

ORIGINAL TRANSCRIPT

06CR2961

INQUISITION

OF

ANN KRISTIN NEUHAUS,

beginning at 9:00 a.m., on the 8th day
of December, 2006, at the Attorney
General's Office, Memorial Hall, 120 SW
10th Street, in the City of Topeka,
County of Shawnee, and State of Kansas,
before Kenda K. Falley, Certified
Shorthand Reporter.



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APPEARANCES

2

ON BEHALF OF THE STATE OF KANSAS:

Mr. Steven Maxwell
Attorney General's Office
Memorial Hall, Suite 430
120 SW 10th Street
Topeka, Kansas 66612

ON BEHALF OF ANN NEUHAUS:

Mr. Jack Focht
Foulston Siefkin
Commerce Bank Center
1551 N. Waterfront Parkway
Suite 100
Wichita, Kansas 67206

Also present were Tom Williams and Jared Reed.

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1 (THEREUPON, Inquisition Exhibit-1,
2 Grant of Immunity, was marked for
3 identification by the reporter.)

4 MR. MAXWELL: We're on the
5 record. It's December 8th, 2006 and
6 we're in the third floor conference room
7 of the office of the Kansas Attorney
8 General, 120 Southwest 10th Street,
9 Topeka, Kansas.

10 Present in the room is the court
11 reporter, Special Agent Jared Reed of
12 the Kansas Attorney General's office,
13 Special Agent in charge, Tom Williams of
14 the Kansas Attorney General's office.
15 And my name is Steven Maxwell. I'm a
16 Senior Assistant Attorney General
17 assigned to the criminal division.
18 Present also is Doctor Kristin Neuhaus,
19 that is, I believe, N-E-U-H-A-U-S. And
20 her attorney, Jack Focht, from Foulston
21 Siefkin.

22 Ms. Neuhaus, this is -- this is a
23 criminal inquisition. A criminal
24 inquisition is a method by which under
25 Kansas law prosecutors investigate

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1 crimes. It's a statutory mechanism. It
2 has certain statutes that apply, those
3 beginning at K.S.A. 22-3101 et seq., and
4 the following statutes.

5 A Kansas criminal inquisition is a
6 method by which we bring witnesses in
7 and they testify under oath. It's been
8 authorized by the Court in this case,
9 District Judge Richard Anderson. And
10 Judge Anderson authorized the subpoena,
11 and that's what commanded you to appear
12 today.

13 As a witness called in a criminal
14 inquisition you have certain rights, the
15 first right of which is that you may be
16 represented by counsel if you desire.
17 Obviously you have Mr. Focht here and he
18 is, I assume, acting as your attorney at
19 your request. That's at least what he
20 notified me of.

21 DOCTOR NEUHAUS: Yes, correct.

22 MR. MAXWELL: The second right
23 you have is that you have the right to
24 refuse to answer any question which
25 might personally incriminate you in the

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1 commission of any crime in the State of
 2 Kansas.. That's commonly called the
 3 Fifth Amendment, or taking the Fifth or
 4 asserting your right to the Fifth
 5 Amendment of the United States
 6 Constitution. Do you understand that?
 7 DOCTOR NEUHAUS: Yes, I do.
 8 MR. MAXWELL: Do you understand
 9 that you have the right to an attorney?
 10 DOCTOR NEUHAUS: Yes.
 11 MR. MAXWELL: Okay. So you have
 12 both of those rights in a criminal
 13 inquisition. We're going to get into
 14 some questions here shortly and we'll be
 15 doing that once we put you under oath.
 16 The first thing I need to do is identify
 17 you for the record.. Could you say your
 18 full, legal name for the record.
 19 DOCTOR NEUHAUS: Ann, A-N-N,
 20 Kristin, K-R-I-S-T-I-N, Neuhaus,
 21 N-E-U-H-A-U-S.
 22 MR. MAXWELL: Would you go ahead
 23 and swear her.
 24 ANN KRISTIN NEUHAUS,
 25 called as a witness, was sworn and

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1 testified as follows:

2 DIRECT-EXAMINATION

3 BY MR. MAXWELL:

4 Q. That's your -- that's your full
5 legal name right now?

6 A. Yes.

7 Q. Have you ever gone by any other
8 name?

9 A. I was born Eisenbise,
10 E-I-S-E-N-B-I-S-E, and my stepfather's
11 name was Larson, L-A-R-S-O-N. I used
12 that for a while. And then I changed my
13 name back to Eisenbise when I was in
14 college. That was my father's name.
15 Then my first marriage I took the name
16 Neuhaus and I just kept that because
17 that was my professional name.

18 Q. Understood. Okay. Now you've
19 been sworn as a witness under oath which
20 means that you -- that you have to
21 answer my questions truthfully, do you
22 understand that?

23 A. Yes, I do.

24 Q. Okay. Everything that we say is
25 being taken down by a court reporter and

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1 ultimately a transcript will be made of
2 -- of this interview. It's -- relax.
3 It's not a -- it's not a court
4 proceeding other than the fact that

5 we're taking testimony by a court
6 reporter. It's not anything formal.
7 I'm just going to ask some questions.
8 We'll start with you -- where do you
9 live?

10 A. I live at the address he
11 delivered the subpoena.

12 Q. Go ahead and say it for the
13 record.

14 A. Well for many years I have been
15 subject to death threats, and I would
16 rather not have it go into a public
17 record. I think you're all aware of
18 where I live and I'd rather have that
19 not be available readily to the members
20 of the State of Kansas if I can help it.

21 Q. This is a sealed court
22 proceeding. This is not going to be
23 available to the public. This is a
24 criminal investigation. It's been
25 sealed by court order.

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1. A. If you can promise me that it
2 never ever will be --

3 ~~MR. FOCHT: Wait a minute, you~~
4 were promised that in front of the grand
5 jury and that information got out.

6 A. It was on a website within a week
7 of the anti -- people who made death
8 threats to all of us.

9 BY MR. MAXWELL:

10 Q. Ma'am, all I could tell you is
11 that you have to answer my questions and
12 -- and that this has been sealed by
13 court order...

14 A. Okay. I live at the address that
15 you delivered the subpoena, which is on
16 the subpoena.

17 Q. Okay. Well that would be
18 sufficient. And what's your date of
19 birth?

20 A. 4-19-58..

21 Q. Okay. What -- do you have any
22 occupation -- are you a --

23 A. I'm a physician. I am a
24 physician. I'm self-employed.

25 Q. Okay. Do you have a business

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1 address?

9

2 A. My home is my current business
3 address. I used to have a clinic. It's
4 no longer operating.

5 Q. Okay. Do you practice anywhere
6 currently like another office or -- or
7 do you like have a -- I mean you say out
8 of your home, do you practice out of
9 your home?

10 A. No, I'm a consultant. I practice
11 at two different places..

12 Q. You don't have any like -- five
13 hours a week or --

14 A. I don't see patients at my home.

15 Q. -- or see patients at your home?

16 A. No, I don't see patients at my
17 home generally. Just occasionally.

18 Q. Are you married?

19 A. Yes.

20 Q. Okay. Who is your husband?

21 A. Michael Caddell, C-A-D-D-E-L-L.

22 Q. Okay. When you got -- tell us a
23 little bit about your -- your
24 educational background up to this day.

25 A. Well, I went to kindergarten in

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1 Hugoton, Kansas, and then we moved to
2 Germany and I went to a military base
3 American schools. 7th and 8th grade I
4 went to the French Lesay in London. We
5 came back to Kansas in 1971. I
6 completed high school in the Hugoton
7 school systems.

8 Went to Kansas State University from
9 1976 to 1980. I attended the University
10 of Kansas Medical School from 1981 to
11 1985 and I did my internship with the
12 Consortium for Health Education in
13 Kansas City, Missouri which was a --
14 based at Truman Medical Center.

15 Q. Maybe I missed it; where did you
16 go to undergraduate?

17 A. Oh, Kansas State University in
18 Manhattan, Kansas..

19 Q. Manhattan. Then you went to
20 medical school at KU?

21 A. Correct.

22 Q. Okay. What year did you
23 graduate?

24 A. 1985.

25 Q. 1985. Are you currently licensed

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1 to practice medicine?

2 A. In Kansas, yes.

3 Q. Anywhere else?

4 A. No.

5 Q. No, okay. Have you ever
6 practiced anywhere else?

7 A. I had a license in Missouri, but
8 I didn't actually practice there.

9 Q. Okay. That is no longer active?

10 A. No.

11 Q. Okay. Medical school, what was
12 your specialty or did you have one?

13 A. There isn't a specialty in
14 medical school.

15 Q. My ignorance maybe.

16 A. That's okay. No, we just have
17 the usual curriculum.

18 Q. Okay. Sorry.

19 A. That's okay, sure.

20 Q. But, you know, I don't know
21 anything about really medical school to
22 that extent so I just kind of -- I mean
23 do you like -- do you like -- I thought
24 you kind of like at the last of your
25 medical school kind of specialized in an

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1 area. You don't do that?

2 A. Well, there are electives that
3 you can take.

4 Q. Oh, okay. Just like college?

5 A. Right.

6 Q. All right. All right. You got
7 out of medical school in 1985. Did you
8 have to do like a residency or
9 internship or something like that?

10 A. The State of Kansas requires that
11 you have one year of residency at least
12 at a minimum.

13 Q. Okay. What -- what did you do
14 there?

15 A. I did mine in internal medicine
16 at Truman Medical Center.

17 Q. And that's in Kansas City?

18 A. Right. I think they call it --
19 they have a different name now, Hospital
20 Hill or something, but it's TMC, the
21 downtown.

22 Q. The one in Kansas City, Missouri
23 itself?

24 A. Right. In the downtown area,
25 right. Not the one that's out west or

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1 east.

2 Q. Internal medicine, that is --

3 A. Internal medicine is primary
4 adult medicine that's non-surgical. So

5 it's everything that's not surgical and
6 not some other subspecialty and not
7 pediatrics.

8 Q. Covers everything?

9 A. Pretty much, except for
10 pediatrics.

11 Q. Anybody that is in a hospital is
12 what you're saying?

13 A. Generally.

14 Q. That doesn't get operated on?

15 A. That doesn't need to be operated
16 on, right.

17 Q. Right, okay. Okay. And then
18 after your residency then what did you
19 do?

20 A. I worked for about three years
21 with a D.O. physician in Kansas City,
22 Kansas's downtown.

23 Q. D.O. What's -- what's D.O.?

24 A. Oh I'm sorry. Doctor of
25 osteopathy. There is D.O. and M.D.

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1 He --

2 Q. You're an M.D.?

3 A. Right. They're pretty much
4 equivalent.

5 Q. I knew that. I just didn't
6 understand when you said -- okay.

7 A. I'm sorry. Anyway he had a small
8 inner city clinic in Kansas City,
9 Kansas, and I worked there for three
10 years to pay off -- primarily to pay off
11 a scholarship that I had through the
12 University of Kansas.

13 Q. Was that one of those
14 scholarships where they pay for you and
15 then you have to practice in a small
16 town?

17 A. Correct, right.

18 Q. I've heard of those.

19 A. Under-served area, right.

20 Q. Under-served, okay, and so you
21 were like a small town doctor?

22 A. Kind of except it was the
23 Strawberry Hill area of Kansas City.
24 Just an older neighborhood that had a
25 high degree of -- of indigent

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1 population, so it had qualified for a
2 long time as part of the public health
3 service.

4 Q. You would have done that from
5 about '86?

6 A. '86 to about '89.

7 Q. Okay. And then -- and that's
8 kind of like -- was that -- was that a
9 general practice kind of like?

10 A. That's a general practice.

11 Q. Like the sniffles and --

12 A. Pediatrics, geriatrics, everything
13 pretty much. He -- he did the
14 obstetrics.

15 Q. Kind of like a walk in doctor's
16 office?

17 A. We had appointments. It was a
18 regular -- but there were walk ins and
19 minor injury type things.

20 Q. Okay. Who was the physician?

21 A. Malcolm Knarr, K-N-A-R-R.

22 Q. K-N-A-R R, okay. That was in
23 Kansas or Missouri?

24 A. That's in Kansas.

25 Q. That's in Kansas. Okay. That

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1. would have been -- was that Wyandotte
2. County or Johnson County?

3. A. ~~That's correct, Wyandotte.~~

4. Q. Wyandotte. Okay. So then after
5. you were there for three years, then
6. what did you do?

7. A. Then I worked for two years in
8. Westmoreland, Kansas, which is in
9. Pottawattomie County, with a general
10. practitioner there. I'm trying to think
11. of his name. Anyway -- his name is
12. escaping me right now, but anyway it was
13. general practice including hospital
14. patients in an emergency room. Just
15. general practice. Kind of everything.
16. That was the small town doctors post.
17. The old time physicians, but -- the
18. doctor who was established that practice
19. did house calls and did his own
20. tonsillectomies.

21. Q. Really.

22. A. Yeah, it was a very rural
23. practice.

24. Q. So then you just kind of did
25. everything basically?

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1 A. Pretty much.

2 Q. Whatever walked in the door?

3 A. Exactly.

4 Q. Okay. You did that for --

5 A. I did that for about two years,
6 and I also did some locum tenens --

7 THE REPORTER: Some what?

8 A. Locum tenens, L-O-C-U-M, T-E-N-E-N
9 s.

10 BY MR. MAXWELL:

11 Q. What is that?

12 A. Basically when doctors in the
13 area wanted to take a vacation they
14 would need somebody to cover their --
15 their emergency patients, and I would do
16 that.

17 Q. Is that some kind of Latin
18 phrase, or --

19 A. Yeah, it means taking the place
20 of. Locum is place and tenens to hold.

21 Q. So you would --

22 A. It's a common thing for retired
23 physicians to do so they can not have a
24 practice to limit them but they can make
25 a little extra income.

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1 Q. So you would -- like somebody
2 would go on two week's vacation and
3 you'd go in and cover their -- their
4 practice?

5 A. Just the emergency practice,
6 right, on the weekends usually or
7 sometime when they didn't have a partner
8 in the office. It's a common practice,
9 and there are several -- yeah, I guess
10 they would be like employment agencies
11 for physicians that place people. And I
12 did that for a while while I was looking
13 for a practice and just kept it up for a
14 little while intermediately between
15 different places.

16 Q. Is that like a network or
17 something?

18 A. Well, I think -- you know,
19 basically -- I can't even remember.
20 There -- I can't think right now the
21 name of the different organizations.
22 But if you put your name on the list
23 they'll call you and say, you know,
24 Doctor Joe Brown is -- is going to be
25 gone and needs somebody to cover for,

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1 you know, X, Y, Z town, and I did that
2 for awhile.

3 Q. Is that -- I mean that just --
4 they can send you anywhere they want,

5 right?

6 A. Anywhere you want to go. It's a
7 choice if you want to take the
8 placement. It's just like temping with
9 anything else essentially.

10 Q. I see. Okay, I got it. And you
11 did that for how long?

12 A. I did that kind of on and off
13 from '88 through about, I don't know,
14 '91 or so. It wasn't a big part of my
15 practice.

16 Q. And then -- so then you're still
17 living in Westmoreland at the time?

18 A. I was living in Kansas City when
19 I started it, and I continued it for a
20 while when I was in Westmoreland.

21 Q. Okay. And then after that
22 concluded, what did you do next?

23 A. I worked for about a year and a
24 half at K-State at the student health
25 center.

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1 Q. Okay. In Manhattan?

2 A. Uh-huh.

3 Q. Okay. What is that?

4 A. It's the -- it's the student
5 health center. We took care of routine
6 illnesses for the students. We had an
7 acute care center that operated limited
8 hours that prevented them from having to
9 use the local hospitals for minor --

10 Q. Walk in students that sprain
11 their wrist or --

12 A. Right, routine types of
13 illnesses.

14 Q. Flu or --

15 A. Right, whatever you would call a
16 general practice for the students.
17 Anything other than surgery. We did
18 referrals for surgery when they were
19 necessary.

20 Q. Okay. And that -- that was at
21 K-State?

22 A. K-State.

23 Q. And then you were there until
24 when approximately?

25 A. I was there until 1993.

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1 Q. Okay. Then what did you do?

2 A. Well, early in '93 Doctor Knarr,
3 the doctor that I worked with in Kansas
4 City, had some licensing issues and

5 asked me to come in and do basically
6 locum tenens for him while he worked out
7 his license issue. And because his
8 practice involved abortion, I ended up
9 having picketers at the office at the
10 Kansas State facility. And --

11 Q. Kansas State you mean K-State?

12 A. K-State ended up having picketers
13 and the building was graffiti'd and
14 authorities at the university were
15 harassed. And because of the hullabaloo
16 I resigned my position there and ended
17 up just staying at the practice with
18 Doctor Knarr and moved back to Kansas
19 City.

20 Q. And that would be the Strawberry
21 Hill kind of area?

22 A. He still -- did he still have
23 that clinic? He did. You're right, he
24 had moved to a different building, but
25 it was still just a couple of blocks

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1 away.

2 Q. Okay. And that practice was
3 what?

4 A. It's a general practice including
5 pregnancy termination, but we still had
6 all the old family practice patients.

7 Q. Okay. How long did you stay
8 there?

9 A. I'm trying to think. Mid '90's.
10 I don't know, I can't remember exactly.
11 '96 maybe or '97. Somewhere in there.

12 Q. Okay. What did you do after you
13 left there?

14 A. Well, Doctor Knarr had opened a
15 clinic in Topeka, and so I had been
16 working at both the Kansas City facility
17 and the Topeka facility. And after I
18 quit working at the Kansas City
19 facility, I was living in Leavenworth at
20 this point. I continued to work at the
21 Topeka facility until '97. He lost his
22 lease there, so that practice closed.
23 But at --

24 Q. The Topeka facility in Topeka,
25 Kansas?

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1 A. Correct, yeah, here in town.

2 Q. Okay. Sorry, I -- sometimes I
3 miss things and I just --

4 A. I forgot we were in Topeka.

5 Q. First off I got -- my ears are --
6 I have issues so --

7 A. I'll speak up, I'm sorry. I
8 mumble.

9 Q. That's all right. Topeka,
10 Kansas, okay, and so you're working at
11 the office here in Kansas -- in Topeka
12 and that was operated by?

13 A. That was one day a week. It was
14 Doctor Knarr's other clinic and I worked
15 here one day a week. That was the only
16 time it was open.

17 Q. Okay.

18 A. So he lost his lease and lost a
19 lease dispute -- well he won the lease
20 dispute, but then he forgot to renew the
21 lease. So the practice was closed
22 suddenly just with no real notice
23 because of a lease dispute.

24 But around that time Doctor Dale
25 Clinton from Lawrence called me. He was

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1 looking for someone to take over his
2 practice, and after a couple of other
3 requests had fallen through he asked me

4 if I would like to just take over his
5 practice because he wanted to retire.
6 He was in his 80's and --

7 Q. Dale Clinton?

8 A. Dale Clinton. He had been in
9 Lawrence, Kansas for 30 years. And he,
10 you know, had a fairly active practice
11 still and wanted someone to take over
12 the care of his records and his
13 remaining patients. So that turned out
14 to be timely since I had no place to
15 continue that practice in Topeka.

16 Q. Okay.

17 A. Okay. So we moved over some time
18 in the spring of -- when was that.. No,
19 probably in the fall of 1997. I'm not
20 certain about that. I know it was on
21 the day when that bike shop burned down.
22 That was the day we moved. There was a
23 huge fire and all these fire trucks were
24 a block away from where we were moving.

25 Q. And that was downtown Lawrence?

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1 A. Right.

2 Q. Okay. So you moved over there.
3 Did you like physically move or are you
4 just talking about move the offices?

5 A. Physically moved the office --
6 well --

7 Q. But you were still living in
8 Leavenworth?

9 A. I was still living in
10 Leavenworth.

11 Q. Okay. So -- so you -- you took
12 over his practice?

13 A. Right, correct.

14 Q. And physically that means you
15 just basically go in and start running
16 the place, right?

17 A. Well, we had an attorney draw up
18 transfer papers, right.

19 Q. Sure. Right, I understand.

20 A. Right, exactly, and he was there
21 for awhile.

22 Q. And then he retired?

23 A. Kind of slowly. He had patients
24 that I couldn't see. He was a pilot.
25 He could do exams for pilots, and he --

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1 MR. WILLIAMS: FAA certified.

2 A. Right, he continued to do that
3 since I wasn't trained to do that.

4 BY MR. MAXWELL:

5 Q. Right, so then you were there
6 from fall approximately of '97 until --

7 A. Well, Doctor Clinton had been
8 there for 30 years with no lease and no
9 contract. Just by mutual agreement.
10 Within a year of us moving in somebody
11 new bought the building and they asked
12 some of the tenants to leave
13 essentially. They felt that certain
14 businesses weren't compatible with their
15 vision to the building. So we were
16 given six months notice to vacate. And
17 our lease was -- or our rent was doubled
18 every month until we moved, so we had no
19 real opportunity.

20 Q. Doubled every month?

21 A. Something outrageous. It went
22 from 500 to something like 1,500 over a
23 period of two or three months. So we
24 had to really scramble to find a new
25 building. And we were lucky enough to

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1 find a sympathetic landlord within about
2 three months, but the rent was now
3 \$2,500 instead of 5, and that building
4 was for sale also, and the new owner who
5 bought the building increased the rent
6 even further because he knew that there
7 was a doctor's office there, but he
8 didn't know it was an abortion clinic,
9 so he --

10 MR. FOCHT: Doctor, I'm going to
11 advise you not to talk about abortion or
12 abortion clinics during this deposition
13 under your rights under the Fifth
14 Amendment. And that the attorney
15 general has said that this investigation
16 will concern doctors involved in
17 abortion or giving referral information,
18 that sort of thing.

19 And in your interests I would advise
20 you to invoke the Fifth Amendment
21 privilege if you wish to. And I have
22 written that out for you.

23 A. On the advice of counsel I
24 decline to answer that question on the
25 grounds that the answer might either

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1 incriminate me or might lead to the
2 discovery of incriminating evidence.

3 BY MR. MAXWELL:

4 Q. Okay. Well let's deal with that.
5 Doctor, what I'm about to hand you is a
6 -- I'll hand you a copy. It's --

7 MR. FOCHT: Let me see it please.

8 MR. MAXWELL: Granted use of
9 immunity. I'm going to grant -- I'm
10 going to read it into the record. This
11 is signed today by the Attorney General
12 of Kansas, Phill Kline. It says -- it's
13 quoted as follows, Grant of Immunity.
14 It's on the Attorney General's
15 letterhead and it says, I, Phill Kline,
16 duly elected, qualified and acting
17 Kansas Attorney General on this 8th day
18 of December, 2006, on behalf of the
19 State of Kansas do hereby authorize and
20 grant to Ann Kristin Neuhaus pursuant to
21 K.S.A. 22-3415(b)(2), use and derivative
22 use immunity, except as hereafter stated
23 for any statement or testimony she shall
24 be compelled to give in the criminal
25 inquisition designated as Shawnee County

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1 Case No. 04-IQ-3. Such statements or
2 testimony or any evidence derived
3 therefrom shall not be used against Ann
4 Kristin Neuhaus in any prosecution for a
5 crime under the laws of the State of
6 Kansas or municipal ordinance. This
7 does not provide immunity for future
8 crimes committed.

9 This grant of immunity from
10 prosecution does not extend to perjury
11 or false statement. This grant of
12 immunity does not prohibit, prevent or
13 otherwise inhibit the prosecution of Ann
14 Kristin Neuhaus for any charges now
15 pending against her in any court.
16 Further, such immunity does not prohibit
17 or prevent a prosecution of any criminal
18 charges against Ann Kristin Neuhaus
19 already filed and pending before a court
20 of law or is based upon conduct that
21 occurred before this date without the
22 use or derivative use of any statement
23 made herein.

24 This grant of use and derivative use
25 of immunity simply guarantees that

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1 . nothing that Ann Kristin Neuhaus may say
2 on the witness stand in the criminal
3 inquisition designated as Shawnee County

4 . Case No. 04-IQ-3 and nothing derived
5 from that testimony will be used against
6 her.. It's signed by Phill Kline, Kansas
7 Attorney General. And I have marked it
8 as Inquisition Exhibit No. 1 and I will
9 give it to the court reporter to be
10 attached to the transcript.

11 . Let me explain this. This is
12 derivative -- use and derivative use
13 immunity which you've now asserted your
14 Fifth Amendment rights under the Kansas
15 or the Kansas and United States
16 Constitution. That once use immunity
17 and derivative use immunity is given
18 under this statute by a duly authorized
19 official, which the Attorney General is.
20 You can no longer assert the Fifth
21 Amendment.

22 . I mean because what happens is you
23 are no longer -- what you say here today
24 can no longer be used against you in a
25 court of law, so you can no longer

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1 assert the Fifth Amendment as a basis to
2 refuse to answer the question.

3 And you can feel free to talk to your
4 counsel if you wish to. We can take a

5 break if you want to do that. But I'm
6 going to ask questions and that can no
7 longer be a basis for refusing to answer
8 my questions.

9 MR. FOCHT: It could be a basis,
10 of course, if any question would
11 incriminate her or tend to incriminate
12 her under any federal crime, and it
13 could be utilized if this is not an
14 adequate grant of immunity. And I
15 submit that the last paragraph says that
16 it is not a grant of either
17 transactional or use immunity in that it
18 designates only the criminal inquisition
19 designated as Sedgwick (sic) County Case
20 No. 04-IQ-3, and nothing derived from
21 that testimony will be used against her.
22 That, of course, is not a criminal case.
23 That is an inquisition and you are not
24 granting her immunity in a criminal
25 case.

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1 MR.. MAXWELL: Counsel, I'm not
2 going to argue with you but --

3 MR. FOCHT: That's right.

4 MR. MAXWELL: -- Kansas law says
5 that in re: Birdsong or State versus
6 Birdsong says that when the State --
7 authorized state official grants
8 immunity; use or otherwise, to any
9 witness that that use immunity extends
10 to federal prosecution as well.

11 MR. FOCHT: No. There is another
12 case that says it doesn't, and you know
13 that as well as I do. But that's not
14 the major problem.. The major problem is
15 it doesn't apply to any Kansas case
16 except this inquisition according to
17 this.

18 MR. MAXWELL: It says that.
19 nothing she says here today will be used
20 against her for the prosecution of any
21 crime or violation of any municipal
22 ordinance.. So it can't be much clearer
23 than that.

24 It says it won't be used against her
25 what she says here today in any -- in

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1 the prosecution of any crime or
2 violation of any municipal ordinance.
3 So I don't know what else there is to
4 say about it.

5 MR. FOCHT: Okay. If that is the
6 position that you're taking that it
7 can't be used in a criminal case, but
8 the last paragraph says it just can't be
9 used in the inquisition.

10 MR. MAXWELL: Well, no, that's
11 not what it says. It says -- it says in
12 the second -- it says in the second to
13 last statement in paragraph one, such
14 statements or testimony or any evidence
15 derived therefrom shall not be used
16 against Kristin Neuhaus in any
17 prosecution for a crime under the laws
18 of the State of Kansas or any municipal
19 ordinance. I mean that means --

20 MR. FOCHT: I understand.

21 MR. MAXWELL: -- that it applies
22 to what she says today can't be used in
23 any future prosecution or any violation
24 of any municipal ordinance anywhere in
25 this State. And this last paragraph

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1 simply guarantees that -- it's just a
 2 summary and it basically says that it
 3 just guarantees that what she says here
 4 today is not going to be used against
 5 her in courts of law in this State
 6 and --

7 MR. FOCHT: And I assume that you
 8 are guaranteeing since this has some fax
 9 information on the top that Phill Kline
 10 did sign this today?

11 MR. MAXWELL: Yes. I -- I faxed
 12 it to him at where he is located, he --
 13 I talked to him on the phone before I
 14 faxed it and after I faxed it, he signed
 15 it and sent it back. I recognize the
 16 signature as the Kansas Attorney
 17 General.

18 MR. FOCHT: If that's your
 19 guarantee then I'll accept that.

20 MR. MAXWELL: Okay.

21 BY MR. MAXWELL:

22 Q. So let's go on. We were back to
 23 your -- sort of your history there a
 24 little bit, and you were working -- you
 25 were talking about where you were

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1 working in Lawrence beginning in the
2 fall of '97. Can we get back to that
3 area, okay.

4 Tell us about you were looking for a
5 lease and started working there and what
6 -- what happened?

7 A. Well, I mean, I practiced at the
8 new address. I moved my practice to the
9 new address.

10 Q. Right, okay. And then you
11 started -- and then this new building
12 you had you got a new lease and it was
13 sort of the same practice as this doctor
14 you took over, but you got -- moved it
15 to a new building?

16 A. Correct.

17 Q. Okay. And where was that at?
18 What was the address, do you remember?

19 A. 205 West 8th.

20 Q. The new address?

21 A. Correct.

22 Q. Okay. What kind of practice was
23 this? I mean was this --

24 A. Well it was Doctor Clinton's
25 practice, plus patients I had from

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1 Topeka. Birth control. Mostly it would
2 be like a gynecologic practice minus the
3 surgery essentially. Well, no, not
4 hospital based surgery.

5 Q. Kind of like OB-GYN, is that --

6 A. Kind of, only I didn't do
7 obstetrics so it would be just
8 gynecology primarily.

9 Q. Okay. Women?

10 A. With a little bit of family
11 practice, right.

12 Q. Okay.

13 A. Well within the scope of family
14 general practice. It just was a -- more
15 specifically related to -- well
16 ninety-nine percent of my patients were
17 women.

18 Q. Okay. And how long a time period
19 did you stay at that location?

20 A. Until September of 2002.

21 Q. So about five years?

22 A. I guess. That sounds about
23 right.

24 Q. Yeah. Okay. And this practice
25 at this particular clinic was in --

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1 that's where in Lawrence it's located?

2 A. It's across from the Fire Station
3 No. 1.

4 Q. Oh, okay. All right. I think I
5 know where that's at. I just --

6 A. The library is over there and the
7 post office.

8 Q. All right. And so then you got
9 -- you're in this practice for -- and
10 you're doing this practice for five
11 years and then you left or you shut it
12 down or sold it or what?

13 A. I just shut it down.

14 Q. Shut it down. Okay. And did you
15 move to a new practice or new town or
16 how does that work?

17 A. Well my son developed diabetes
18 and I needed to be home, so I moved all
19 my records to, you know, my house
20 basically and continued to practice from
21 there, but not an office based practice.

22 Q. You wouldn't see patients then?

23 A. No, not at my house.

24 Q. Were you living in the same place
25 you're living now?

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1 A. Uh-huh.

2 Q. Or did you move?

3 A. Yeah, we moved.

4 Q. When did you move there -- to
5 your current location approximately?

6 A. The fall of '99 I think.
7 October.

8 MR. FOCHT: Speak up, Kristin.

9 A. I think it was in the fall of
10 '99. It was right after a huge flood in
11 Kansas City where one of the football
12 games got flooded out. That's the time,
13 and I don't remember the year. I think
14 it was '99.

15 BY MR. MAXWELL:

16 Q. Okay. So then you would have
17 moved there and so when you shut your --
18 your practice down in Lawrence you would
19 have already lived at your current
20 location?

21 A. I was already living at my
22 current location.

23 Q. So you took all your files from
24 your current location which -- or the
25 practice and you said you moved them to

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1 your house?

2 A. Right.

3 Q. And then you shut down the
4 practice?

5 A. Correct.

6 Q. Did you continue to see patients
7 or not or just --

8 A. No, not those patients. I had to
9 refer them out to local physicians.

10 Q. Okay. Since that time have --
11 have you had an office based practice?

12 A. No.

13 Q. That would be starting --

14 A. Other than my house, no. No, I
15 don't see patients at my house..

16 Q. Okay. And so that -- you don't
17 have like a physical office?

18 A. No.

19 Q. Okay. That was beginning in May
20 of 2002, is that what you said, or
21 September?

22 A. September.

23 Q. September of 2002 from this date
24 to the present, right?

25 A. Uh-huh.

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1 Q. You have to answer verbally.

2 A. Correct, yes, I'm sorry.

3 Q. She -- she can't get a shake of
4 the head or the nods, you know, and so
5 --

6 A. I know, I'm sorry.

7 Q. Okay. So now you're -- you're
8 living there at your current address.
9 You are -- you're still licensed to
10 practice since September of 2002. What
11 kind of practice between September of
12 2002 and today do you do?

13 A. I just -- I do a consulting
14 practice now. Actually I forgot a job
15 that I did for years. I don't know if
16 it matters.

17 Q. Go ahead.

18 A. From '95 until some time in the
19 late '90's I worked at a clinic in
20 Wichita, another clinic on Central, as a
21 physician there.

22 Q. '95 to?

23 A. I'm trying to remember. I don't
24 know '99 maybe.

25 Q. Who was your employer?

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1 A. I was self-employed. The clinic
2 was owned by a guy named Dan Herrington
3 I think. It's been awhile but -- and he
4 didn't live in the State.

5 Q. Okay.

6 A. Just owned and operated the
7 clinic, and I contracted with him...

8 Q. Did you like work there part time
9 or something?

10 A. Well I was their clinic physician
11 and I was there once or twice a week.

12 Q. Okay. Okay. All right, that's
13 fine.

14 MR. FOCHT: You got your plasma
15 job too.

16 A. Oh, that's new. Right, since
17 this year I also am the center medical
18 director at a plasma center.

19 BY MR. MAXWELL:

20 Q. Plasma, is that blood?

21 A. Right. It's a --

22 Q. Blood -- blood bank?

23 A. Bank like a --

24 Q. Blood bank?

25 A. Correct.

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1 Q. And where is that at?

2 A. In Lawrence.

3 Q. Okay. Plasma director, is that

4 like --

5 A. Medical director. What they are
6 is pharmaceutical manufacturing plant.

7 They -- they manufacture product and
8 they are required by different statutory
9 elements to maintain a physician to
10 supervise medical staff.

11 Q. How often -- how much is that?

12 Is that like a part-time job or --

13 A. It's about a day a week.

14 Q. Okay. So you like go one day a
15 week to that office?

16 A. I go a couple of times a week for
17 half a day.

18 Q. Half a day, okay. So -- so from
19 other than the blood bank from September
20 of 2002 to the present date, what other
21 employment?

22 A. Well, like I said I've been
23 self-employed all that time, and because
24 my son was sick I had to drastically cut
25 my hours back and so the only thing that

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1 I could continue under those
2 circumstances was my consulting in
3 Wichita.

4 Q. Okay. Describe that. What do
5 you do, consulting? What -- what does
6 that mean?

7 A. Well, should I go into the whole
8 history of that?

9 MR. FOCHT: No, just tell him.
10 Answer his question.

11 A. Oh, okay. Well --

12 MR. FOCHT: Well you can tell him
13 how it came about, yeah.

14 A. Oh, okay. I'm trying to think
15 what year that was. 1999 while all
16 these other elements are still
17 happening, I received a call from Doctor
18 George Tiller in Wichita, Kansas, in
19 which he stated that the Kansas Board of
20 Healing Arts had recommended that he
21 call me regarding some new requirements
22 that his clinic was subject to. And so
23 I had some telephone discussions with
24 him about what that would entail, and he
25 made his -- his attorneys available to

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1 me to explain, you know, the legal
2 aspects of all of that. And so over a
3 period of months.-- or weeks or months,
4 we, you know, with the full
5 understanding and supervision of the
6 Board of Healing Arts and my
7 understanding the State of Kansas as
8 well, we came up with some terms under
9 which I would be able to travel to
10 Wichita and use his space at the clinic
11 to consult with his patients regarding
12 late term medical need pregnancy
13 terminations.

14 And after consulting with his
15 attorneys who I was told were
16 specialists in constitutional law, I was
17 provided with a huge packet of legal
18 material, I think the oral arguments
19 from the Doe V. Bolton case and the
20 opinions and whatnot, and I was given an
21 opportunity to ask any questions that I
22 had regarding all of that, and --

23 BY MR. MAXWELL:

24 Q. Who were those attorneys?

25 A. I can't remember.

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000: 2

1 Q. In Wichita?

2 A. Uh-huh, in Wichita. It was a
3 woman and I remember she was pregnant.
4 I unfortunately don't remember any other
5 details than that, so --

6 Q. That was in, what, '99 you said?

7 A. Yeah, probably. I'm sorry, I'm
8 really bad with names. You know, I
9 remember a face. But trying -- you know
10 if you gave me a list I'm sure I can
11 pick out who it was.

12 Q. Oh my God, there are probably
13 1,000 attorneys in Wichita.

14 MR. FOCHT: 1,600

15 BY MR. MAXWELL:

16 Q. We don't need to do that.

17 A. Right, okay. I don't remember.
18 But, you know, it was from a fairly
19 prominent law firm, I think. But where
20 were we? So basically at that point,
21 you know, I was informed that I would be
22 probably one of several consultants that
23 would do this work, you know, if I was
24 interested and --

25 Q. Did you like, you know, guys get

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1 into a contract or --

2 A. No, no, no. It was just strictly
3 going to be he would let me know when he
4 had a patient. They would get me the
5 records and I would review it and give
6 him my opinion about the case.

7 Q. Okay. So you all talked about
8 this and then you began doing it before
9 you -- before 2002?

10 A. No, we had worked up -- no, no,
11 no. It was around the time when that
12 statute was put in place. You know, I
13 had been following it in the news, but
14 not that closely. So I don't remember
15 the exact details, but what I do
16 remember is that we made certain that
17 the procedural aspects were well known
18 to all parties.

19 One of the things I remember the
20 attorney -- this unknown attorney saying
21 to me was that the whole reason that
22 this was happening was because it was a
23 compromise with the State. The State
24 recognized that the statute was
25 unconstitutional and that the only

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1 reason that they weren't going to the
2 Supreme Court is that the expense and
3 the time involved, so this was a
4 situation where both parties agreed that
5 this additional consultation would be
6 acceptable as an alternative to having
7 ~~the whole thing struck down~~ That was
8 my understanding.

9 Because the provisions in Doe v.
10 Bolton for the additional consultations
11 were considered unconstitutional by the
12 court by the majority opinion.

13 Q. Okay, so -- okay. So you -- you
14 start into this and when did you
15 actually start physically doing that?

16 A. In 1999.

17 Q. Okay. Tell us how that worked.

18 A. The process has changed over time
19 and I'm not sure that I have all the
20 details clearly. I think in the
21 beginning they may have faxed me the
22 records before I went down there, but
23 I'm not positive about that.

24 What I would do is be informed of the
25 day that the late term patients would be

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1 there. I would travel to Wichita, and I
2 was still running my own clinic at that
3 same time then. So I would leave days
4 open that I could that. I could do that
5 either Monday or Tuesday. And like I
6 said I was alternating with someone else:
7 or at least one other person for a
8 while.

9 So I would get the schedule of what
10 days that they were going to be seeing
11 late patients in advance, and I would
12 travel down on those days. I would be
13 given the records that I requested,
14 which was any information they had
15 pertinent to that patient's medical
16 case. Then I would interview the
17 patient privately or, you know, with the
18 family members depending upon the
19 situation.

20 MR. FOCHT: Speak up.

21 A. I would interview the patient.
22 Then initially I had a letter that was
23 drawn up with the assistance of the
24 attorneys to make sure that the language
25 was in compliance with the law. And I

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1 originally brought a computer and
2 printed out my own, but it became just
3 troublesome dragging the computer around,
4 so, you know, at some point I just asked
5 them to go ahead and print up the letter
6 and provide that along with the medical
7 records that they provided as part of
8 the consultation.

9 BY MR. MAXWELL:

10 Q. Okay. So you say it changed over
11 time. How --

12 A. Because like I said I had a
13 laptop and my battery went dead and, you
14 know, it became a nuisance dragging the
15 thing around. I couldn't leave it
16 unattended. So -- and I would have to
17 run and get -- use their printer and
18 unhook my printer and hook up, you know,
19 hook up to their printer and it
20 disrupted their process, so I -- just in
21 the interest of simplicity I asked that
22 they just print up this letter which
23 normally I would have printed. And then
24 if the patient was deemed by me to have
25 a medical necessity for the procedure, I

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1 would sign that letter and that would
2 become a part of the medical record.

3 And I did pay the staff for the paper
4 and the cost of the toner periodically.

5 Q. Were you -- were you compensated
6 for your time?

7 A. By the patients, yes.

8 Q. How did that work?

9 A. Well they were informed by me
10 that there was a separate fee. They had
11 been informed over the telephone prior
12 that there was a separate consultant and
13 that there would be a separate fee for
14 that and that would not be included in
15 their fees for Doctor Tiller. So they
16 would pay me.

17 Q. Okay. Would they pay you on the
18 spot or how would that --

19 A. Well at some point during the
20 consultation I would have to request the
21 fee unless they had some prior
22 arrangement with an insurance company.

23 Q. What were the fees generally?

24 A. 250 initially, and then I raised
25 it to 300 at some point.

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1 Q. All right. So that's -- this is
2 starting all in 1999 while you still had
3 your clinic here in Lawrence?

4 A. Right.

5 Q. Okay. So how many -- how often
6 would you go down there?

7 ~~A. A couple of times a month~~
8 initially, and there was a period of
9 time that I didn't come at all.

10 Q. Okay.

11 A. And then after a couple of years
12 I think the other consultant or
13 consultants whom I never met, but, you
14 know, was aware of their existence at
15 least one fellow I know quit because he
16 was picketed at his office.

17 Q. What -- when you would go down
18 there would you like keep your own file
19 or --

20 A. Correct, yes, I have all my own
21 files.

22 Q. So when you would see a patient
23 down there you would take -- you would
24 create your own file and keep it?

25 A. Right, unless the -- the process.

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1 didn't continue past the very
2 preliminary stages. For example, if I
3 could see right off the bat that it
4 wasn't going to go anywhere, I might not
5 generate one. So if we didn't go
6 through signing the original consent and
7 that kind of process.

8 Q. All right. I understand. Okay
9 so then -- so you've got your clinic
10 going on and you're doing this down
11 there in Wichita, you've got your own
12 clinic in Lawrence and in 2002 you --
13 you quit that?

14 A. Right.

15 Q. So -- so let's talk from that
16 point forward had the process changed by
17 that point?

18 A. Yeah, I think it evolved slowly.
19 Like I said as far as the laptop and the
20 printing of the letter.

21 Q. Right.

22 A. And the faxing of materials had
23 to stop because of HIPAA requirements
24 for a scrambled fax machine, which I
25 didn't have and, you know, and I guess

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1 somebody can hack things that are going
2 over the air waves. So HIPAA required
3 some odd things that I didn't want to
4 deal with it.

5 MR. FOCHT: You had to sign a
6 special requirement with HIPAA to allow
7 ~~things to be faxed.~~

8 MR. MAXWELL: Okay, I didn't know
9 that.

10 BY MR. MAXWELL:

11 Q. Okay. So then you got -- year
12 2002 you quit. You're done with your
13 clinic, you're home.

14 A. Yeah.

15 Q. You're basically home, and then
16 -- and then you're -- you say you were a
17 consultant? You said earlier -- maybe I
18 missed this wrong, but you were a
19 consultant for several people or was it
20 just Tiller?

21 A. Oh, no, just -- you know I guess
22 maybe -- no, no -- run that by me again.

23 Q. I thought you said you had -- you
24 were consulting in several places?

25 A. Did I? Can you go back?

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1 MR. FOCHT: No, I don't think you
2 did. I think he misunderstood.

3 BY MR. MAXWELL:

4 Q. I may have misunderstood.

5 A. Oh, okay.

6 Q. So it was just -- you were just
7 consulting with Tiller, that was your
8 only --

9 A. Correct, at that point, right.
10 That was the only thing that I was
11 doing.

12 Q. Okay. So then you would -- you
13 would -- from your home you would --
14 after you closed your clinic, from your
15 home you would basically arrange or you
16 would consult with Tiller from that
17 point?

18 A. I continued to do that after I
19 stopped everything else.

20 Q. Okay. All right. Continued
21 to --

22 A. Consult with him.

23 Q. How often would that happen?

24 A. At that point I believe I may
25 have been the only one. At any rate it

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1 would have been two to four times a
2 month.

3 Q. Okay. How did that process work
4 from your -- after you closed your
5 clinic, how -- how did that process
6 work?

7 A. They continued to notify me when
8 I was needed, and I continued to travel
9 down there.

10 Q. Okay. In 2003 your clinic's
11 closed now, and in year -- calendar year
12 2003 were you doing this?

13 A. Yes.

14 Q. Okay. How many times do you
15 suppose that -- that you went to Wichita
16 that year, do you recall?

17 A. 40 or 50 probably.

18 Q. 40 or 50. Who -- who would
19 Tiller's -- who would call you and
20 coordinate this? Who would talk to you?

21 A. Well since I was there every week
22 I would check the schedule and look on
23 the calendar and see what the next week
24 would be. So generally at that point
25 they didn't need to call me because I

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1 wasn't alternating with anyone else.

2 Q. Oh; okay. So you were pretty
3 much the only one?

4 A. I think. I'm almost sure by
5 2003. The time when the other guy that
6 I know of -- you know, like I said I am
7 not privy to everything that happened
8 there of course. So I was only there a
9 couple of times a month. There was some
10 period of time when Doctor Tiller had
11 this whole group of federal fire people,
12 you know, the BB -- Bureau of Alcohol
13 Tobacco and Firearms.

14 Q. ATF?

15 A. Yeah, he had the ATF there. They
16 flew in a big armored vehicle and they
17 had all these guys in flak jackets
18 hanging around for a week or two. That
19 was around the time when I became the
20 only person that came. We had a bomb
21 threat.

22 MR. FOCHT: Was that before or
23 after he was shot?

24 A. This was years after he was shot.
25 Right, this was -- that's the time when

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1 I became the full-time consultant was
2 with the bomb squad thing.

3 BY MR. MAXWELL:

4 Q. You got to understand I don't
5 know anything about it. I don't need
6 any of that, so -- so --

7 A. Well, we're regularly subjected
8 to terrorist threats, but this was one
9 that they took seriously enough that
10 they flew in these --

11 Q. ATF guys?

12 A. Right, and the place that I
13 normally do my consulting, I walked in
14 one day and there were eight 300 pound
15 muscle guys with flak jackets all
16 sitting around drinking coffee. So I
17 just remember -- I don't remember the
18 day, but I remember that was the time
19 when I became the full time person, and
20 at that point it wasn't really necessary
21 to call me because I could just check
22 the schedule.

23 Q. Okay. All right. So you -- you
24 basically would go down there and you
25 would -- what would you do when you

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1 would go down there?

2 A. I would do the same thing. I
3 would get the -- the records that I
4 requested prior with the late term
5 patients, review the records and review
6 the patient. Get the paperwork signed,

7 collect the money and decide whether or
8 not it was warranted, provide the letter
9 and go home.

10 Q. Would you keep a file for all of
11 those cases?

12 A. Yes.

13 Q. Okay. So you would have files
14 for the year 2003 for all of the cases
15 that you went down there and consulted?

16 A. Unless they were people that I
17 turned away early in the process.

18 Q. Right. Okay. But anyone who
19 would have gotten a late term abortion
20 as a result of your consultation you
21 would have a file on?

22 A. Correct.

23 Q. Okay. So tell us about what you
24 would do in these particular
25 consultations, how would that work?

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1 You'd review the file that they already
2 had I assume, right?

3 A. Uh-huh.

4 MR. FOCHT: Answer --

5 A. Correct.

6 BY MR. MAXWELL:

7 Q. And then you would do what as a
8 result of -- after reviewing the file?

9 A. Interview them.

10 Q. Interview the patient?

11 A. Uh-huh.

12 Q. Okay. Anything else?

13 A. For example?

14 Q. I -- I have no idea.

15 A. No, I -- I spoke with them,
16 sometimes speak with the family member.

17 Q. Would you like examine them,
18 like, or do any, like, physical?

19 A. Not generally, no. You mean like
20 check their eyes and ears and things,
21 no.

22 Q. Whatever a doctor does?

23 A. Right. No, only if that were
24 warranted and most of the time that
25 wasn't warranted that I can recall.

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1 Q. Would you like give them tests or
2 anything like that?

3 A. No, I just interviewed them.

4 Q. What would you like type -- what
5 -- what would be part of your file, for
6 example?

7 A. Well originally when I first
8 started I just had handwritten notes,
9 and then at some point I decided to use
10 a program that helped just to automate
11 the process.

12 Q. What's -- what's that called?

13 A. Actually the -- the program is
14 called Detree (spelled phonetically).
15 It's produced by a company in Canada.
16 And basically it just automates the
17 entry of questions from the DSM-IV and
18 saves me a lot of typing.

19 Q. Diagnostic tree?

20 A. Right.

21 Q. Okay, and you would use that?

22 A. I used that to just help save a
23 lot of writing basically.

24 Q. Oh, okay. And so you would --
25 your file would contain that material

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1 and your notes?

2 A. Correct.

3 Q. Anything else?

4 A. The consents.

5 Q. Consents, okay. What about the
6 letter that you would ultimately sign?

7 ~~A. No, originally I copied all the~~

8 letters and then it just seemed
9 redundant, so I -- I quit doing that.

10 Q. Okay.

11 A. They are all the same.

12 Q. All right. What -- what would
13 you do when -- how long would these
14 consultations -- you know, this is still
15 the \$300 range, right, talking about 300
16 bucks to charge?

17 A. But it also counts as six hours
18 driving and my wear and tear on my car.

19 Q. Right.

20 A. Obviously if I lived in Wichita
21 the fee would be substantially lower.

22 Q. Right. How long for one
23 consultation is what I'm asking.

24 A. I spent as much as six hours, but
25 generally it's in the 45 minutes to an

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1 hour and a half range.

2 Q. And you would -- your -- your
3 goal was to evaluate -- okay. And how
4 -- would you -- were you still getting
5 paid by patients?

6 A. Yes; that is the only people that
7 ever paid me other than insurance
8 companies.

9 Q. Did you ever get paid by Doctor
10 Tiller?

11 A. No.

12 Q. For any of the consultations?

13 A. No.

14 Q. Checks by him in any way?

15 A. No..

16 Q. Okay. Would you use his facility
17 -- did you have to like pay rent or pay
18 him for any part of using his facility?

19 A. No, we were concerned about the
20 perception of impropriety in the
21 beginning. So he specifically requested
22 the Board and whomever he was conferring
23 with, like I said this was not to do
24 with me in the beginning. He told me
25 that he had specifically obtained

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1 permission because of the high risk --
2 the security risk to the patients and
3 the distance of travel for the
4 consultants, that it was okay with
5 everyone involved that he provide a
6 space for the consultants.

7 ~~Q. So you never paid him any rent or~~
8 anything like that?

9 A. That was never considered to be
10 necessary by any of the involved parties
11 as I understood it.

12 Q. So you never did?

13 A. I never called Mark Stafford or
14 Carla Stovall to ask.

15 Q. Did you ever pay him any rent?

16 A. No.

17 Q. All right. So you're -- you're
18 in here and you're doing those
19 consultations, and the idea is -- the
20 purpose of your consultation is what?

21 A. To decide whether or not they had
22 a medical necessity for a pregnancy
23 termination.

24 Q. Okay. What was your
25 understanding of what you needed to

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1 determine?

2 A. Whether or not the continuation
3 of the pregnancy would impair their
4 physical or mental health. And that
5 originally was not established that way.
6 That was, you know, like I said when it

7 was presented to me it was based on the
8 termination in Doe v. Bolton that a
9 person's health could include their
10 psychological -- let me make sure that I
11 get this right. Their psychological,
12 emotional, familial and their age
13 determinations. So any number of
14 factors could have a permanent and
15 irreversible negative affect on their
16 health.

17 Q. I think the statute says, if I'm
18 not mistaken, I'll try to quote it here,
19 it says continuation of pregnancy will
20 cause substantial and irreversible
21 impairment of the major bodily function.
22 Is that your understanding?

23 A. Yes.

24 Q. And so you would try to determine
25 whether or not that occurred -- that was

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1 going to occur, right?

2 A. Right.

3 Q. So it wasn't just that it would
4 -- that it would negatively impact their
5 health, it was --

6 A. No, I said that completely wrong.
7 ~~Basically a major organ, and the brain~~

8 is a major organ and the person all the
9 things I listed there, emotional and
10 mental and psychological and familial
11 and financial, stay negatively impacted
12 on the brain.

13 Q. Okay. So you understood that had
14 to be irreversible?

15 A. Correct. Correct, yes.

16 Q. Meaning it was never going to go
17 away?

18 A. Correct.

19 Q. Okay. So you go in there and
20 you're doing these. Did you -- how do
21 these patients -- you said that they
22 would call you. Did you ever -- did the
23 patients ever call you first or who --
24 who got called first; you or Tiller?

25 A. Well the logistics would make it

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1 really difficult. I could have -- we
2 discussed all this in advance, too. But
3 because they have no idea who I am and
4 because his desire was to keep the
5 consultants out of the eye of the public
6 because of the harassment that they
7 would get, the -- the logistics of
8 having the consultant available to just
9 anybody calling on the telephone out of
10 the blue made it prohibitive for any
11 other contact to occur other than
12 initially through him.

13 Q. Okay. So what -- what -- who
14 would call who first, or would the
15 patient call you or the patient call
16 Doctor Tiller?

17 A. Like I said, he wasn't in the
18 practice of giving out the name of the
19 consultant because then any lunatic
20 could call up and make an appointment
21 and start harassing me, and I don't
22 have, you know, the type of security
23 that many of these providers do.

24 Q. So basically what you're saying
25 then is that they would call Tiller,

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000134

1 they would go in and see Tiller and then
2 he would call you and bring you in?

3 A. Correct.

4 Q. Okay. And you would -- and it
5 got to a point where you were down there
6 so often that you didn't really need to
7 call?

8 MR. FOCHT: Object to the form of
9 the question. Go ahead and answer it.
10 I'm just objecting.

11 A. I was down there often enough
12 that I could review the calendar.

13 BY MR. MAXWELL:

14 Q. Who -- who was the main person
15 that you coordinated with basically?

16 A. Well I guess the office
17 administrator.

18 Q. Which is?

19 A. Well now it's Joann.

20 Q. Joann?

21 A. I can't remember -- I just know
22 her by Joann. I know -- if you tell me
23 I'll know her last name. I don't need
24 to use it. I don't call her at home or
25 anything.

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1 Q. Okay. So when you go in there,
2 you're going in there to work on this,
3 do you meet with Doctor Tiller?

4 A. Sometimes. Usually I'll just --
5 if I agree with it, I'll post the letter
6 in his box.

7 Q. Okay. Do you -- do you have like
8 a box down there for you?

9 A. There is a box that I use when I
10 am there. It's just a general box for a
11 certain room.

12 Q. Okay. Do you ever go in there
13 after hours after the place is shut
14 down, like do you have keys or anything?

15 A. No.

16 Q. When you've got these -- these
17 patients and you're looking and trying
18 to decide what -- what you're going to
19 do here, do you get the patient -- what
20 the patient said about themselves as
21 part of what you would review before you
22 would talk to the patient?

23 A. You mean their initial telephone
24 interview?

25 Q. Or -- yeah, or their -- their

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1 initial history, I guess. Is it
2 history? Is that -- doctor's call it a
3 history or their reason for being there
4 or whatever you -- doctors call it, you
5 know, where the patient says here is
6 what I -- here's what I -- here's who I
7 am and --

8 A. You mean do I take a personal
9 history from them?

10 Q. Right.

11 A. Yeah, sure.

12 Q. All right. Okay. What I'm
13 saying is that -- do you do that or does
14 Doctor Tiller do that and provide it to
15 you?

16 A. Both.

17 Q. Both.

18 A. Basically what I requested when I
19 came down was that I have all records
20 that are available to him from prior
21 consultation. And for the sake of
22 simplicity I asked to receive a copy of
23 his intake form, which has a lot of that
24 material on it. So I use that and then
25 I ask my own questions too.

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1 Q. Okay. All right. Okay, I
2 understand. Okay. Sorry to do this.
3 Can we go off the record for a moment?

4 (THEREUPON, a recess was taken.)

5 MR. MAXWELL: Back on the record.

6 BY MR. MAXWELL:

7 Q. We took a six minute break it
8 looks like. Okay, Ms. Neuhaus --
9 Neuhaus or Neuhaus?

10 A. Neuhaus.

11 Q. Neuhaus, sorry. Okay, so we're
12 -- we're talking about these -- these
13 consultations you're doing. How -- I
14 mean, you started in after you closed
15 your clinic doing them for Tiller in
16 2002 or late 2002 after you closed your
17 clinic in Lawrence. Do you continue up
18 to this day?

19 A. I have been doing them since
20 1999, correct.

21 Q. Okay. When was the last time you
22 did them?

23 A. I think it was last -- last week,
24 but I -- I don't remember if it was
25 Monday or Tuesday. I think it was a

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1 Tuesday.

2 Q. Okay.

3 A. No, no, wait a minute. Wait a
4 minute. What is today?

5 MR. FOCHT: Friday.

6 A. Today is Friday. I'm sorry, I'm
7 ~~really, you know, my schedule has been~~
8 disrupted. Let me see, it was -- what
9 day was I down there? I was down there
10 Monday. This past Monday.

11 BY MR. MAXWELL:

12 Q. Past Monday, okay. Same type of
13 deal, late term abortion, you're
14 supposed to be the --

15 A. Correct, right. I'm asked to
16 evaluate those patients.

17 Q. What does referral mean to you?

18 A. Referral is when one physician
19 asks another physician to evaluate a
20 patient.

21 Q. Okay. When -- when you do this,
22 do you still charge \$300, is that the
23 normal fee still?

24 A. Generally. Sometimes I discount
25 the fee.

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Q. Okay.

A. That's the general stated fee.

Q. The general stated fee, okay.

Okay, so let's talk specifics here. I, as you know from watching the news, that although it took two and a half, three years I obtained records from Doctor Tiller, you're aware of this?

A. Right.

Q. Okay. And part of the reason that you've -- you've been asked to appear here is that these records contain your name, okay?

A. Correct.

Q. I don't know that that probably surprises you whatsoever?

A. No.

Q. In fact your name is on the very front -- front part of the file?

A. Right, that's a little sticky note.

Q. This is how the file came to us.

A. Right.

Q. So this is just one of the files. I mean, I actually wanted to start with

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1 -- okay. Tell me about the -- your
2 training in psychiatry before we get to
3 this.

4 A. Well, all medical students are
5 required to do rotations in psychiatry.
6 It's usually in the third or fourth
7 year.

8 Q. Uh-huh. Anything else?

9 A. I have an undergraduate degree in
10 psychology, so I took graduate level
11 courses while I was an undergraduate --
12 intermediate to graduate. I took
13 ~~basically every psychology course~~
14 available at K-State with maybe one or
15 two exceptions of the courses that were
16 available to undergraduates and in that
17 transition level, whatever they are, 700
18 level courses.

19 Q. Anything else?

20 A. I had a long-term interest and
21 have done extensive reading, probably
22 read most of the works of the founders
23 of modern psychological theory, at least
24 some of their writings, Freud, Yoen,
25 Maslow. And I actually at several times

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1 contemplated completing a psychiatry
2 residency. It just wasn't economically
3 feasible to -- to take off from a
4 regular practice to do that, but I have
5 read through the DSM IV at least twice
6 completely.

7 Q: Anything else?

8 A. Other than the usual continuing
9 medical education things. I read
10 articles on psychiatry. I've also done
11 some independent research on pregnancy
12 and unwanted pregnancy in cases like the
13 case -- I can't remember the name again,
14 but the woman who, you know, abandoned
15 her child at a hotel room or whatever.
16 Cases like that I sought out that type
17 of material in the past and studied it.
18 So I would have to say a lot of that was
19 just, you know, self study.

20 Q. Anything else?

21 A. Not that I can think of right
22 now.

23 Q. Okay. Have you ever practiced
24 psychiatry?

25 A. No, I'm not a psychiatrist, no.

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000802

1 Q. Psychology, practiced that --

2 A. As in clinical psychology, no.

3 Q. Have you ever treated -- during
4 your clinical years you've been to
5 various clinics, fair?

6 A. True.

7 ~~Q. And throughout your time I would~~
8 guess you practiced about 15 years maybe
9 there close?

10 A. Before you mean 15 -- I've been
11 out since '86.

12 Q. Well, more than that then?

13 A. Right, about 20.

14 Q. In those -- what I'm talking
15 about the clinical where you were in a
16 clinic and you were seeing patients?

17 A. General practice.

18 Q. General practice, did you ever
19 treat people for depression?

20 A. Yes.

21 Q. Like maybe prescribe certain
22 medications?

23 A. Yes.

24 Q. Did you treat -- would it be fair
25 to say it's common to treat people for

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1 depression in various stages?

2 A. I would say it's extremely
3 common. Not for me personally, but I
4 think those drugs rank among the highest
5 --

6 Q. Prescribed medicines, right. And
7 ~~that's like drugs like~~

8 A. Celexa, Zoloft.

9 Q. Zoloft, Xanax?

10 A. Xanax is a tranquilizer for
11 anxiety.

12 Q. Right. But you prescribed those
13 in the past to patients?

14 A. I hardly ever. I can't even
15 count the times I've prescribed Xanax.
16 Maybe in the very remote past. But
17 antidepressants in general, you know, a
18 fair amount. My personal philosophy is
19 not geared towards medications except as
20 a last resort.

21 Q. But you have treated --

22 A. In general I have wrote
23 prescriptions for those in the past,
24 right, correct.

25 Q. And you -- have you seen patients

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000004

1 with other types of mental health.
2 issues, for example, if somebody had
3 different types of psychiatric or DSM IV
4 diagnoses like, for example, adjustment
5 disorder or -- or depression or anxiety
6 disorder or schizophrenia?

7 A. Sure.

8 Q. You've seen patients with all of
9 that?

10 A. Yes.

11 Q. You've treated those patients?

12 A. Yes, I have.

13 Q. Okay. All those types?

14 A. Everything.

15 Q. Right.

16 A. Sometimes I would get -- in the
17 very beginning sometimes I would do
18 psychiatric consultation, but I think
19 all practices encounter those types of
20 diagnoses on a regular basis.

21 Q. Is -- is depression a treatable
22 disease?

23 A. Absolutely, but that doesn't
24 necessarily mean that every case is
25 curable.

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1 Q. Okay. Sure, but it is treatable.
2 Some people, once treated --

3 A. It's treatable with drugs.

4 Q. Would it be fair to say that some
5 people once treated can get over it and
6 it will never reoccur again?

7 A. Yes, I think that that does
8 happen.

9 Q. Okay. As well as any other
10 pretty much of the standard personality
11 or mental health diagnoses, for example,
12 you know, a woman -- let me just give
13 you an example. A woman goes and gets a
14 divorce and she's having a problem
15 dealing with it and you've diagnosed her
16 with adjustment disorder, is that -- can
17 that be treated and --

18 A. Yes.

19 Q. And she can be cured, right?

20 A. Uh-huh.

21 Q. Because her life changes and she
22 gets used to it, right?

23 A. It might and it might not.

24 Q. All right. Could.

25 A. Right.

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1 Q. Is that right?

2 A. Well my mom has been divorced
3 since I was five and she is a wreck and
4 has been, you know, forever and ever and
5 ever. So I would say not in all cases,
6 but in some cases, yes.

7 Q. ~~So sometimes you can get over it~~
8 and you don't really know until a person
9 is treated, is that fair?

10 A. You don't know at the time when
11 you see them whether or not they'll be
12 curable.

13 Q. All right, but they could be?

14 A. Theoretically, yes.

15 Q. Certainly not a once you have it,
16 it's always --

17 MR. FOCHT: I'm going to object
18 to argumentative questions.

19 BY MR. MAXWELL:

20 Q. Go ahead. I'm not trying to
21 argue with you. I'm just asking you
22 what -- let me put it this way. It's
23 not one of those things where once you
24 have it you're going to have it forever
25 necessarily?

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1 A. Not necessarily, no.

2 Q. Okay. It would be more like the
3 mumps if you -- or, no, that's a bad
4 example. Let me -- I can't think of an
5 example. But, you know, like childhood
6 asthma. You may have childhood asthma
7 and it may develop into adult asthma and
8 you have it for the rest of your life or
9 it may be treated childhood asthma and
10 you grow out of it?

11 A. That's fair. Yeah, I would say
12 that's fair.

13 Q. It could happen either way with
14 these kind of diagnoses?

15 A. Correct, assuming, you know, all
16 the circumstances went favorably.

17 Q. Right. Okay. All right. What
18 I'm about to show you is some files, and
19 your name is in them. And these files
20 are basically records from Doctor Tiller
21 that were subpoenaed by the court.
22 They're records in 2003 of late term
23 abortions that were done -- that were
24 done in Wichita. That in most of these
25 files, at least the ones I'm going to

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000573

1 show you have to do with you being on
2 the file or in the file.

3 Let's start with this number one.
4 This is File No. 30-001, and I'm going
5 to show it to you. Now some of the file
6 -- just for the record, some of the file
7 is blacked out. Okay, and what -- what

8 that means is the patient is not
9 identified, okay. The name is blacked
10 out so other than the state and the age,
11 you can't identify any particular name
12 with any of these files. Could you look
13 through the file especially on the left
14 side where some documents are and see if
15 you recognize any of your work.

16 A. This is my order.

17 Q. Go through the whole side.

18 MR. WILLIAMS: Would you
19 identify --

20 MR. MAXWELL: We'll do it in just
21 a minute. I'm going to have her look

22 through it and then we're going to do
23 that.

24 MR. FOCHT: Did you get that?

25 THE REPORTER: What?

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000809

1 MR. FOCHT: She said it was out
2 of order.

3 A. The two pages are out of order,
4 but this is all mine. This -- this is
5 actually -- this is another other page.

6 BY MR. MAXWELL:

7 ~~Q. Why don't you identify, there's~~
8 numbers on the bottom of the pages, and
9 why don't you identify the numbers in
10 File 30-001?

11 A. 30-005, 30-006 and 30-007.

12 Q. So that would be --

13 A. Oh I'm sorry, 30-008. 7 and 8
14 are out of order.

15 Q. Okay.

16 MR. FOCHT: There is something
17 else down here yet.

18 A. That's not mine.

19 MR. FOCHT: Oh, okay.

20 BY MR. MAXWELL:

21 Q. So those four pages are all you
22 recognize from what you did?

23 A. Right, correct.

24 Q. Okay. So that -- this particular
25 file, tell us about this file. Tell us

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1 about it.

2 A. What do you want to know about
3 it?

4 Q. Let me -- tell us what you did in
5 this case.

6 A. Well, it's a minor, so I would
7 have visited with the mother and/or
8 whoever the person accompanying; the
9 mother or father or guardian. It's hard
10 to say. I would have visited with them
11 together. Obtained the consents.

12 MR. FOCHT: Is that there?

13 A. No, it would be in my records.
14 And then generally depending on the
15 maturity of the patient, obviously she's
16 14. Some 14-year-olds are more mature
17 than others. If it seemed that she
18 would not be particularly upset, I might
19 visit, you know, to be alone apart from
20 the guardian. I might interview her
21 independently.

22 There are certain situations where
23 that's necessary, because ultimately as
24 a physician our primary -- I guess
25 primary is that we don't hurt somebody.

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000811

1 So it's very important for me to know
2 that the person is aware of their
3 situation and that there is no coercion.

4 So in spite of her age I probably, if
5 possible, would have interviewed her
6 alone to make sure that she wasn't being
7 pressured and didn't have someone

8 else's --

9 BY MR. MAXWELL:

10 Q. Can you tell from the file
11 whether you did that or not?

12 A. Not from Doctor Tiller's file.

13 Q. Okay. Would you have a file that
14 would contain information not contained
15 in this file?

16 A. Yes.

17 Q. What would you have?

18 A. I would have copies of the notes
19 that he had taken. Well, I don't see --
20 sometimes in these really young patients
21 they don't do long telephone interviews
22 because it's too distressing for them.
23 But it's hard for me to say. This looks
24 like it was done in the office.

25 Generally -- the general practice

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000012

1 because -- and this is my understanding,
2 my interpretation, is that because these
3 people are coming from a distance, for
4 example, here in New York, the patients
5 are interviewed at length over the
6 telephone. And in the case of a minor
7 presumably the interview most of the

8 time is the parent or the guardian.

9 So then the purpose of that is to
10 keep someone who is not a suitable
11 candidate from traveling clear to Kansas
12 and then being turned down. So
13 generally there is a lengthy interview
14 that's available to me before I meet the
15 patient.

16 Q. Is that in that file?

17 A. Not in this one, and I'm assuming
18 there is one that was done at some
19 point. You know, whether or not that
20 was done before or after I can't say.

21 MR. FOCHT: Well look at the
22 other side and make sure it isn't there.
23 You're not looking at the file.

24 A. Well this is usually -- it could
25 be. Now, in the cases of very young

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000513

1 patients often they'll just evaluate
2 basic things like what's the status of
3 the ongoing criminal investigation anyway
4 going on, so generally they would --
5 they -- they will sometimes not have
6 that lengthy telephone interview with
7 the patient because it's too distressing

8 for them to -- to go through that. I
9 don't see that here. Generally those
10 are present.

11 BY MR. MAXWELL:

12 Q. So that -- such a thing was not
13 contained in the file marked 30-001?

14 A. Not that I can see. No, it's --
15 it would be over here. It should be on
16 this side if it was here.

17 MR. FOCHT: When you say this
18 side, indicate which side that you're
19 talking about.

20 A. That was the left side.
21 Generally that material is on the left
22 side.

23 BY MR. MAXWELL:

24 Q. Okay. So tell us -- you would
25 have reviewed this file before?

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1 A. You know, I can, but I generally
2 just deal with the material that they
3 give me. You know, I mean there's
4 nothing once they've signed a consent
5 for me to see their record, there's
6 nothing to prevent me from going and
7 getting the chart. But I don't do it as
8 a matter of routine.

9 Q. So what do you think you saw as
10 part of your review that's contained in
11 this file?

12 A. I would have seen this minor
13 consent thing here.

14 Q. All right. And that's page --

15 A. Page 42 and 43.

16 Q. Of 30-042 and 043, okay.

17 A. That's not a hundred -- sometimes
18 that would happen after seeing me, but
19 usually it's happened before. I don't
20 know. I can't tell if this was -- this
21 wouldn't -- I don't think I would have
22 seen this.

23 MR. FOCHT: When you say -- when
24 you put something give it a number.

25 A. Oh, I'm sorry. I'm sorry.

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000815

1 Generally what I get is a copy of this
2 sheet.

3 MR. WILLIAMS: Number of the
4 document.

5 A. Number 30-018 and the result of
6 the telephone interview and any medical
7 records that the patient has had
8 forwarded or brings with them. That's
9 what I generally get.

10 BY MR. MAXWELL:

11 Q. Okay.

12 A. And if I go and get the chart I
13 would have access to this other
14 material.

15 Q. So it would have been -- it's
16 been represented by the subpoena that
17 this is the entire chart Doctor Tiller
18 has. It is everything that's contained
19 regarding this patient. So other than
20 the documents you've previously
21 identified, is there anything else you
22 would have seen?

23 A. Not that I can think of.

24 Q. What would you have in your file
25 other than what's contained in this.

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000815

1 file?

2 A. Maybe, you know, depends. Maybe
3 nothing or maybe notes. Generally what
4 I would do is I asked the staff to also
5 make a copy of these interviews that
6 they do in-house. This -- so I
7 would also --

8 Q. That would be --

9 A. -- have a copy of this.

10 Q. Identify the number; 30-009?

11 A. 09 and 010, and I often take
12 notes on those to amplify any questions
13 that are unclear to me.

14 Q. For the record this is a -- this
15 file is a 14-year-old from New York
16 City, correct?

17 A. New York State.

18 Q. New York State?

19 A. I don't know. It looks like...

20 Q. New York State. 14-year-old from
21 New York State, and for the record she
22 was how long -- how far along in her
23 pregnancy?

24 A. 26.4 weeks.

25 MR. FOCHT: I can't hear you.

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000817

1 A. Looks like 26.4 weeks.

2 Q. And was the fetus determined to
3 be viable?

4 A. Yes.

5 THE REPORTER: Did you say
6 viable?

7 A. Yes.

8 BY MR. MAXWELL:

9 Q. Viable. So in order to give this
10 14-year-old a late term abortion after
11 the fetus is determined viable and 26
12 weeks old, basically what has to happen
13 is two doctors have to find that either
14 the abortion is necessary to preserve
15 the life of the pregnant woman or a
16 continuation of the pregnancy will cause
17 a substantial and irreversible impairment
18 of a major bodily function of the
19 pregnant woman, true?

20 A. Right.

21 Q. Okay. Is there any indication in
22 this file that this abortion was
23 necessary to preserve the life of this
24 14-year-old?

25 A. Not her physical life, no.

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000613

1 Q. No?

2 A. But her function of a major brain
3 organ or whatever major organ. My best
4 friend in high school had a baby as a
5 result of rape at the age of 15 and it
6 has permanently irreversibly impaired her
7 life.

8 Q. Was this child a victim of rape?

9 A. Yes.

10 Q. Okay.

11 A. Absolutely.

12 Q. Okay. Was she a victim of
13 forcible non-consensual sex? She was
14 raped because of her age, is what you're
15 saying?

16 A. At least that.

17 Q. Right. I think we can find that
18 right back here.

19 A. Okay.

20 MR. FOCHT: Counsel is showing
21 you a page.

22 BY MR. MAXWELL:

23 Q. I'm showing you page 30-042, so
24 my question is was this child a victim
25 of non-consensual forced sex?

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000819

1 A. Not forced. But I don't think at
2 14 you can give consent. Isn't the age
3 of consent 16?

4 Q. Yes, ma'am, you're right. My
5 question is to you did she report to
6 Doctor Tiller that she was the victim of
7 non-consensual sex?

8 A. Well I think the guardian is the
9 only one that can do that, correct. The
10 patient herself can't decide whether it
11 was consensual.

12 Q. Well what did she answer when she
13 was asked the question if you were 14 or
14 15 years old did you agree to have sex
15 with someone, what did she answer?

16 A. She answered yes.

17 MR. FOCHT: I object to the form
18 of the question unless you have personal
19 knowledge what she answered, you don't
20 know that.

21 BY MR. MAXWELL:

22 Q. What does the form say?

23 A. Well the form on there -- the
24 answer is circled yes, but it's not
25 determined who circled it.

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000520

1 Q. Okay. If you were 14 or 15 years
2 old, the next question is did you -- and
3 you agreed to have sex with someone, was
4 your partner 18 years of age or older or
5 less, and what did she say?

6 A. Well the answer that's circled,
7 yes.

8 Q. Okay. And when she was asked if
9 you were 14 or 15 years old and you
10 agreed to have sex with someone, were
11 you physically, emotionally injured as a
12 result of the sexual activity, what was
13 her answer?

14 A. Well her answer was no, but I
15 don't know that she actually --

16 Q. I understand.

17 A. -- understood what that meant --
18 implications of that.

19 Q. Are you -- are you yourself
20 younger than 14 years of age, and she
21 said what?

22 A. No.

23 Q. No. Okay, so -- and I guess --
24 okay. Let's talk a little bit about --

25 A. It's hard to say how old she was

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000821

1 when she actually got pregnant.

2 Q. Right, I understand.

3 A. We don't have a date.

4 Q. I understand. But let's talk a
5 little bit about there is nothing in the
6 file that the physical life of the
7 mother was at jeopardy?

8 A. Other than the fact that, you
9 know, one out of 15,000 woman die in
10 childbirth. Other than that, no.

11 Q. Okay. So let's talk -- so
12 basically what you'll have to -- in
13 order to do a late term abortion on this
14 patient, you have to do the second prong
15 of the statute. Two physicians have to
16 find that a continuation of the
17 pregnancy will cause a substantial and
18 irreversible impairment of a major
19 bodily function of the pregnant woman,
20 correct?

21 A. Correct.

22 Q. Okay. So what --

23 MR. FOCHT: If you don't agree
24 with him just say so, because we will
25 make those argumentative.

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000572

1 A. Do you remember that amendment to
2 the whole thing where it said that it
3 was understood to mean that a mental
4 function is part of the health.

5 MR. FOCHT: Tell him that. Don't
6 tell me.

7 MR. MAXWELL: Here is the
8 statute.

9 MR. FOCHT: Doesn't make any
10 difference what the statute says. You
11 give him your impression of what --

12 A. There -- there was some kind of
13 reinterpretation of that where they made
14 it clear, and it isn't on the internet,
15 but I've seen that document. It made it
16 very clear that nothing in this is meant
17 to construe that a person's mental
18 health is not a part of their overall
19 health.

20 BY MR. MAXWELL: .

21 Q. I understand. That's your
22 opinion, right?

23 A. No, that was written. It was a
24 law.

25 MR. FOCHT: I think that may have

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000823

1 been in the Alpha and Beta case. I'm
2 not sure.

3 THE REPORTER: Alpha --

4 MR. FOCHT: and Beta, but I don't
5 know:

6 A. Well you have it. You have a
7 copy of it because you showed it to me.

8 MR. FOCHT: That would have been
9 Alpha Beta.

10 BY MR. MAXWELL:

11 Q. All right. So let's read --
12 let's read sub-section together, 65-6703
13 sub-section 2, would you read it as it's
14 stated, and it starts right there.

15 A. A continuation of the pregnancy
16 will cause a substantial and
17 irreversible impairment of a major
18 bodily function of a pregnant woman.

19 Q. Okay. So we agree that that's
20 the statute that we're -- we're talking
21 about?

22 MR. FOCHT: Object to the form of
23 the question. Whether you agree with
24 him or not is immaterial.

25 BY MR. MAXWELL:

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000524

1 Q. Do you agree with that; you can
2 answer?

3 A. Do I agree with that?

4 Q. That's the statute we're dealing
5 with.

6 A. I agree that that statute is
7 written the way it is, yeah.

8 Q. Okay. All right. So let's talk
9 about what was found in this file. What
10 did you find? What did you find first?

11 A. I found that this is a fourteen
12 year old patient who was pregnant.

13 Q. What did you find? What -- what
14 impairment -- what substantial and
15 irreversible impairment of a major
16 bodily function did you find?

17 MR. FOCHT: Wait a minute. If
18 you can't answer that from that file,
19 you tell him that.

20 A. Yeah, this --

21 MR. FOCHT: If you need your
22 files.

23 A. I can't honestly. I need my file
24 for that to -- to know exactly,
25 otherwise I'm just guessing.

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000825

1 BY MR. MAXWELL:

2 Q. Okay. So what you're saying is
3 that in order to answer my question you
4 can't answer it until you see your own
5 file?

6 A. Correct.

7 Q. Okay. Well, that's fine. What
8 did you -- let's -- let's talk about a
9 little bit about in Document No. 30-005;
10 do you recognize that?

11 A. Yes.

12 Q. What is 30-005?

13 A. That's the referral letter that I
14 sent to Doctor Tiller referring the
15 patient for the late-term pregnancy
16 termination.

17 Q. Okay. Would this letter have
18 been signed by you before or after the
19 abortion actually occurred?

20 A. Before.

21 Q. No way it could have occurred
22 after?

23 A. No, of course not.

24 Q. No?

25 A. No, absolutely not.

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000526

1 Q: Absolutely not, okay. Your
2 letter basically says that you are
3 referring -- that you are referring the
4 above patient to your organization for
5 consultation regarding unwanted
6 pregnancy. What do you mean by that
7 statement?

8 A. Well, like I said the attorneys
9 drew this up to be in compliance with
10 the law, so what I understand it to mean
11 is that in my opinion the pregnancy is
12 necessarily -- is necessary, based on
13 substantial and irreversible impairment
14 of a major physical or mental function
15 as we discussed before. Because your
16 mental health impacts on your physical
17 health.

18 Q. I guess I'm just talking about
19 the first sentence. The first sentence
20 says I am referring, and this is from
21 you, you signed this letter, right?

22 A. Right.

23 Q. And you said I am referring the
24 above patient -- named patient to your
25 organization for consultation regarding

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000827

1 her unwanted pregnancy.

2 A. Right.

3 Q. As I understood you earlier that
4 Tiller was the one that called you or --
5 or had the office --

6 A. Like I said, I never really
7 thought about the wording because I left
8 that up to the attorneys to -- to make
9 it in compliance with the law. Why the
10 word referring is in there, that's a
11 good question. I just didn't question
12 --

13 Q. Because you really didn't refer
14 that patient?

15 A. No, not really, no. I mean, in a
16 sense, right. He's the -- I am the
17 consultant and he is the referring, and
18 I just never questioned that. It never
19 occurred to me that that would be a
20 problem.

21 Q. Okay.

22 A. So I agree the wording is
23 questionable.

24 Q. The wording is questionable?

25 A. As far as the referring. The

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