
22 nearly every day, correct?

23 A. Correct.

24 Q. And the patient's record does not
25 indicate how long the patient was suffering from

1 those possible symptoms, correct?

2 A. Correct.

3 Q. And you cannot tell from the patient's
4 record how this symptom was a change from pay --
5 the patient's previous ability to think or
6 concentrate or decisiveness, correct?

7 A. Well, it's diminished ability, so it
8 assumes change in phrasing.

9 Q. But you're assuming that, correct?

10 A. Yeah.

11 Q. The DTREE report indicates recurrent
12 thoughts of death, not just fear of dying,
13 recurrent suicidal ideation without a specific
14 plan or a suicide attempt or a specific plan for
15 committing suicide, correct?

16 A. Correct.

17 Q. And you cannot not determine which of
18 those symptoms this patient had, correct?

19 A. Correct.

20 Q. The patient's record does not indicate
21 how the patient described having a suicidal
22 ideation without a specific plan to Doctor
23 Neuhaus, correct?

24 A. Correct.

25 Q. The patient's record does not document

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1 any specific in -- information on the patient
2 attempting suicide in the past, correct?

3 A. Correct.

4 Q. The patient's record does not document
5 how the patient described her thoughts of death,
6 correct?

7 A. Correct.

8 Q. You would agree it would be important to
9 know whether a patient had a specific plan for
10 committing suicide or whether the patient was just
11 having thoughts of death without a specific plan,
12 correct?

13 A. Correct.

14 Q. This is because if you -- if determined
15 it was a serious plan, you would most likely
16 pursue hospitalizing them because of the risk of
17 harming themselves or attempting suicide, correct?

18 A. You might, yes, correct.

19 Q. As a physician, you would determine
20 whether the patient had a specific plan for
21 committing suicide to determine the lethality of
22 the patient at the time of the presentation,
23 correct?

24 THE REPORTER: I'm sorry. To determine
25 the?

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1 BY MR. HAYS:

2 Q. The lethality of the patient at the time
3 of presentation, correct?

4 A. Correct.

5 Q. There is not any documentation that this
6 lethality determination was explored and ruled
7 out, correct?

8 A. Correct.

9 Q. The DTREE report indicates the symptoms
10 caused clinically significant distress or
11 impairment in social, occupational or other
12 important areas of function, correct?

13 A. Correct.

14 Q. And there's no documentation how this
15 criteria was met, correct?

16 A. Correct.

17 Q. To meet the criteria for diagnosing major
18 depressive disorder, this -- the patient has to
19 have had a change in functioning, is that right?

20 A. Based on the DSM, correct.

21 Q. You cannot determine from Doctor
22 Neuhaus's patient record what the patient's change
23 in functioning was, correct?

24 A. Well, again, I assume, based on the
25 language, that things have changed. There's

1 diminished ability, as I mentioned earlier. And
2 we can probably find other phrasing that's
3 similar.

4 Q. But that's based upon your assumption,
5 correct?

6 A. Correct.

7 Q. The DTREE report indicates the symptoms
8 are not due to the direct physiological effects of
9 substance. For example, drug -- a drug of abuse,
10 a medication. Correct?

11 A. Correct.

12 Q. There is no documentation within the
13 patient's record of Doctor Neuhaus having the
14 patient tested for drugs, correct?

15 A. Correct.

16 Q. The DTREE report indicates that
17 depressive dis -- correction. The DTREE report
18 indicates that the depressive episode is not due
19 to a general medical condition, for example,
20 hyperthyroidism. Correct?

21 A. Correct.

22 Q. There is no documentation of Doctor
23 Neuhaus performing a physical exam of the patient,
24 correct?

25 A. Correct.

1 Q. The DTREE indicates the symptoms did
2 occur after the loss of a loved one, correct?

3 A. Correct.

4 Q. There's no documentation in Doctor
5 Neuhaus's patient record of who died, correct?

6 A. Correct.

7 Q. There's no documentation in Doctor
8 Neuhaus's patient record of when the loved one
9 passed away, correct?

10 A. Correct.

11 Q. The patient's GAF was 15, correct?

12 A. Correct.

13 Q. And the report states this was based upon
14 the fact the patient has been in some danger of
15 hurting herself, correct?

16 A. Correct.

17 Q. There's no documentation within the
18 patient record that states how the patient was in
19 danger of hurting herself, correct?

20 A. No. Correct.

21 Q. The DTREE report and the GAF report is
22 dated for 11-20-2003, correct?

23 A. Correct.

24 Q. So that is the date upon which you
25 understand Doctor Neuhaus performed her

1 professional service, correct?

2 A. Well, there are other dates within the
3 chart, so this -- this documentation could have
4 been produced at a later date.

5 Q. It is your understanding that Doctor
6 Neuhaus performed these mental health procedures
7 prior to the abortion being commenced, correct?

8 A. Correct.

9 Q. So if, in fact, that report was produced
10 on 11-20 of 2003 as indicated on the DTREE and GF
11 -- GAF reports, this mental health evaluation
12 would have been after the commencement of the
13 abortion, correct?

14 A. I don't have information on the date of
15 the abortion.

16 Q. Could you turn to Doctor Tiller's patient
17 record for this patient, it's Patient 11.

18 A. (Witness complies). Which --

19 Q. It'll be in the large one that you just
20 had, it'll be --

21 A. This one (indicating)?

22 Q. The middle one?

23 A. Do you know what exhibit it is? 44?

24 Q. Correct. And if you'd like to turn to
25 Exhibit 44, page 41.

1 A. (Witness complies.) Okay.

2 Q. That document indicates Patient 11's
3 termination procedure in -- initiated with an
4 injection of the digoxin on 11-18-2003 at 6:47
5 p.m., correct?

6 A. I'm just trying to find the time on here.

7 Q. Okay.

8 A. What -- did you say 6:47 or 6:30?

9 Q. Approximately 6:47. It started on
10 11-18-2003, correct?

11 A. Right.

12 Q. Okay. And on 11-19-2003, they checked
13 for fetal heart tones, correct?

14 A. I can't find an indication of fetal heart
15 tone monitoring.

16 Q. You would agree that the patient's
17 termination began on that date, correct, on
18 11-19-2003?

19 A. I -- I assume it did, yes.

20 Q. And if you turn to Bates page 5 in that
21 record in Exhibit 44. Do you have that page?

22 A. Yeah.

23 Q. And that indicates on 11-20-2001, Patient
24 11 was being treated for a termination of
25 pregnancy starting at 0820 with Versed IV.

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1 Correct?

2 A. Correct.

3 Q. And Versed IV administration would put
4 the patient into a semi -- semi-conscious sedation
5 and incapable of participating in any mental
6 health evaluation, correct?

7 A. Correct.

8 Q. Doctor Neuhaus's record does not contain
9 a treatment plan for the patient, correct?

10 A. Correct.

11 Q. Doctor Neuhaus's record does not contain
12 an indication whether the patient was referred to
13 another physician, correct?

14 A. Correct.

15 Q. And you cannot determine from Patient
16 11's patient record what, if any, records Doctor
17 Neuhaus may have used in her evaluation of Patient
18 11, correct?

19 A. From this record, no, I cannot.

20 Q. Let's turn to Patient No. 2, Exhibit 24,
21 Doctor Neuhaus's record for Patient No. 2. And
22 tell me when you have that patient record
23 available.

24 A. Okay.

25 Q. Patient 2 was diagnosed with major

1 depressive order, single episode, severe without
2 psychotic features, correct?

3 A. Correct.

4 Q. And let's look again the requirements for
5 diagnosing a major depressive disorder for this
6 patient pursuant to the DSM-IV. And let's look at
7 each one separately again.

8 A. Page 356 again?

9 Q. Correct.

10 A. Okay.

11 Q. The DTREE report states the criteria has
12 been met for a depressive disorder episode --
13 strike that.

14 Patient 2's DTREE positive DX report states
15 that there has also been a period of markedly
16 diminished interest or pleasure in all or almost
17 all activities with a duration of at least two
18 weeks in which the diminished interest lasts for
19 more -- correction -- for most of the day nearly
20 every day, correct?

21 A. Correct.

22 Q. And in order to meet the diagnostic
23 criteria for a major depressive episode, at least
24 one of the symptoms must -- must either be
25 present, a depressed mood or loss of interest or

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1 pleasure, correct?

2 A. Correct.

3 Q. And there is no documentation within
4 Doctor Neuhaus's record that indicates Patient 2
5 had a depressed mood, correct?

6 A. Correct.

7 Q. The DTREE also states there has been --
8 there has also been a period of markedly
9 diminished interest -- strike that. You cannot
10 determine whether Patient 2 had a diminished
11 interest or a diminished pleasure in all of her
12 activities, correct?

13 A. Correct.

14 Q. You cannot tell from Doctor Neuhaus's
15 record what particular interests this patient had,
16 correct?

17 A. Correct.

18 Q. You cannot tell what activities she may
19 have lost interest or pleasure in, correct?

20 A. Correct.

21 Q. Doctor Neuhaus's file does not indicate
22 when the patient's depressive symptoms began,
23 correct?

24 A. Correct.

25 Q. The DTREE report indicates a significant

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1 weight loss or weight gain when not dieting, or
2 decrease or increase in appetite nearly every
3 day, correct?

4 A. Correct.

5 Q. Did Patient 2 gain weight or lose weight?

6 A. We don't know.

7 Q. You do not know whether this patient's
8 weight change was due to her pregnancy, correct?

9 A. Correct.

10 Q. And you can not tell whether this patient
11 had an increase or a decrease in her appetite,
12 correct?

13 A. Correct.

14 Q. And the DTREE report indicates
15 psychomotor agitation or retardation nearly every
16 day observable by others, not merely subjective
17 feelings or restlessness or being slowed, correct?

18 A. Correct.

19 Q. And you cannot determine whether this
20 patient presented with psychomotor agitation or
21 psychomotor retardation, correct?

22 A. Correct.

23 Q. And you cannot determine how the
24 psychomotor agitation or retardation was a change
25 from the patient's normal behavior, correct?

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1 A. Correct.

2 Q. And you cannot determine who made the
3 observation regarding the change in the patient's
4 behavior, correct?

5 A. Correct.

6 Q. The DTREE reports indicates there has
7 been fatigue or loss of energy nearly every day,
8 correct?

9 A. Correct.

10 Q. And you would agree it would not be
11 uncommon for a patient who is 30 weeks pregnant to
12 be fatigued due to her pregnancy, correct?

13 A. Correct.

14 Q. The DTREE report states feelings of
15 worthlessness or excessive or inappropriate guilt
16 nearly every day, correct?

17 A. Correct.

18 Q. And you cannot determine from Doctor
19 Neuhaus's patient record whether the patient had
20 feelings of worthlessness or guilt, correct?

21 A. Correct.

22 Q. You cannot determine from Doctor
23 Neuhaus's patient record what the patient felt
24 guilty about, correct?

25 A. Correct.

1 **Q. Therefore, you cannot determine from**
2 **Doctor Neuhaus's patient record whether the**
3 **patient's possible guilt was excessive for their**
4 **situation, correct?**

5 MR. EYE: Objection, that misstates the
6 evidence. His prior question went to the origins
7 of that condition, not the severity of it.

8 MR. HAYS: Sir, I believe that the DTREE
9 says feelings of worthlessness or excessive or
10 inappropriate guilt for nearly every day. That
11 question goes to his ability --

12 PRESIDING OFFICER: Reask your question.
13 And object if you need to.

14 MR. EYE: All right. I -- I may have
15 misunderstood the question.

16 PRESIDING OFFICER: Reask your question.

17 BY MR. HAYS:

18 **Q. You can not determine from Doctor**
19 **Neuhaus's patient record whether the patient's**
20 **guilt was excessive for her situation?**

21 MR. EYE: I withdraw the objection. I
22 misunderstood the question. Thank you.

23 BY MR. HAYS:

24 **Q. You can answer, Doctor Greiner, when**
25 **you're ready.**

1 A. It's -- it's excessive guilt. So
2 depending on what the situation you're talking
3 about. Are you talking about the situation of
4 pregnancy?

5 Q. **The situation that she presented at the**
6 **time to Doctor Neuhaus.**

7 A. Yeah. You can tell that it's excessive
8 or inappropriate because that's what's written.

9 Q. **You're assuming that from what is**
10 **written?**

11 A. It's verbatim. Excessive or
12 inappropriate guilt.

13 Q. **The DTREE report indicates a diminished**
14 **ability to think or concentrate or indecise --**
15 **indecisiveness nearly every day, correct?**

16 A. Correct.

17 Q. **It does not say nearly every day for two**
18 **weeks, correct?**

19 A. Correct.

20 Q. **And to meet the criteria for diagnosing a**
21 **major depressive disorder, the patient has to have**
22 **had a change in functioning, is that correct?**

23 A. Based on the DSM?

24 Q. **Correct.**

25 A. Correct.

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1 Q. You can not tell from Doctor Neuhaus's
2 patient record what the -- Patient 2's prior level
3 of functioning was, correct?

4 A. Correct.

5 Q. There's no documentation how the
6 patient's level of functioning was or was not
7 being affected by her pregnancy, correct?

8 A. Correct.

9 Q. The DTREE report indicates recurrent
10 thoughts of death, recurrent suicidal ideation
11 without a specific plan or a suicide attempt or a
12 specific plan for continuing -- committing
13 suicide, correct?

14 A. Correct.

15 Q. You cannot determine how severe the
16 thoughts of death were, correct?

17 A. Correct.

18 Q. You cannot determine how severe the
19 thoughts of death were, correct?

20 A. Correct.

21 Q. The DTREE report indicates the symptoms
22 are not due to the direct physiological effects of
23 substance, for example, a drug of abuse, a
24 medication, correct?

25 A. Correct.

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1 Q. There's no documentation in Doctor
2 Neuhaus's patient record of a drug test being ran,
3 correct?

4 A. Correct.

5 Q. The DTREE report indicates the symptoms
6 are not due to a general medical condition, for
7 example, hypothyroidism, correct, or hyper?

8 A. Hyperthyroidism, correct.

9 Q. There is no documentation within Doctor
10 Neuhaus's patient record that a physical
11 examination was performed by Doctor Neuhaus to
12 rule out a general medical condition, correct?

13 A. Correct.

14 Q. Patient 2's GAF was 35, correct?

15 A. Correct.

16 Q. This patient's GAF rating was based upon
17 the patient had a major impairment in several,
18 such as judgment, thinking, or mood as indicated
19 on the GAF report, correct?

20 A. Correct.

21 Q. It also states -- the DTREE or --
22 correction -- the GAF report also states the
23 patient has presented with a major impairment such
24 as work or school, family relations, judgment,
25 thinking or mood, correct?

1 A. Correct.

2 Q. You cannot determine from Doctor
3 Neuhaus's patient record which areas this patient
4 presented with a major impairment, correct?

5 A. Correct.

6 Q. There's no documentation within Doctor
7 Neuhaus's patient record how -- if the patient's
8 school work had been affected by her alleged
9 depression, correct?

10 A. Correct.

11 Q. There's no documentation of a treatment
12 plan in Doctor Neuhaus's patient record, correct?

13 A. Correct.

14 Q. There's no documentation in Doctor
15 Neuhaus's patient record of this patient being
16 referred to another physician, correct?

17 A. Correct.

18 Q. And you cannot determine from Patient 2's
19 record what, if any, records Doctor Neuhaus may
20 have used in her evaluation of Patient 2, correct?

21 A. Correct.

22 Q. Let's turn to Patient 3, which will be
23 Exhibit 25. Do you have that in front of you?

24 A. Yes.

25 Q. This patient was diagnosed with major

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1 depressive disorder, single episode, severe
2 without psychotic features, correct?

3 A. Correct.

4 Q. And just as the previous patient, let's
5 take a look at the diagnostic criteria to make --
6 to meet major depressive dis -- disorder and the
7 DSM. Patient 3 had a general medical condition in
8 that she was pregnant, correct?

9 A. Correct.

10 Q. And this patient's record has an MI
11 Statement from Doctor Tiller's office located in
12 it, correct?

13 A. I don't know where the MI Statement's
14 from, but it has one in it, yes, correct.

15 Q. And how old was this patient?

16 A. 15.

17 Q. And if you look at the MI Statement, this
18 patient had known that she was pregnant for a few
19 months, correct?

20 A. Correct.

21 Q. And the first MI Statement was taken on
22 7-31-2003, correct?

23 A. Correct.

24 Q. All right. Let's take a look at the
25 DTREE report. The DTREE report indicates the

1 patient has had a loss of interest or pleasure in
2 all or almost all activities. The MI Statement
3 gives some indication about what the patient's
4 interests were, correct?

5 A. Correct.

6 Q. And under the interests on the MI
7 Statement dated 7-31, the patient's interests was
8 in rodeo, horse riding, horse training and barrel
9 racing, correct?

10 A. That section doesn't have details about
11 all that.

12 Q. Is there another section that has details
13 of that?

14 A. Yes.

15 Q. And those were her interests, correct?

16 A. Correct.

17 Q. Now, it's possible that she did not lose
18 her interests, but rather, it had just become more
19 difficult due to her pregnancy because she had
20 concerns about getting hurt and the difficulty of
21 being able to concentrate on rodeo, correct?

22 A. It's possible she lost interest in other
23 things, correct.

24 Q. She actually stated on the MI Statement
25 dated 8-4 that she attended a barrel race the

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1 night before her appointment, correct?

2 A. Correct.

3 Q. And that's assuming her appointment was
4 on 8-4, correct?

5 A. Assuming it was, correct.

6 Q. But that she went to a barrel race the
7 night before that MI Statement was taken, correct?

8 A. Correct.

9 Q. The DTREE report indicates a significant
10 weight loss or weight gain when not dieting or
11 decrease or increase in appetite nearly every day,
12 correct?

13 A. Correct.

14 Q. It does not say that it was occurring
15 nearly every day for two weeks, correct?

16 A. Correct.

17 Q. You cannot determine from Doctor
18 Neuhaus's patient record whether the patient
19 gained weight or lost weight, correct?

20 A. I would have to look through the MI
21 Statement. On skimming it, I don't see any
22 mention of weight gain or loss.

23 Q. So you're unable to determine whether
24 there was a weight gain or weight loss, correct?

25 A. With complete certainty, no.

1 Q. The DTREE report indicates psychomotor
2 agitation or retardation nearly every day
3 observable by others, not merely subjective
4 feelings of restlessness or being slowed down,
5 correct?

6 A. Correct.

7 Q. You cannot determine who made the
8 observation regarding this change in the patient's
9 behavior, correct?

10 A. Correct.

11 Q. And since you cannot determine who made
12 the observation, you're unable to determine
13 whether there was a psychomotor agitation or
14 retardation nearly every day, correct?

15 A. Correct.

16 Q. The DTREE report indicates feelings of
17 worthlessness or excessive or inappropriate guilt
18 nearly every day, correct?

19 A. Correct.

20 Q. And you would agree that it is possible
21 for a patient who has an unwanted pregnancy to
22 exhibit guilt that is appropriate for their
23 situation, correct?

24 A. Guilt that is appropriate for their
25 situation, correct.

1 Q. Correct. And the MI Statement dated 7-31
2 indicates the patient feels a little bit of guilt,
3 correct?

4 A. And they're referring to the pregnancy?

5 Q. Underneath the heading, Guilt, it starts
6 out --

7 A. Oh.

8 Q. -- a little bit, correct?

9 A. Correct.

10 Q. It is possible that the guilt this
11 patient presented with was appropriate, correct?

12 A. No, it's not possible.

13 Q. And how is it not possible?

14 A. Because it states in the DTREE that there
15 was excessive or inappropriate guilt.

16 Q. However, you're assuming that from the
17 conclusion that's present on the date -- DTREE,
18 correct?

19 A. Correct.

20 Q. The DTREE report indicates a diminished
21 ability to think or concentrate or indecisiveness
22 nearly every day, correct?

23 A. Correct.

24 Q. It does not say nearly every day for two
25 weeks, correct?

1 A. Correct.

2 Q. So you can't determine whether the
3 patient had any of those symptoms during the same
4 two-week period, correct?

5 A. Correct.

6 Q. The DTREE report indicates the symptoms
7 are not due to the direct physiological effects of
8 substance, for example, a drug of abuse, a
9 medication, correct?

10 A. Correct.

11 Q. And there's no documentation within
12 Doctor Neuhaus's patient record for this patient
13 documenting Doctor Neuhaus requesting drug tests
14 for this patient, correct?

15 A. Correct.

16 Q. The DTREE report also indicates the
17 symptoms are not due to a general medical
18 condition, for exam -- for example,
19 hyperthyroidism, correct?

20 A. Correct.

21 Q. There is no documentation of Doctor
22 Neuhaus performing a physical exam on this
23 patient, correct?

24 A. Correct.

25 Q. Let's take a look at Patient 3's GAF

1 report. The GAF report states the GAF rating is
2 in the range of 31 to 40 because of the following
3 criteria: The patient has presented with a major
4 impairment in areas such as work or school, family
5 relations, judgment, thinking, or mood. Correct?

6 A. Correct.

7 Q. You were unable to determine from Doctor
8 Neuhaus's patient record what the major impairment
9 for Patient 3 at the time of her presentment to
10 Doctor Neuhaus, correct?

11 A. Correct.

12 Q. You cannot determine from Doctor
13 Neuhaus's patient record whether she utilized
14 records from another doctor, correct?

15 A. Correct.

16 Q. You cannot determine from Doctor
17 Neuhaus's patient record whether the appointment
18 of the patient's mental health evaluation was 7-31
19 or 8-5-2003, correct?

20 A. Correct.

21 Q. Doctor Neuhaus does not document a
22 physical exam being performed by her, correct, for
23 this patient?

24 A. Correct.

25 Q. Doctor Neuhaus does not document a

1 treatment plan for this patient, correct?

2 A. Correct.

3 Q. Doctor Neuhaus does not document a
4 referral for this patient in Doctor Neuhaus's
5 patient record, correct?

6 A. Correct.

7 Q. Let's move to Patient No. 5., Exhibit No.
8 27. Are you at that record?

9 A. Yeah.

10 Q. Patient No. 5 was diagnosed with major
11 depressive disorder, single episode, severe without
12 psychotic features, correct?

13 A. Correct.

14 Q. And the DTREE indicates a period of
15 markedly diminished interest or pleasure in all or
16 almost all activities with a duration of at least
17 two weeks in which the diminished interest lasts
18 for more -- most of the day nearly every day,
19 correct?

20 A. Correct.

21 Q. There is no documentation of how the
22 patient's interest or pleasure in almost all of
23 her activities decreased, correct?

24 A. Correct.

25 Q. The DTREE report shows Patient 5 of

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1 having insomnia or hypersomnia, correct?

2 A. Correct.

3 Q. And there's no evidence documented in
4 Doctor Neuhaus's patient record of patient high --
5 Patient 5 presenting with any symptoms of
6 hypersomnia, correct?

7 A. Correct.

8 Q. And there's no evidence documented in
9 Doctor Neuhaus's patient record of Patient 5
10 presenting with any symptoms of insomnia, correct?

11 A. Incorrect.

12 Q. The DTREE report states there has been
13 psychomotor agitation or retardation nearly every
14 day observable by others, not merely subjective
15 feelings of restlessness or being slowed down,
16 correct?

17 A. Correct.

18 Q. You cannot determine whether the patient
19 exhibited psychomotor agitation or psychomotor
20 retardation, correct?

21 A. Based on the entire medical record --

22 Q. Based on --

23 A. -- or the --

24 Q. -- on Doctor Neuhaus's medical record for
25 -- for this patient?

1 A. Correct.

2 Q. And if you take a look at the MI
3 Statement within that patient's record -- there is
4 only one, correct?

5 A. Yes, there appears to be one.

6 Q. And what does the MI Statement actually
7 say with regard to psychomotor?

8 A. That section's blank.

9 Q. There's no documentation located within
10 Doctor Neuhaus's patient record of her -- of the
11 patient's psychomotor symptoms being assessed,
12 correct?

13 A. Correct.

14 Q. This symptom must also be observable by
15 others, correct?

16 A. Based on the DSM-III criteria, correct.

17 Q. Based on the DSM-IV.

18 A. DSM-IV criteria, correct.

19 Q. You cannot determine who made the
20 observation regarding this change in the patient's
21 behavior, correct?

22 A. Correct.

23 Q. The DTREE report indicates there has been
24 fatigue or loss of energy nearly every day,
25 correct?

1 A. Correct.

2 Q. What does the MI Statement say with
3 regard to the patient having fatigue or loss of
4 energy?

5 A. It states lack of energy.

6 Q. Does it say nearly every day for two
7 weeks?

8 A. No.

9 Q. Would you agree it's possible a pregnant
10 female to have fatigue or lack of energy related
11 to her pregnancy?

12 A. Yes.

13 Q. The DTREE report indicates feelings of
14 worthlessness or excessive or inappropriate guilt
15 nearly every day, correct?

16 A. Correct.

17 Q. What does the MI Statement say about
18 guilt?

19 A. She feels guilt regarding the situation
20 she is in right now.

21 Q. There's no documentation located within
22 Doctor Neuhaus's patient record indicating how
23 this guilt was excessive, correct?

24 A. Correct.

25 Q. There is no documentation located within

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1 Doctor Neuhaus's patient record indicating how
2 this guilt was inappropriate, correct?

3 A. Correct.

4 Q. The DTREE report indicates a diminished
5 ability to think or concentrate or indecisiveness
6 nearly every day, correct?

7 A. Correct.

8 Q. The MI documents that at night -- the MI
9 documents that at night, she is alone and she
10 thinks a lot, and during the day, she has lots of
11 things to distract her and she is not just sitting
12 and thinking, and she has three younger siblings,
13 correct?

14 A. Correct.

15 Q. And that is possible evidence that the
16 patient is able to think and function, correct?

17 A. Possible evidence, yes.

18 Q. There is nothing documented in Doctor
19 Neuhaus's patient record that indicate what the
20 patient's loss of interest is, correct?

21 A. Under interest, it talks about not
22 getting out of the house, afraid for people to see
23 her pregnancy, just stays home, she refuses to
24 have contact with people.

25 Q. That indicates that she was still active

1 at home, correct?

2 A. It doesn't have any information on
3 activity at home.

4 Q. It states during the daytime, she has
5 lots of things to distract her, correct?

6 A. That's under the concentration section,
7 yes.

8 Q. And that indicates that she was still
9 active at home, correct?

10 A. Correct.

11 Q. So under interests, it actually doesn't
12 state what she lost interest in, correct?

13 A. Not specifically, no.

14 Q. There is no documentation within Doctor
15 Neuhaus's patient record that indicates the
16 patient had a depressed mood, correct?

17 A. Correct.

18 Q. The patient's GAF score of 25 was because
19 the patient was unable -- unable to function in
20 almost all areas. For example, she stays in bed
21 all day or has no job, home or friends, correct?

22 A. Correct.

23 Q. There's no documentation within Doctor
24 Neuhaus's patient record that the patient is
25 staying in bed all day, correct?

1 A. Correct.

2 Q. There's no documentation within Doctor
3 Neuhaus's patient record that the patient was not
4 functioning at home, correct?

5 A. Correct.

6 Q. And from the patient's record, you cannot
7 tell if the patient had a job, correct?

8 A. Correct.

9 Q. From the patient's record, you can tell
10 the patient had a home, correct?

11 A. Correct.

12 Q. And from the patient's record, there's no
13 indication of whether she had friends or not,
14 correct?

15 A. Correct.

16 Q. In fact, she had three younger siblings,
17 correct?

18 A. It states she has three younger siblings,
19 correct.

20 Q. And it's possible that those three
21 younger siblings could be friends, correct?

22 A. I wouldn't categorize siblings as friends
23 for a -- how old is she? A 15-year-old, it's
24 possible, I guess.

25 Q. Now, let's look at the date that the GAF

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1 report was initiated. That was 8-7-2003, correct?

2 A. That's when the report was generated,
3 correct.

4 Q. And that appears to be several days prior
5 to the patient's apparent -- a point -- or
6 possible appointment date of August 12th, 2003,
7 correct?

8 A. Appointment date for?

9 Q. If you look at the front page of this
10 patient's record, Bates page No. 1?

11 A. Yep.

12 Q. That states, appointment date 8-12-2003,
13 correct?

14 A. Correct.

15 Q. So assuming that was the patient's
16 appointment date, the GAF report would have been
17 completed several days prior to her appointment,
18 correct?

19 A. The MI Statement was dated July 20th.

20 Q. Correct. But assuming 8-12-2003 was the
21 patient's appointment date as indicated on Bates
22 page 1, the GAF would have been created several
23 days prior to that appointment date on 8-7-2003,
24 correct?

25 A. Prior to that appointment date on 8-12,

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1 correct.

2 Q. Is it your understanding that the MI
3 Statements were initially taken over the phone by
4 Doctor Tiller's office?

5 A. I believe that happened in some cases,
6 correct.

7 Q. Is there any indication from this
8 patient's record whether this document -- or
9 whether that MI Statement was taken over the phone
10 or in person?

11 MR. EYE: Objection, relevance.

12 MR. HAYS: The relevance is he's alleging
13 that the MI Statement's a possible appointment
14 date. Therefore, is there any indication that MI
15 Statement was not taken by phone?

16 MR. EYE: Then it's been asked and
17 answered.

18 PRESIDING OFFICER: I don't believe it
19 has. Objection overruled. Go ahead and answer if
20 you can, Doctor.

21 A. There is no indication whether it was in
22 person or by phone.

23 BY MR. HAYS:

24 Q. It would not be within the standard of
25 care to complete the GAF report prior to having an

1 appointment with the patient, correct?

2 A. Prior to some kind of appointment,
3 correct.

4 Q. There is no documentation of a treatment
5 plan for this patient contained within Doctor
6 Neuhaus's patient record, correct?

7 A. Correct.

8 Q. There is no documentation of a referral
9 of this patient to another physician by Doctor
10 Neuhaus in Doctor Neuhaus's patient record,
11 correct?

12 A. Correct.

13 Q. You can not determine from Patient 5's
14 patient record what, if any, records Doctor
15 Neuhaus may have used in her evaluation of Patient
16 5, correct?

17 A. Correct.

18 MR. HAYS: Can we take about a 10, 15
19 minute recess.

20 PRESIDING OFFICER: Sure.

21 MR. HAYS: Thanks.

22 (THEREUPON, a recess was taken.)

23 PRESIDING OFFICER: All right. We're
24 back on the record. Mr. Hays, continue.

25 MR. HAYS: Yes, sir.

1 BY MR. HAYS:

2 Q. Let's move to Patient No. 7. If you'd
3 turn to Exhibit 29, Doctor Neuhaus's patient
4 record for that patient.

5 A. Okay.

6 Q. The patient was diagnosed with major
7 depressive disorder, single episode, severe
8 without psychotic features, correct?

9 A. Correct.

10 Q. And this patient was 24 weeks pregnant,
11 correct?

12 A. Correct.

13 Q. And Doctor Neuhaus's patient record does
14 not specifically indicate when the patient's major
15 depressive symptoms began, correct?

16 A. Correct.

17 Q. And it does not indicate which symptoms
18 were present for at least two weeks, correct?

19 A. Correct.

20 Q. The symptom of depressed mood is not
21 listed as being met on the DTREE, correct?

22 A. Correct.

23 Q. The DTREE report indicates insomnia or
24 hypersomnia nearly every day, correct?

25 A. Correct.

1 Q. And it does not say nearly every day for
2 two weeks, correct?

3 A. Correct.

4 Q. And you cannot determine from Doctor
5 Neuhaus's patient record whether the patient
6 presented with insomnia or hypersomnia, correct?

7 A. Correct.

8 Q. The DTREE report indicates psychomotor
9 agitation or retardation nearly every day
10 observable by others, not merely subjective
11 feelings or restlessness or being slowed down,
12 correct?

13 A. Correct.

14 Q. You cannot determine from the patient's
15 record whether the patient suffered or presented
16 with psychomotor agitation or psychomotor
17 retardation, correct?

18 A. Correct.

19 Q. And this symptom must also be observable
20 by others, correct?

21 A. Correct.

22 Q. And you cannot determine from Doctor
23 Neuhaus's patient record who made the observation
24 regarding this change in the patient's behavior,
25 correct?

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1 A. Correct.

2 Q. You cannot determine from Doctor
3 Neuhaus's patient record how long this patient has
4 exhibited this symptom, correct?

5 A. Correct.

6 Q. The DTREE report indicates feelings of
7 worthlessness or excessive or inappropriate guilt
8 nearly every day, correct?

9 A. Correct.

10 Q. And it does not nearly -- it does not say
11 nearly every day for two weeks, correct?

12 A. Correct.

13 Q. From the patient's record, you cannot
14 determine if the guilt the patient may have
15 presented was inappropriate or excessive guilt in
16 relation to her circumstances, correct?

17 A. I believe that it is inappropriate or
18 excessive guilt.

19 Q. And how are you coming to that opinion?

20 A. Based on, again, the verbatim statement
21 that says, excessive or inappropriate guilt.

22 Q. And you're assuming that from that
23 statement, correct?

24 A. Taking it for its sort of verbatim
25 language, yes.

1 Q. Do you remember being asked in your
2 deposition whether it was excessive or was
3 inappropriate guilt, and you responded, I don't
4 know?

5 A. I don't recall.

6 Q. Could you turn --

7 THE REPORTER: Reese, did you say
8 excessive or inappropriate or an appropriate?

9 MR. HAYS: Or.

10 THE REPORTER: Or in?

11 MR. HAYS: Inappropriate.

12 THE REPORTER: Thank you.

13 BY MR. HAYS:

14 Q. Could you turn to page 290 of your
15 deposition. And when you get to that page, please
16 tell me.

17 A. (Witness complies.) Yep.

18 Q. Could you read Lines 21 through 23?

19 A. Was it excessive or was it inappropriate
20 guilt, I don't know.

21 Q. And that was your testimony that day?

22 A. Correct.

23 Q. And you did not ask -- or you did not
24 advise that you understood that question, correct?

25 A. That I misunderstood that question?

1 Q. Correct.

2 A. Correct.

3 Q. Was that a correct statement to that
4 question presented during your deposition?

5 A. As to whether the guilt was excessive or
6 inappropriate?

7 Q. Correct.

8 A. Correct.

9 Q. There was not any documentation of how
10 the patient was feeling worthless, correct?

11 A. Correct.

12 Q. You would agree it is possible for a
13 50-year-old -- 15-year-old who has an unwanted
14 pregnancy to exhibit normal feelings of guilt
15 related to that unwanted pregnancy, correct?

16 A. Correct.

17 Q. The DTREE report indicates a diminish --
18 diminished ability to think or concentrate or
19 indecisiveness nearly every day, correct?

20 A. Correct.

21 Q. It does not say nearly every day for two
22 weeks, correct?

23 A. Correct.

24 Q. The MI statement has an entry under the
25 heading of Concentration, correct?

1 A. Correct.

2 Q. And the entry under the con -- under
3 concentration states, denies change, correct?

4 A. Correct.

5 Q. The patient specifically denies a change
6 in her ability to concentrate, but that is a
7 symptom used to support her diagnosis of major
8 depressive disorder as indicated on the DTREE
9 positive DX report, correct?

10 A. Incorrect. It also discusses thinking.
11 And it says think or concentrate or
12 indecisiveness. So decisiveness, concentration
13 and thinking are all part of that phrase.

14 Q. So you cannot determine from that phrase
15 which one of it was, correct?

16 A. Correct.

17 Q. The DTREE report indicates recurrent
18 thoughts of death, not just fear of dying,
19 recurrent suicidal ideation without a specific
20 plan or a suicide attempt or a specific plan for
21 committing suicide, correct?

22 A. Correct.

23 Q. And the MI Statement has an entry under
24 the heading of suicide, correct?

25 A. Correct.

1 Q. And the MI Statement entry states,
2 denies, correct?

3 A. Correct.

4 Q. The MI Statements states in parens,
5 thoughts of miscarriage, correct?

6 A. Correct.

7 Q. And in reference to the thoughts of
8 miscarriage, the patient stated, yes, I wanted to
9 take a lot of aspirin or Tylenol, then I thought
10 about working out a lot, then I went on a diet.
11 Correct?

12 A. Correct.

13 Q. There is no documentation in Doctor
14 Neuhaus's patient record of ongoing thoughts of
15 death, suicide -- suicidal ideation or suicide
16 plans, correct?

17 A. Correct.

18 Q. To meet the criteria for diagnosing major
19 depressive disorder, the patient has to have had a
20 change in functioning, is that correct?

21 A. Based on the DSM?

22 Q. Correct.

23 A. Correct.

24 Q. You cannot determine from Doctor
25 Neuhaus's patient record what the patient's change

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1 in functioning was, correct?

2 A. Well, she does talk about sleeping
3 excessively.

4 Q. Is it possible that it would be normal
5 for a 24-week pregnant female to have an increased
6 -- or an increase in sleeping, correct?

7 A. It's possible.

8 Q. So you cannot determine from Doctor
9 Neuhaus's patient record what the patient's change
10 in functioning was, correct?

11 A. Well, it says, I used to run track. I'm
12 -- it says, I'm still a musical person. I'm more
13 on the sidelines now watching my friends.

14 Q. It's also possible that it would be
15 normal for a 24-week pregnant female to stop
16 running due to it being uncomfortable to run at 24
17 weeks of pregnancy, correct?

18 A. It's possible.

19 Q. So you cannot determine from Doctor
20 Neuhaus's patient record what the patient's change
21 in functioning was, correct?

22 A. Correct.

23 Q. The DTREE report indicates the symptoms
24 are not due to the direct physiological effects of
25 substance. For example, a drug of abuse, a

1 medication, correct?

2 A. Correct.

3 Q. And it also indicates there -- the
4 symptoms are not due to a general medical
5 condition, for example, hyperthyroidism, correct?

6 A. Correct.

7 Q. There is no documentation of Doctor
8 Neuhaus performing a physical exam on this
9 patient, correct?

10 A. Correct.

11 Q. There is no documentation in this
12 patient's record of Doctor Neuhaus requesting
13 tests for this patient, correct?

14 A. Correct.

15 Q. Or that drug testing was done to
16 determine whether the patient was using any
17 substances, correct?

18 A. Correct.

19 Q. In looking at that patient record, you
20 cannot determine whose physician's record that is
21 for that patient, correct?

22 A. In looking at the record, no, you cannot.

23 Q. You cannot determine from Doctor
24 Neuhaus's patient record for this patient if any
25 of the documents contained within that patient's

1 record were completed by Doctor Neuhaus, correct?

2 A. Correct.

3 Q. You cannot -- excuse me -- you cannot
4 determine who may have performed a mental health
5 evaluation on Patient 7, correct?

6 A. Correct.

7 Q. There's no identification of a treatment
8 plan located in Doctor Neuhaus's record, correct?

9 A. Correct.

10 Q. There is no indication of a referral made
11 by Doctor Neuhaus in her patient record, correct?

12 A. Correct.

13 Q. Let's turn to Patient No. 9, Exhibit 31,
14 please.

15 A. Okay.

16 Q. The patient was diagnosed with major
17 depressive disorder, single episode, severe
18 without psychotic features, correct?

19 A. Correct.

20 Q. And the diagnostic criteria for this
21 patient's diagnosis of major depressive disorder
22 requires at least five symptoms must be present
23 during the same two-week period and at least one
24 symptom must be either depressed mood or loss of
25 interest, correct?

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1 A. For the DSM-IV criteria?

2 Q. Correct.

3 A. Correct.

4 Q. The DTREE report indicates significant
5 weight loss or weight gain when not dieting or a
6 decrease or increase in appetite nearly every day,
7 correct?

8 A. Correct.

9 Q. It does not say every day for two weeks,
10 correct?

11 A. Correct.

12 Q. What did this patient weigh?

13 A. Based upon data from the first page of
14 the chart, which is page 1, it states 134.

15 Q. You cannot determine if the patient had
16 an increase or decrease in their weight, correct?

17 A. Correct.

18 Q. Doctor Neuhaus did not document whether
19 the patient had an increased or decreased
20 appetite, correct?

21 A. Correct.

22 Q. The DTREE report indicates insomnia or
23 hypersomnia nearly every day, correct?

24 A. Correct.

25 Q. It did not -- it does not say every day



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1 for two weeks, correct?

2 A. Correct.

3 Q. Doctor Neuhaus does not document whether
4 the patient had insomnia or hypersomnia, correct?

5 A. It says, some nights I can sleep, some I
6 can't. That's all I can find that relates to
7 sleep.

8 Q. So Doctor Neuhaus does not document
9 whether the patient had insomnia or hypersomnia,
10 correct?

11 MR. EYE: Asked and answered.

12 PRESIDING OFFICER: Sustained.

13 BY MR. HAYS:

14 Q. There is no documentation how this
15 pattern is a change from her usual pattern of
16 sleep, correct?

17 A. Correct.

18 Q. The DTREE report indicates psychomotor
19 agitation or retardation nearly every day
20 observable by others, not merely subjective
21 feelings of restlessness or being slowed down,
22 correct?

23 A. Correct.

24 Q. You cannot determine from the patient's
25 record whether the patient had psychomotor

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1 agitation or psychomotor retardation, correct?

2 A. It appears to be retardation.

3 Q. And what are you basing that on?

4 A. Under the psychomotor section on the MI
5 indicator.

6 Q. And that MI Statement indicates
7 everything the patient does is slower, she runs
8 slower, not as quick, her game is off, correct?

9 A. Correct.

10 Q. And the DTREE specifically states not
11 merely subjective feelings of being slowed down,
12 is that correct?

13 A. That is correct.

14 Q. Would being pregnant have an effect on
15 this patient's ability to play basketball?

16 A. It could.

17 Q. And a 25-week pregnant woman would be
18 slower at running, correct?

19 A. Maybe, maybe not.

20 Q. It's possible?

21 A. It's possible.

22 Q. This symptom must also be observed by
23 others, correct?

24 A. Based on the DSM-IV?

25 Q. Correct.

1 A. Correct.

2 Q. And also based upon the DTREE report that
3 indicates observable by others, correct?

4 A. Correct.

5 Q. And you can not determine who made the
6 observation regarding this change in the patient's
7 behavior, correct?

8 A. Correct.

9 Q. And the MI Statement appears to be a
10 self-report dictated by the patient to someone,
11 correct?

12 A. Correct.

13 Q. And it does not indicate this patient was
14 suffering from this symptom for nearly every day
15 for two weeks, correct?

16 A. Correct.

17 Q. The DTREE report indicates there has been
18 a fatigue or loss of energy nearly every day,
19 correct?

20 A. Correct.

21 Q. And it does not indicate this patient was
22 suffering from this symptom for nearly every day
23 for two weeks, correct?

24 A. Correct.

25 Q. The DTREE report indicates feelings of

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1 worthless or excessive or inappropriate guilt
2 nearly every day, correct?

3 A. Correct.

4 Q. It does not indicate this patient was
5 suffering from this symptom for nearly every day
6 for two weeks, correct?

7 A. Correct.

8 Q. Doctor Neuhaus did not document how the
9 patient's feelings of guilt were excessive for her
10 situation, correct?

11 A. Correct.

12 Q. Doctor Neuhaus did not document how the
13 patient's feelings of guilt were not appropriate
14 for her sit -- situation, correct?

15 A. Correct.

16 Q. The DTREE report indicates a diminished
17 ability to think or concentrate or indecisiveness
18 nearly every day, correct?

19 A. Correct.

20 Q. It does not indicate this patient was
21 suffering from this symptom for nearly every day
22 for two weeks, correct?

23 A. Correct.

24 Q. Doctor Neuhaus did not document any
25 responses the patient may have had during a mental

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1 eval -- evaluation that could have been performed
2 or may have been performed by Doctor Neuhaus that
3 supports the conclusion the patient -- strike
4 that.

5 Doctor Neuhaus did not document any responses
6 the patient may have had, assuming Doctor Neuhaus
7 performed a mental health evaluation, that
8 supports the conclusion the patient had a
9 diminished ability to think or concentrate,
10 correct?

11 A. Assuming that Doctor Neuhaus didn't
12 record any of the MI indicators material.

13 Q. To meet the criteria for diagnosing major
14 depressive disorder, the patient has to have had a
15 change in functioning, is that correct?

16 A. To meet the criteria in the DSM-IV?

17 Q. Correct.

18 A. Correct.

19 Q. Doctor Neuhaus did not document how the
20 patient had changed -- had a change in
21 functioning, correct?

22 A. Correct.

23 Q. On the MI Statement, the patient reported
24 in the section on energy, that she feels sad all
25 the time, is that correct?

1 A. Correct.

2 Q. But a depressed mood is not one of those
3 symptom -- symptoms listed on the DTREE report to
4 support the diagnosis of major depressive disorder
5 on this patient, correct?

6 A. Correct.

7 Q. Doctor Neuhaus also did not document how
8 depressed mood as a symptom was ruled out,
9 correct?

10 A. Correct.

11 Q. The DTREE report indicates the symptoms
12 are not due to the direct physiological effects of
13 substance. For example, a drug of abuse, a
14 medication, correct?

15 A. Correct.

16 Q. And the DTREE reports indicates that
17 symptoms are not due to a general medical
18 condition. For example, hyperthyroidism, correct?

19 A. Correct.

20 Q. Doctor Neuhaus did not document
21 requesting any tests for this patient, correct?

22 A. Correct.

23 Q. Doctor Neuhaus did not document
24 performing a physical exam, correct?

25 A. Correct.

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1 Q. The GAF report states the GAF rating is
2 in the range of 31 to 40 because of the following
3 criteria. The patient has had major impairment in
4 several, such as judgment, thinking or mood,
5 correct?

6 A. Correct.

7 Q. And because the patient has presented
8 with a major impairment in areas such as work or
9 school, family relations judgment, thinking or
10 mood, correct?

11 A. Correct.

12 Q. And you cannot tell what the grade in
13 school this patient was in at the time of the
14 evaluation, correct?

15 A. Correct.

16 Q. And the patient reported on the 11-4 MI
17 Statement that her school work had not been
18 affected, correct?

19 A. She said, it's harder to concentrate now,
20 but I've kept up my grades.

21 Q. So she's kept up her grades, correct?

22 A. Correct.

23 Q. And that indicates that her school work
24 had not been affected, correct?

25 A. Correct.

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1 Q. And you cannot tell from the MI Statement
2 whether the patient had a job, correct?

3 A. Correct.

4 Q. And you cannot tell from the entire
5 patient record whether the patient had a job,
6 correct?

7 A. Correct.

8 Q. There's no documentation within Doctor
9 Neuhaus's patient record of how the patient's
10 family relations had been affected, correct?

11 A. Correct.

12 Q. Doctor Neuhaus did not document a
13 treatment plan in her patient record, correct?

14 A. Correct.

15 Q. Doctor Neuhaus did not document a
16 referral to another physician in her patient
17 record, correct?

18 A. Correct.

19 Q. Let's move on to Patient 4, Exhibit No.
20 26, correct -- or -- patient number -- or Exhibit
21 26 is Patient 4, correct?

22 A. Got it.

23 Q. Patient 4 is diagnosed with acute stress
24 disorder, moderate, correct?

25 A. Correct.

1 Q. Have you ever diagnosed a patient with
2 acute stress disorder?

3 A. Yes.

4 Q. And the symptoms -- or strike that.
5 The diagnostic criteria for diagnosing acute
6 stress disorder can be found on page 471 of the
7 DSM, correct?

8 A. Correct.

9 Q. And you're of the opinion that you could
10 determine the symptoms that were the basis of the
11 patient's diagnosis from the patient record,
12 correct?

13 A. Can you restate the question?

14 Q. You are of the opinion that you can
15 determine what symptoms this patient presented to
16 Doctor Neuhaus that form the basis of the
17 patient's diagnosis from this patient's record,
18 correct?

19 A. Correct.

20 Q. What were those symptoms?

21 A. So diminished concentration is a symptom,
22 diminished energy is a symptom. Decreased
23 activity. Anger is a symptom, sadness is a
24 symptom. It mentions shock, being shocked.
25 Difficulty with sleep. Change in interests.

1 That's all I see on assessing.

2 Q. Do you remember during your deposition
3 asking whether you could tell the symptoms that
4 this patient exhibited that was from -- that was
5 the basis of the diagnosis?

6 A. No, I don't recall that.

7 Q. If you could turn to page 233 of your
8 deposition.

9 A. (Witness complies.)

10 Q. And Lines 1 to 3, you were asked, can you
11 tell me the symptoms that this patient exhibited
12 that was the basis of your diagnosis -- of it --
13 strike that.

14 You were asked, can you tell me the symptoms that
15 this patient exhibited that was the basis of the
16 diagnosis?

17 MR. EYE: Object -- are you on page 233
18 of his deposition, Volume II, page 233?

19 MR. HAYS: Page 233, Lines 23 through 24.
20 Sorry.

21 MR. EYE: Okay.

22 MR. HAYS: And page 234, Lines 1 through
23 3.

24 MR. EYE: All right. Thank you.

25 THE REPORTER: And I'm sorry. What was

1 the last page?

2 MR. HAYS: 234, Lines 1 through 8.

3 MR. EYE: Thank you.

4 MR. HAYS: Or correction, it's Lines 1
5 through 3. Sorry about that.

6 BY MR. HAYS:

7 Q. You were asked, can you tell me the
8 symptoms that this patient exhibited that was the
9 basis of the diagnosis? Correct?

10 A. Correct.

11 Q. And you answered, yeah, again, lack of
12 sleep, crying and tearfulness, decreased energy,
13 decreased concentration, correct?

14 A. Correct.

15 Q. And that was your testimony that day,
16 correct?

17 A. Correct.

18 Q. And that was accurate testimony, correct?

19 A. Correct.

20 Q. And you cannot tell how long the patient
21 had been experiencing those symptoms, correct?

22 A. Correct.

23 Q. And Criteria A for acute stress disorder
24 requires exposure to a -- to a traumatic event, is
25 that correct?

1 A. In the DSM-IV, that is correct.

2 Q. The person must have -- strike that.
3 The person must have been exposed to a traumatic
4 event in which the person experienced, witnessed
5 or was confronted with an event or events that
6 involved actual or threatened death or serious
7 injury or a threat to the physical integrity of
8 self or others, correct?

9 A. Yes, that's correct.

10 Q. And the person's response involved
11 intense fear, helplessness or horror, correct?

12 A. Correct.

13 Q. And you cannot tell from Doctor Neuhaus's
14 patient record what the traumatic event was that
15 is required by Criteria A, correct?

16 A. Right. There's no reference to the
17 traumatic event.

18 Q. Neither MI Statements document the
19 patient stating that they had bad dreams, correct?

20 A. Neither MI Statement?

21 Q. Correct.

22 A. No. It just says, I wake up and cry.

23 Q. Neither MI Statements documents the
24 patient stating she felt fearful, correct?

25 A. Correct.

1 Q. There is no documentation in either MI
2 Statement indicating the patient experienced
3 intense helplessness, correct?

4 A. Correct.

5 Q. There's no documentation within Doctor
6 Neuhaus's patient records stating how the patient
7 is experiencing any disassociative (spelled
8 phonetically) symptoms, correct?

9 A. Correct.

10 Q. There's no documentation within Doctor
11 Neuhaus's patient record stating how the patient
12 is re-experiencing this unspecified trauma,
13 correct?

14 A. Correct.

15 Q. There is no documentation how the patient
16 is avoiding stimuli that arouses recollection of
17 the unspecified trauma, correct?

18 A. Correct.

19 Q. There is no documentation how the patient
20 specifically reacted to being presented internal
21 or external cues that symbolize or resemble an
22 aspect of the unspecified traumatic event,
23 correct?

24 A. Correct.

25 Q. There's no documentation of what efforts

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1 the patient took to avoid activities, places or
2 people that arose recollections of the unspecified
3 trauma, correct?

4 A. Correct.

5 Q. There's no documentation of the patient
6 describing persistent irritability or outbursts of
7 anger, correct?

8 A. Correct.

9 Q. There's no documentation of the patient
10 describing a derealization, correct?

11 A. Correct.

12 Q. There's no documentation about the
13 patient described a depersonalization occurring,
14 correct?

15 A. Correct.

16 Q. Now let's go to the GAF report. Do you
17 have that in front of you?

18 A. Yes.

19 Q. The GAF report says the GAF range is in
20 the range of 21 to 30 because of the following
21 criteria, correct? Or because preoccupation with
22 suicidal thoughts, but not in danger of hurting
23 herself, correct?

24 A. Correct.

25 Q. And unable to function in almost all

1 areas, for example, stays in bed all day or has no
2 job, home or friends, correct?

3 A. Correct.

4 Q. And the patient states in response to
5 being asked about suicide on the MI Statement
6 dated 8-5, yeah, at first I did, it was just a
7 thought going through my head, correct?

8 A. Correct.

9 Q. That -- that is a past tense statement,
10 correct?

11 A. Correct.

12 Q. It doesn't give any indication that the
13 patient is still having thoughts of suicide,
14 correct?

15 A. Correct.

16 Q. Doctor Neuhaus did not document a
17 treatment plan or in her -- in her patient record,
18 correct?

19 A. Correct.

20 Q. Doctor Neuhaus did not document a
21 referral to another physician in her patient
22 record, correct?

23 A. Correct.

24 Q. You cannot determine from Patient 4's
25 patient record what, if any, records Doctor

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1 Neuhaus may have used in an evaluation of Patient
2 4, correct?

3 A. Correct.

4 Q. Let's move on to Patient No. 6, Exhibit
5 No. 28.

6 A. Okay.

7 Q. Patient 6 was diagnosed with acute stress
8 disorder, correct?

9 A. Correct.

10 Q. Bates page 9 is the DTREE positive DX
11 report, correct?

12 A. Correct.

13 Q. And that report is dated 8-26-2003 for a
14 rating date, correct?

15 A. Correct.

16 Q. How far along in this patient's pregnancy
17 was she at the time of her diagnosis?

18 A. At the time of the DT -- DTREE diagnosis?

19 Q. Correct.

20 A. The second page says 61 weeks, but that's
21 obviously incorrect.

22 Q. And why is that incorrect?

23 A. Because you can't carry a pregnancy 61
24 weeks. 40 weeks would be the normal due date of a
25 pregnant -- a term pregnancy. So based on the MI

1 Statement on page 6 of this record, it talks about
2 getting her last period in April.

3 Q. Well, let's go back to Bates page 2.

4 A. Okay.

5 Q. At the top. Appointment PROC. Do you
6 see that line, the third line from the top?

7 A. Uh-huh.

8 Q. It says 25 weeks, correct?

9 A. Okay. Yep.

10 Q. So the patient was 25 weeks pregnant?

11 A. Yep.

12 Q. And the patient had known about her
13 pregnancy since March or April of that year,
14 correct?

15 A. Correct.

16 Q. And Bates page 2 is dated 8-26 of 2003,
17 correct?

18 A. Correct.

19 Q. Criteria G for acute stress disorder
20 requires that a disturbance last for a minimum --
21 minimum of two days and a maximum of four weeks
22 and occur -- occurs within four weeks of the
23 traumatic event, correct?

24 A. In the DSM-IV, that's correct.

25 Q. So since this patient had known about her

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1 pregnancy for at least four months, the diagnosis
2 of acute stress disorder is not related to the
3 pregnancy, correct?

4 A. It could be related to the pregnancy.

5 Q. It's outside the four-week criteria,
6 correct?

7 A. Of when the pregnancy first occurred, but
8 the traumatic event could still somehow be related
9 to the pregnancy.

10 Q. But you don't know what the traumatic
11 event is, correct?

12 A. No. We don't know specifically what the
13 traumatic event is.

14 Q. And there is no documentation of when the
15 unspecified traumatic event occurred, correct?

16 A. Correct.

17 Q. And there is no documentation within
18 Doctor Neuhaus's patient record describing how the
19 patient described responding to the unspecified
20 extreme stressor, correct?

21 A. Correct.

22 Q. And Doctor Neuhaus does not document how
23 the patient described the recurrent and intrusive
24 distressing recollection of the event, correct?

25 A. Correct.

1 Q. And there is no documentation of how the
2 patient is re-experiencing the unspecified trauma,
3 correct?

4 A. Correct.

5 Q. There's no documentation within Doctor
6 Neuhaus's patient record of how the patient
7 described her recurring distressing dreams of the
8 event, correct?

9 A. Correct.

10 Q. Where the patient describes her sleep
11 within Doctor Neuhaus's patient record, there is
12 no description of any distressing dreams or
13 problems with staying asleep, correct?

14 A. There is no mention of dreams. It says,
15 but now it seems like I'm going to bed earlier and
16 sleeping later.

17 Q. So there's -- the patient did not
18 describe a problem with staying asleep, correct?

19 A. Correct.

20 Q. And Doctor Neuhaus does not document
21 within the patient's record how the patient
22 described the unspecific traumatic event was
23 recurring, correct?

24 A. Correct.

25 Q. The DTREE report states there has been

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1 intense psychological distress at the exposure to
2 internal or external cues that symbolize or
3 resemble an aspect of the traumatic event,
4 correct?

5 A. Correct.

6 Q. From Doctor Neuhaus's patient record, you
7 can not determine what the intense psychological
8 distress was, correct?

9 A. Correct.

10 Q. From Doctor Neuhaus's patient record, you
11 can not determine what the internal or external
12 cues were that symbolized or resembled an axe --
13 aspect of the unspecified traumatic event,
14 correct?

15 A. Correct.

16 Q. There's no documentation in the file of
17 how the patient avoids stimuli that arose
18 recollection of the unspecified trauma, correct?

19 A. Correct.

20 Q. From Doctor Neuhaus's patient record, you
21 could not determine what the important aspect of
22 the trauma the patient has had an in -- in ability
23 to recall, correct?

24 A. Correct.

25 Q. There's no documentation within Doctor

1 Neuhaus's patient record of the patient describing
2 herself as being persistently irritable or having
3 outbursts of anger, correct?

4 A. Correct.

5 Q. Doctor Neuhaus does not dis -- document
6 how the patient described her response during the
7 unspecified distressing event, correct?

8 A. Correct.

9 Q. Doctor Neuhaus does not document how the
10 patient described her response immediately after
11 the unspecified distressing event, correct?

12 A. Correct.

13 Q. Excuse me. There's no documentation of
14 Doctor Neuhaus requesting any medical test to rule
15 out any substance abuse, correct?

16 A. Correct.

17 Q. There's no documentation of Doctor
18 Neuhaus performing a physical exam, correct?

19 A. Correct.

20 Q. There's no document of Doctor Neuhaus
21 requesting any medical test to rule out any
22 medical condition, correct?

23 A. Correct.

24 Q. Is there any evidence in the file that
25 the patient was experiencing symptoms of

1 depression?

2 A. So any -- any symptoms of depression?

3 Q. Correct.

4 A. The patient describes guilt. Describes
5 difficulty in concentration. Describes being
6 restless. So, yeah, there are some symptoms of
7 depression.

8 Q. There's no documentation within Doctor
9 Neuhaus's patient record that she evaluated the
10 patient for depression, correct?

11 A. Well, she also evaluated the patient, it
12 appears, for other things like suicide and mood
13 and interest of pleasure in activities.

14 Q. But there's no documentation within
15 Doctor Neuhaus's patient record that she evaluated
16 the patient for depression, correct?

17 A. No specific documentation of that, no.

18 Q. Let's move on to the patient's GAF. The
19 patient's GAF was 35, correct?

20 A. Correct.

21 Q. The GAF report indicates as a basis of
22 the GAF rating of 35, major impairment in several
23 areas such as work or school, family relations,
24 judgment, thinking or mood, correct?

25 A. Correct.

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1 Q. There is no documentation of what areas
2 Doctor Neuhaus determined the patient had major
3 impairments in, correct?

4 A. Correct.

5 Q. Doctor Neuhaus did not document a
6 treatment plan in her patient record, correct?

7 A. Correct.

8 Q. Doctor Neuhaus did not document a
9 referral to another physician in her patient
10 record, correct?

11 A. Correct.

12 Q. Let's move on to Patient 10, which is
13 Exhibit No. 32.

14 A. Okay.

15 Q. From Doctor Neuhaus's patient record for
16 this patient, you can not determine with certainty
17 if she completed an interview with the patient,
18 correct?

19 A. I assume she completed an interview with
20 the patient.

21 Q. But you can not determine with certainty
22 if she completed an interview with this patient,
23 correct?

24 A. I have no physical proof of that, no.

25 Q. And you're making an assumption off the

1 documentation that's present, correct?

2 A. Exactly.

3 Q. And you made that same assumption with
4 all the patients, correct?

5 A. Just as I would with any medical record.

6 Q. It was an assumption, correct?

7 A. It's always -- it's always an assumption
8 if I'm not physically there.

9 Q. From Doctor Neuhaus's patient record for
10 this patient, you cannot determine what the
11 questions were asked of the patient by Doctor
12 Neuhaus, correct?

13 A. No. I would make an assumption of what
14 the questions were based on the provided
15 documentation.

16 Q. Can you turn to page 320 in your
17 deposition. And specifically, we'll look at Lines
18 3 through 5.

19 A. (Witness complies).

20 Q. Correction, Lines 6 through 8. Sorry
21 about that.

22 A. Okay.

23 Q. You were asked, can you tell me what
24 questions were asked of the patient by Doctor
25 Neuhaus. Correct?

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1 A. Correct.

2 Q. And your answer was no.

3 A. Correct.

4 Q. Correct? And that was a true statement,
5 correct?

6 A. Correct.

7 Q. Now, Patient 10 was diagnosed with acute
8 stress disorder, severe, correct?

9 A. Correct.

10 Q. You cannot determine from Doctor
11 Neuhaus's patient record what the traumatic event
12 this patient experienced, correct?

13 A. Correct.

14 Q. Therefore, you cannot determine from the
15 patient's record whether the event that she
16 possibly described fit the definition of a
17 traumatic event, correct?

18 A. If you take the documentation for its
19 face value, then it was a traumatic event.

20 Q. And you're assuming that, correct?

21 A. Yeah.

22 Q. You cannot determine from Doctor
23 Neuhaus's patient record what the traumatic event
24 this patient experienced, correct?

25 MR. EYE: Asked and answered.

1 PRESIDING OFFICER: Sustained.

2 BY MR. HAYS:

3 Q. Doctor Neuhaus does not document how the
4 patient described her response during the
5 unspecified distressing event, correct?

6 A. Correct.

7 Q. Doctor Neuhaus does not document how the
8 patient may have described her response after the
9 unspecified traumatic event occurred, correct?

10 A. Correct.

11 Q. There's no documentation within Doctor
12 Neuhaus's patient record of the patient experience
13 -- experiencing intense fear related to an extreme
14 stressor, correct?

15 A. Correct.

16 Q. You cannot determine how the patient may
17 have described any helplessness she may have been
18 feeling due to the exposure to a traumatic event,
19 correct?

20 A. Correct.

21 Q. You cannot determine from Doctor
22 Neuhaus's patient record how this patient may have
23 described they were experiencing recurrent and
24 intrusive distressing recollections of the event,
25 correct?

1 A. Correct.

2 Q. There is no documentation of the patient
3 describing of how she was experiencing -- or may
4 have been experiencing recurrent distressing
5 dreams, correct?

6 A. Correct.

7 Q. There is no documentation of how the
8 patient described re-experiencing a trauma -- or
9 possibly re-experiencing the trauma, correct?

10 A. Correct.

11 Q. There's no documentation within the
12 patient record describing how the patient may have
13 been avoiding stimuli that may have arose
14 recollections of the trauma, correct?

15 A. Correct.

16 Q. You cannot determine the patient's
17 specific description of the psychological or --
18 strike -- strike that.
19 You cannot determine the patient's possible
20 specific description of any possible psychological
21 distress and exposure to any possible internal or
22 external cues that symbolize or resemble an aspect
23 of the traumatic event, correct?

24 MR. EYE: I'm going to object, compound.

25 PRESIDING OFFICER: Rephrase it.

1 BY MR. HAYS:

2 Q. You cannot determine how a patient -- how
3 this patient may have provided a description to
4 Doctor Neuhaus of any psychological distress,
5 correct?

6 MR. EYE: I think that's been asked and
7 answered.

8 PRESIDING OFFICER: I don't know that it
9 has. Go ahead and answer the question, Doctor.

10 A. That's correct.

11 BY MR. HAYS:

12 Q. And you cannot determine the patient's
13 specific description of any exposure -- or the
14 response to any possible exposure to the internal
15 or external cue -- cues that symbolize an aspect
16 -- aspect of the unspecified traumatic event,
17 correct?

18 MR. EYE: I'm going to object, that's
19 still compound.

20 PRESIDING OFFICER: Sustained.

21 MR. HAYS: One moment, sir.

22 BY MR. HAYS:

23 Q. Okay. Let's turn to the DTREE positive
24 DX report. Okay?

25 A. Okay.

1 Q. It states there has been intense
2 psychological distress at exposure to internal or
3 external cues that symbolize or resemble an aspect
4 of the traumatic event, correct?

5 A. Correct.

6 Q. And you cannot determine from the
7 patient's record how that patient explained any
8 possible intense psychological distress that
9 formed a basis of that conclusion, correct?

10 A. The specific description?

11 Q. Correct.

12 A. Of the traumatic event?

13 Q. Correct.

14 A. Correct, cannot.

15 Q. Doctor Neuhaus also diagnosed this
16 patient with anxiety disorder NOS in partial
17 remission, correct?

18 A. Correct.

19 Q. There is no documentation by Doctor
20 Neuhaus describing how she explored the patient's
21 previous anxiety symptoms with the patient,
22 correct?

23 A. Correct.

24 Q. Let's talk about the GAF report. Do you
25 have that in front of you?

1 A. Yes.

2 Q. The GAF report states the GAF rating is
3 in the range of 21 to 30 because she has been
4 unable to function in almost all areas. For
5 example, she stays in bed all day or has no job,
6 home or friends, correct?

7 A. Correct.

8 Q. And it is your opinion that the GAF
9 rating of 25 is supported by the information
10 contained on the 11-4 MI Statement, correct?

11 A. Correct.

12 Q. More specifically, your opinion is based
13 on the information from the 11-4 MI Statement
14 under psychomotor that states, I'll want to stay
15 in bed or lie on the couch. I make myself get up.
16 Usually, I'd be doing stuff. Now it feels like
17 I'm trying to hide. And under energy which
18 states, I do some of my normal stuff, but this has
19 -- has me really not doing everything. I'm
20 usually happy all the time, I joke around. Now I
21 just want to sit at home and do nothing. Correct?

22 A. Correct.

23 Q. And that form is -- and that is from the
24 11-4 MI Statement, correct?

25 A. Correct.

1 Q. And the GAF report is dated 11-13,
2 correct?

3 A. Correct.

4 Q. And the report -- strike that.
5 The GAF report time frame is from 11-6 to 11-13,
6 correct?

7 A. Well, it's the past week, but the GAF
8 report could have been generated after the
9 examination was done that produced the data of the
10 GAF report.

11 Q. You're speculating?

12 A. Yeah.

13 Q. So assuming this GAF report was created
14 the same day as an evaluation, the MI Statement of
15 11-4 is outside the time frame of the rating
16 period, correct?

17 A. I'm assuming this report was generated
18 after the evaluation, not that it was generated on
19 the day of the evaluation.

20 Q. The rating date is 11-13-2003, correct?

21 A. The rating date, correct.

22 Q. So assuming that was the patient's
23 appointment date and a -- of the mental health
24 evaluation, that would fall outside -- or
25 correction -- the MI Statement of 11-4 would fall

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1 outside the rating period for that GAF, correct?

2 A. I'm not one to make that assumption. The
3 records are produced and the scoring is used after
4 the fact frequently.

5 Q. But hypothetically --

6 A. Hypothetically, sure. It could be out of
7 -- out of the range in the past week.

8 Q. So it's possible that that MI Statement
9 is not the basis of the GAF -- of the GAF report,
10 correct?

11 A. It's hypothetically possible.

12 Q. Doctor Neuhaus did not document a
13 treatment plan in her patient record, correct?

14 A. Correct.

15 Q. And Doctor Neuhaus did not document a
16 referral to another physician in her patient
17 record, correct?

18 A. Correct.

19 Q. Let's move on to Patient 8, Exhibit No.
20 30.

21 A. Okay.

22 Q. There is no diagnosis documented in this
23 patient's record, correct?

24 A. Correct.

25 Q. There's not a GAF report present in this

1 patient's record, correct?

2 A. Correct.

3 Q. There is not a DTREE report present in
4 this patient's record, correct?

5 A. Correct.

6 Q. You cannot determine from Doctor
7 Neuhaus's patient record if she performed a
8 patient interview with this patient, correct?

9 A. I believe she did based on the existence
10 of the record.

11 Q. Could you turn to page 305 -- page 304 of
12 your deposition.

13 A. Okay.

14 Q. Lines 13 through 15. You were asked, do
15 you know from that patient record whether an
16 interview was performed, correct?

17 A. Correct.

18 Q. And you answered no.

19 A. Correct.

20 Q. Correct? And that was a true statement,
21 correct?

22 A. Correct.

23 Q. There's nothing within that patient
24 record that indicates an in-person interview with
25 a Patient 8 was conducted by Doctor Neuhaus,

1 correct?

2 A. There's nothing in this record that shows
3 that, no.

4 Q. If an interview was not performed by
5 Doctor Neuhaus, the standard of care would not
6 have been met for making a diagnosis, correct?

7 A. Correct.

8 Q. If an interview was not performed by
9 Doctor Neuhaus, the standard of care would not
10 have been met for the performance of a mental
11 health evaluation, correct?

12 A. Correct.

13 Q. If an interview was not performed by
14 Doctor Neuhaus, the standard of care would not
15 have been met for the performance of a mental
16 status examination, correct?

17 MR. EYE: Asked and answered.

18 PRESIDING OFFICER: Sustained.

19 MR. HAYS: Sir, I believe it was mental
20 status examination and the two previous ones were
21 for making a diagnosis and mental health
22 evaluation. I had not asked about a mental status
23 examination.

24 MR. EYE: I stand corrected.

25 PRESIDING OFFICER: Okay.

1 BY MR. HAYS:

2 Q. And I'll rephrase that or restate that
3 for you. If an interview was performed by Doctor
4 Neuhaus, the standard of care would not have been
5 met for the performance of a mental status exam,
6 correct?

7 A. Correct.

8 Q. If an interview was not performed by
9 Doctor Neuhaus, the standard of care would not
10 have been met for the performance of an evaluation
11 of the behavioral and functional impact of the
12 patient's condition and symptoms, correct?

13 A. Correct.

14 Q. Doctor Neuhaus did not document a
15 treatment plan in her patient record, correct?

16 A. Correct.

17 Q. Doctor Neuhaus did not document a
18 referral to another physician in her patient
19 record, correct?

20 A. Correct.

21 Q. Doctor Neuhaus did not document within
22 her patient record the date upon which she may
23 have performed an evaluation of Patient 8,
24 correct?

25 A. Correct.

1 Q. You cannot determine from Patient 8's
2 patient record what, if any, records Doctor
3 Neuhaus may have used in a -- if she performed an
4 evaluation for Patient 8, correct?

5 A. Correct.

6 MR. HAYS: Sir, it's about 11:35. Can we
7 take a lunch break?

8 PRESIDING OFFICER: Well, how much longer
9 do you have with this gentleman?

10 MR. HAYS: Well, that's what I need to
11 determine. I figured if --

12 PRESIDING OFFICER: All right. Is 12:30
13 long enough?

14 MR. HAYS: Yes, sir.

15 PRESIDING OFFICER: 12:30 long enough?

16 MR. EYE: Yes, sir.

17 PRESIDING OFFICER: 12:30 okay with you?

18 THE REPORTER: Sure.

19 PRESIDING OFFICER: Okay. Back at 12:30,
20 please.

21 MR. HAYS: Thank you, sir.

22 (THEREUPON, a recess was taken.)

23 PRESIDING OFFICER: All right. We're
24 back on the record. Mr. Reese.

25 MR. HAYS: Yes, sir. I have no -- I have

1 no -- I have no further questions, sir.

2 PRESIDING OFFICER: No further questions?

3 MR. HAYS: Yes, sir.

4 MR. EYE: Thank you.

5 REDIRECT-EXAMINATION

6 BY MR. EYE:

7 Q. Doctor Greiner, what -- what was your --
8 what's your understanding of the purpose of the
9 evaluations that Doctor Neuhaus did for Doctor
10 Tiller?

11 A. My understanding is that these
12 evaluations occurred so that Doctor Neuhaus could
13 determine if there was a substantial or
14 irreversible potential for harm to these patients
15 by continuing these pregnancies. So it was a
16 fairly -- fairly limited and narrow purpose to
17 these encounters.

18 Q. And in that regard, given that, as you've
19 described it, a narrow purpose, would there have
20 been a necessity to a -- to develop a treatment
21 plan?

22 A. No.

23 Q. Would there have been a necessity, given
24 the purpose of the evaluation, to make a referral?

25 A. No. An outside referral, no.

1 Q. Did the purpose of that evaluation define
2 the nature of the examination that -- that would
3 have been undertaken by Doctor Neuhaus?

4 MR. HAYS: Objection, speculation.

5 PRESIDING OFFICER: Overruled.

6 A. Yes. I believe those -- the
7 circumstances within which he was operating and
8 working with these patients determined her -- the
9 way she carried out these evaluations.

10 BY MR. EYE:

11 Q. All right. Doctor Greiner, during the --
12 during your cross examination, a number of times
13 you seemed to qualify your answer by saying that
14 that would be what the DSM would indicate or what
15 the DSM would say. Was there a reason why you
16 were qualifying your answer in that regard, sir?

17 A. Yes. I don't believe the -- the DSM by
18 itself establishes what the standard of care would
19 be for a physician operating in the context of --
20 of seeing and evaluating these patients. I think
21 -- in fact, I believe that as a primary care
22 physician seeing these patients, although Doctor
23 Neuhaus was dealing with a number of psychological
24 and psychiatric issues and trying to make
25 determinations in those areas, she was also

1 evaluating the full range of health and
2 functioning of the patient. And it's -- it's very
3 unusual for a clinician, especially a primary care
4 clinician to refer to the DSM-III in coming to a
5 diagnosis, and especially in coming to a
6 conclusion about something like substantial or
7 irreversible harm. And there's lots of times when
8 there's gray area between different diagnoses and
9 there might be multiple diagnoses that would all
10 come together in totality to decide if somebody
11 was -- was at risk of substantial or irreversible
12 harm.

13 Q. And you referred to the DSM-III. Did you
14 mean DSM-IV?

15 A. DSM-IV. Excuse me.

16 Q. And do I take it from your answer that it
17 is -- it is based on your experience as a
18 physician in Kansas that it's not the usual
19 practice to necessarily refer to the DSM as a
20 means by which to establish a particular diagnosis
21 that's psychological or psychiatrically based?

22 A. That's correct.

23 Q. You were asked a number of questions
24 about the GAF or the global assessment of
25 functioning score. Is it your understanding that

1 -- that arriving at a GF score -- GAF score is a
2 -- a function of exercising clinical judgment?

3 A. Yes.

4 Q. And what do you mean by that?

5 A. So clinical judgment, again, is -- is
6 utilizing the totality of information that you
7 have before you. Either that you've obtained or
8 that has been provided to you by others so that
9 you can put all that together and -- and come up
10 with a reasonable and appropriate -- what you
11 would consider a reasonable and appropriate
12 clinical path forward from there. Again, in this
13 case, that path forward would not necessarily
14 involve treatment, it's a determination about a
15 specific question.

16 Q. And in -- in order to answer that
17 specific question about substantial or
18 irreversible harm, would that by -- strictly
19 speaking, even require a -- a specific diagnosis?

20 A. No. In fact, you could have pieces and
21 parts of different diagnoses and not come to one
22 specific diagnosis and still determine that
23 somebody was at substantial or irreversible harm
24 of -- of continuing their pregnancy. No question
25 about that.

1 MR. EYE: Thank you, Doctor Greiner.

2 That's all the redirect I have.

3 PRESIDING OFFICER: Anything -- any other
4 questions based on those questions?

5 MR. HAYS: Yes, sir. Just briefly.

6 RECROSS-EXAMINATION

7 BY MR. HAYS:

8 Q. From a review of Doctor Neuhaus's patient
9 record, you could not determine what the purpose
10 was of her evaluation, correct?

11 MR. EYE: That's -- that's beyond the
12 scope of redirect.

13 PRESIDING OFFICER: No. I think you --
14 you went into the purpose of the evaluation, did
15 you not?

16 MR. EYE: I asked him what his
17 understanding of the purpose was. He's asking the
18 question based upon a -- a look at the records.

19 MR. HAYS: That's directly related to
20 that.

21 PRESIDING OFFICER: I think it's related.
22 Overruled. Go ahead.

23 A. Could he ask the -- ask the question
24 again?

25 BY MR. HAYS:

1 Q. From a review of Doctor Neuhaus's patient
2 record for each of the patients, you cannot -- you
3 could not determine that -- what the purpose of
4 the evaluation was for each individual patient,
5 correct?

6 A. Any reasonable and appropriate person
7 would know what the purpose was.

8 Q. But from a review of just the patient
9 records, you could not determine that, correct?

10 A. Just the -- just the existence of the
11 records to me is knowledge of the purpose. The
12 fact that they exist at all is -- is -- is --
13 tells me, you know, that someone was trying to
14 assess whether the person was -- had potential for
15 substantial or irreversible harm.

16 Q. There's no documentation within the
17 patient records -- Doctor Neuhaus's patient
18 records of substantial and irreversible harm being
19 stated. Correct?

20 MR. EYE: Now, that -- that's -- I think
21 that's been asked and answered.

22 PRESIDING OFFICER: It has.

23 BY MR. HAYS:

24 Q. Now, you stated that Doctor Neuhaus was
25 acting as a primary care physician with these

1 patients, correct?

2 A. Correct.

3 Q. But she was actually a consultant,
4 correct?

5 A. Correct.

6 Q. And Doctor Neuhaus's reports that are
7 located in the patient records are based upon the
8 DSM, correct?

9 A. The DTREE reports are based upon the DSM.

10 Q. And the GAF report, correct?

11 A. It's not directly related to the DSM, no.

12 Q. The program PsychManager Lite, it's your
13 understanding that that program was based on the
14 DCM -- DSM-IV, correct?

15 A. Correct.

16 Q. And the GAF report was a product of that
17 program, correct?

18 A. Correct.

19 Q. And there's no evidence within the new --
20 Doctor Neuhaus's patient files that she used any
21 other report other than the ones based upon the
22 DSM, correct?

23 A. Correct.

24 Q. And Doctor Neuhaus came to a diagnosis
25 for 10 of the 11 patients, correct?

1 A. Correct.

2 MR. HAYS: No further questions, sir.

3 MR. EYE: I have no -- no -- no further
4 questions.

5 PRESIDING OFFICER: May this gentleman be
6 excused?

7 MR. EYE: I'm sorry?

8 PRESIDING OFFICER: May this gentleman be
9 excused from further attendance?

10 MR. HAYS: Yes.

11 MR. EYE: Yes, sir.

12 PRESIDING OFFICER: Thank you, Doctor.
13 You may go.

14 MR. EYE: I'm sorry, your Honor, I didn't
15 hear what you said.

16 PRESIDING OFFICER: I didn't say
17 anything. Are you finished?

18 MR. EYE: We have no other witnesses. We
19 would close -- or rest, rather.

20 PRESIDING OFFICER: All right. Any --
21 any rebuttal, Mr. Hays?

22 MR. HAYS: No, sir.

23 PRESIDING OFFICER: All right. I --
24 under the Administrative Procedures Act, the
25 parties will be given an opportunity to file a

1 proposal to findings of fact and conclusions of
2 law. I don't know the status of the transcripts
3 or -- are we -- can we go off the record?

4 (THEREUPON, a discussion was had.)

5 PRESIDING OFFICER: All right. We are
6 back on the record. We had an off the record
7 discussion concerning the findings of fact and
8 conclusions of law. It's my understanding that
9 both parties want until approximately the middle
10 of January to do so because of their schedules.
11 So we picked a date of January 17th, 2012 for
12 proposed findings of fact and conclusions of law
13 to be filed. That means the written order,
14 initial order will be due 30 days from that date.
15 Acceptable, Mr. Hays?

16 MR. HAYS: Yes, sir, for the board.

17 PRESIDING OFFICER: Acceptable, Mr. Eye?

18 MR. EYE: Likewise for the respondent.

19 PRESIDING OFFICER: Very well. Unless
20 there's something further, we will be adjourned
21 for the day.

22 MR. EYE: Thank you, Your Honor.

23 MR. HAYS: Thank you.

24 (THEREUPON, the hearing concluded at
25 12:44 p.m.)

1 CERTIFICATE

2 STATE OF KANSAS

3 ss:

4 COUNTY OF SHAWNEE

5 I, Cameron L. Gooden, a Certified
6 Shorthand Reporter, commissioned as such by
7 the Supreme Court of the State of Kansas,
8 and authorized to take depositions and
9 administer oaths within said State pursuant
10 to K.S.A. 60-228, certify that the foregoing
11 was reported by stenographic means, which
12 matter was held on the date, and the time
13 and place set out on the title page hereof
14 and that the foregoing constitutes a true
15 and accurate transcript of the same.

16 I further certify that I am not related
17 to any of the parties, nor am I an employee
18 of or related to any of the attorneys
19 representing the parties, and I have no
20 financial interest in the outcome of this
21 matter.

22 Given under my hand and seal this
23 day of _____, 2011.

24

25 _____
Cameron L. Gooden, C.S.R. No. 1335

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