

## Technology Specialists in Complex Litigation

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<p>1 .</p> <p>2 .</p> <p>3 .</p> <p>4 .</p> <p>5 .</p> <p>6 .</p> <p>7 .</p> <p>8 VOLUME II INQUISITION</p> <p>9 .</p> <p>10 OF</p> <p>11 .</p> <p>12 ANN KRISTIN NEUHAUS,</p> <p>13 .</p> <p>14 beginning at 9:00 a.m., on the 20th day</p> <p>15 of December, 2006, at the Attorney</p> <p>16 General's Office, Memorial Hall, 120 SW</p> <p>17 10th Street, in the City of Topeka,</p> <p>18 County of Shawnee, and State of Kansas,</p> <p>19 before Kenda K. Falley, Certified</p> <p>20 Shorthand Reporter.</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>	<p>1 COURT APPOINTED SPECIAL COUNSEL FOR</p> <p>2 ADULT PATIENTS AD GUARDIAN AD LITEM FOR</p> <p>3 MINOR PATIENTS:</p> <p>4 .</p> <p>5 Mr. Steve Cavanaugh</p> <p>6 Cavanaugh, Smith &amp; Lemon</p> <p>7 2942A SW Wanamaker Drive</p> <p>8 Topeka, Kansas 66614</p> <p>9 .</p> <p>10 Also present were Tom Williams and Jared</p> <p>11 Reed.</p> <p>12 .</p> <p>13 .</p> <p>14 .</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 .</p> <p>19 .</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>
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<p>1 APPEARANCES</p> <p>2 .</p> <p>3 .</p> <p>4 ON BEHALF OF THE STATE OF KANSAS:</p> <p>5 .</p> <p>6 Mr. Steven Maxwell</p> <p>7 Attorney General's Office</p> <p>8 Memorial Hall, Suite 430</p> <p>9 120 SW 10th Street</p> <p>10 Topeka, Kansas 66612</p> <p>11 .</p> <p>12 .</p> <p>13 ON BEHALF OF ANN NEUHAUS:</p> <p>14 .</p> <p>15 Mr. Jack Focht</p> <p>16 Foulston Siefkin</p> <p>17 Commerce Bank Center</p> <p>18 1551 N. Waterfront Parkway</p> <p>19 Suite 100</p> <p>20 Wichita, Kansas 67206</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>	<p>1 (THEREUPON, Inquisition</p> <p>2 Exhibits 2&amp;3 were marked for</p> <p>3 identification.)</p> <p>4 MR. MAXWELL: On the record. It</p> <p>5 is 10:15 a.m. on December 20th, 2006.</p> <p>6 We are in the fourth floor conference</p> <p>7 room of the office of the Kansas</p> <p>8 Attorney General at 120 Southwest 10th</p> <p>9 Avenue, Topeka, Kansas.</p> <p>10 We are here for a criminal</p> <p>11 inquisition in case number Shawnee</p> <p>12 County District Court of 04-IQ-3. My</p> <p>13 name is Steven Maxwell. I'm a Senior</p> <p>14 Assistant Attorney General. And with me</p> <p>15 today present is Special Agent in charge</p> <p>16 Tom Williams of the Kansas Attorney</p> <p>17 General's office, and Special Agent</p> <p>18 Jared Reed of the Kansas Attorney</p> <p>19 General's office. And special counsel</p> <p>20 Steve Cavanaugh who is the special</p> <p>21 counsel appointed by Judge Anderson.</p> <p>22 And Judge Anderson ordered that Mr.</p> <p>23 Cavanaugh be present today.</p> <p>24 Also present is Ann Kristin Neuhaus.</p> <p>25 That's N-E-U-H-A-U-S, the witness. This</p>

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<p style="text-align: right;">Page 134</p> <p>1 is a continued inquisition from I think  2 it was December 7th, 2006. Also present  3 is her counsel Jack Focht from Foulston  4 Sieffkin in Wichita.  5 Ms. Neuhaus, we are continuing the  6 inquisition statement that you started a  7 couple of weeks ago that we broke  8 because we were going to retrieve some  9 records. And so we were continuing that  10 here today. First thing that we'll need  11 to do is get you sworn as a witness  12 again.  13 ANN KRISTIN NEUHAUS,  14 called as a witness, was sworn and  15 testified as follows:  16 MR. CAVANAUGH: Excuse me, Steve,  17 may I make a short statement on the  18 record. As you indicated on the record  19 earlier I have been appointed as special  20 counsel for adult patients, guardian ad  21 litem for minor patients, pursuant to  22 amendment protective order that the  23 court entered on May 23, 2006.  24 One of my primary purposes is to  25 manage the medical records and also to</p>	<p style="text-align: right;">Page 136</p> <p>1 After that is done they will be  2 submitted to me and I will review it to  3 make sure that all identifiers have been  4 redacted and then I will take  5 responsibility of delivering those  6 exhibits to the court reporter. And I  7 will when I do that of course copy you  8 in writing that those exhibits have been  9 delivered.  10 MR. MAXWELL: That's fine.  11 MR. FOCHT: Now, I understand  12 that procedure. I am not -- it's only  13 after I conferred with Mr. Cavanaugh  14 that I discovered that apparently these  15 files have already been subjected to  16 physicians reasonable medical inquiry  17 rules of Alpha Beta case. So otherwise  18 I would object to doing anything other  19 than having some physician determine in  20 accordance with Alpha Beta that this  21 isn't -- I've forgotten what the words  22 were. That they adequately addressed  23 the concerns raised by the patients.  24 And it's not one of those matters that  25 just is reasonable dispute as to medical</p>
<p style="text-align: right;">Page 135</p> <p>1 protect the privacy of any patients.  2 And so it's on the record today through  3 the questions and answers, I would just  4 caution everyone to try to be sure to  5 not use names or other identifiers.  6 I understand that you are going to  7 use patient numbers for that and so we  8 are going to -- the goal here today is  9 that the record will not be able to --  10 that somebody reading the record would  11 not be able to discover the identity of  12 a particular patient because of  13 information that is there.  14 Additionally any exhibits that maybe  15 to this statement today that are medical  16 records of patients of Doctor Neuhaus,  17 it's my understanding that the agreement  18 on how those will be handled is that  19 they will be identified and then  20 following the deposition Jack Focht who  21 is counsel for Doctor Neuhaus will make  22 copies and see that identifying  23 information has been redacted pursuant  24 to guidelines set forth in my letter to  25 him December 18th, 2006.</p>	<p style="text-align: right;">Page 137</p> <p>1 judgment, but from what Mr. Cavanaugh  2 tells me that's already been done with  3 Mr. Tiller's records and if it's the  4 same records I suppose you don't have to  5 do it a second time you know.  6 MR. CAVANAUGH: Just to clarify,  7 the physician review as of course as  8 would pertain to Doctor Neuhaus would  9 only be as to any records of hers that  10 were contained in -- I don't know  11 whether Doctor Tiller's is Alpha Beta,  12 but in Doctor Tiller's files.  13 MR. FOCHT: Yeah, I know. I  14 don't either. I know what the case says  15 and I assume I know who the people are  16 from the case.  17 A. I'm sorry, I didn't understand a  18 word of any of that.  19 MR. FOCHT: Well, you didn't need  20 to. That was lawyer talk. The second  21 thing is I am sure it's clear that she  22 continues to testify under the grant of  23 immunity.  24 MR. MAXWELL: I am about to get  25 into that.</p>

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<p style="text-align: right;">Page 138</p> <p>1 DIRECT-EXAMINATION 2 BY MR. MAXWELL: 3 Q. Doctor Neuhaus, are you the same 4 Doctor Ann Kristin Neuhaus that 5 testified the last time, December 7th, 6 2006? 7 A. I think so. Yes, I am. 8 Q. Okay. Doctor Neuhaus, I remind 9 you that in that last hearing the 10 Attorney General of the State of Kansas 11 provided you a written grant of use and 12 derivative use immunity, which 13 essentially means that what you say the 14 last time you were here December 7th and 15 what you say -- December 8th -- excuse 16 me, I am correcting. 17 MR. FOCHT: The last time we were 18 here. 19 BY MR. MAXWELL: 20 Q. The last time we were here that 21 use and derivative use immunity would 22 essentially operate to prevent you -- 23 from -- prevent what you say here today 24 or what you said on December 8th from 25 being used against you in a criminal</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. Let's -- how were -- tell us 2 about the files that you brought? What 3 -- where were they located? Where did 4 you find them at? 5 A. In my file cabinet. 6 Q. In your file cabinet and that was 7 located where? 8 A. In my house which is my office. 9 Q. In Nortonville? 10 A. Right. 11 Q. Okay. Okay. So you brought 12 those files. Tell us have you had a 13 chance to review those files since you 14 discovered them after the subpoena but 15 before today? 16 A. Briefly. 17 Q. Briefly Okay. Well, what -- did 18 the file -- did the subpoena enable you 19 to identify the files that we were 20 subpoenaing? 21 A. Yes. 22 Q. Okay. I understand your files 23 aren't redacted as to names, is that 24 right? 25 A. Correct.</p>
<p style="text-align: right;">Page 139</p> <p>1 prosecution, do you understand what I am 2 saying? 3 A. Yes. 4 Q. Okay. So that grant of immunity 5 is still in effect that was given to you 6 the last time. We are going to have to, 7 you know, kind of do this in an 8 organized fashion if we can today. The 9 first thing that I would ask you is the 10 last time we broke we broke so that you 11 could retrieve some medical records and 12 we could bring them today so that you 13 could refresh your own recollection 14 about what we were going to talk about 15 on the specific files. Did you receive 16 the subpoena that was issued by the 17 court on I think it was December 9th -- 18 December 9th of 2006 or December 8th of 19 2006? 20 A. Yes. 21 Q. Okay. That subpoena commanded 22 you to bring 23 files I believe of 23 medical records that you had in your own 24 possession. Did you bring those files? 25 A. Yes.</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. Or maybe some other identifying 2 information? 3 A. They are not redacted. 4 Q. Okay. So let's talk a little bit 5 about the contents of these files. What 6 -- what generally is contained in each 7 file? 8 A. Patient identification 9 information, medical history, some social 10 history, medical information that was 11 sent by other physicians or care givers, 12 you know, various things. 13 Q. Okay. Well, let's just start -- 14 A. Those are my own records. 15 Q. -- with one. I showed you this 16 one the last time. This is file number 17 30 that was identified 30-001 which is 18 the page numbers. It's a file that is 19 -- we started to discuss last time. 20 It's on a 14 year old who had a late 21 term abortion from New York. She was 22 from New York. And the abortion 23 apparently occurred on July 22nd, 2003. 24 I think that's -- yeah, that's it. Her 25 patient number identified by Doctor</p>

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<p style="text-align: right;">Page 142</p> <p>1 Tiller was 072203 L N patient number.  2 And that's contained on the last page  3 here right there. Can you confirm that?  4 A. Yes.  5 Q. This is one of the files that was  6 subpoenaed from you for you to bring.  7 Would you pull that file out?  8 A. What number is it on the  9 subpoena?  10 MR. FOCHT: Three.  11 BY MR. MAXWELL:  12 Q. Okay. Would you be able to  13 confirm that this file, the one you've  14 pulled is the same as the one that I am  15 now showing you which is file number 30  16 patient ID number 072203 L N?  17 A. Yes.  18 Q. It's the same person?  19 A. Uh-huh.  20 Q. Okay. Tell us what's contained  21 in that specific file document by  22 document?  23 MR. FOCHT: Excuse me. That  24 specific file. You mean her file or --  25 BY MR. MAXWELL:</p>	<p style="text-align: right;">Page 144</p> <p>1 protected health information which is  2 mine.  3 Q. Is that in here?  4 A. No.  5 Q. Okay. So that -- that's another  6 standard disclosure form?  7 A. Right.  8 Q. Okay. What else?  9 A. Then my computer printout of my  10 interview with her, which is in here.  11 It should be if I were --  12 Q. Tell us where that is at.  13 A. 30-006, 30-007, 30-008.  14 Q. Those three pages?  15 A. Correct.  16 Q. Okay. What else?  17 A. That's it.  18 Q. Are there any other documents  19 contained in your file?  20 A. No.  21 Q. Do you have any notes or anything  22 like that?  23 A. No.  24 Q. Okay. Any notes on the file  25 jacket?</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. Her file. Your file?  2 A. My file.  3 MR. FOCHT: Just go through here  4 and compare.  5 A. Okay. This sheet --  6 BY MR. MAXWELL:  7 Q. Okay, so that would be sheet --  8 they are all numbered.  9 A. 3018.  10 Q. 30-018, right? You've got that  11 one.  12 A. Then a sheet that isn't in his.  13 Q. Okay.  14 MR. FOCHT: Wait a minute, it may  15 be in there.  16 A. No, it isn't. It won't be  17 because it's mine. And I haven't looked  18 through, but it shouldn't be.  19 MR. FOCHT: Identify it by the  20 caption up here.  21 A. Patient record of disclosures.  22 It's the HIPAA disclosure form.  23 BY MR. MAXWELL:  24 Q. Okay. And what else?  25 A. An authorization to disclose</p>	<p style="text-align: right;">Page 145</p> <p>1 A. No.  2 MR. FOCHT: Excuse me, why don't  3 you tell him how this file jacket came  4 about.  5 A. Oh, this I just put on here for  6 privacy.  7 BY MR. MAXWELL:  8 Q. Okay. You didn't -- that wasn't  9 contained when you retrieved the file?  10 A. No.  11 Q. Okay. So there is nothing else  12 contained in your file other than those  13 two forms that we just talked about and  14 everything else is in the Tiller file  15 here?  16 A. Correct.  17 Q. Okay. So --  18 MR. FOCHT: When you say  19 something like that make sure that you  20 look to make sure that it is.  21 A. Well, I know it's in here.  22 MR. FOCHT: Well, do you know  23 it's in there?  24 A. Yeah, we just verified that.  25 MR. FOCHT: Okay.</p>

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<p style="text-align: right;">Page 146</p> <p>1 BY MR. MAXWELL: 2 Q. Okay. So -- so we get -- so when 3 you were telling me the other day that 4 you had notes, there is not any notes in 5 this file? 6 A. Not on this particular one. 7 Q. Not in this file. Okay. So tell 8 us what you can -- what you did in this 9 case and I guess let me ask you this. 10 What date did you go see or what date 11 did you do your work in this case? 12 A. The date that she was here, can I 13 give that? 7-22-03. 14 Q. So you were there that day? 15 A. Yes. 16 Q. Okay. Were you there physically? 17 A. Yes. 18 Q. In Wichita? 19 A. Uh-huh, yes. 20 Q. Okay. Did you drive there that 21 morning or the night before or what? 22 A. I don't specifically remember, 23 but I have never flown, walked or ridden 24 a bicycle, so I am going to say that 25 most likely I drove.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Was your computer attached to the 2 internet? 3 A. No. 4 Q. Did you have some sort of program 5 on your computer? 6 A. Yes. 7 Q. What program was that? 8 A. D-Tree. 9 Q. D-Tree, okay. Is it called 10 anything else? Is it some kind of 11 medically available program or computer 12 software of some sort? 13 A. Yes, it is. 14 Q. Where did you get it? 15 A. I got it from Canada. 16 Q. Okay. And what did you do 17 load it on to your computer in some way? 18 A. No, I contacted them and 19 purchased it. 20 Q. Okay. It was a disc and then you 21 loaded the software on to your computer? 22 A. Correct. 23 Q. Okay. And were you provided when 24 you were in Doctor Tiller's clinic that 25 day 7-22 of '03, did you use his</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. Okay. What time did you see this 2 patient? 3 A. Some time early in the morning 4 after 7 a.m. 5 Q. After 7 a.m. Where did you see 6 the patient? 7 A. At Doctor Tiller's clinic on 8 Kellogg. 9 Q. Was it a particular room or 10 office or exam room or what? 11 A. Well, I usually use one 12 particular room, but if it's unavailable 13 it might be another room. 14 Q. Okay. And how long did you spend 15 with this patient? 16 A. I generally spend from 30 minutes 17 to an hour. I am assuming that this was 18 no different than the usual. 19 Q. Okay. Were you -- were you using 20 your own computer or one of Doctor 21 Tiller's? 22 A. Let's see, like I said before 23 sometimes I would bring my laptop, and I 24 would have had to have brought it this 25 day so it's my -- my computer.</p>	<p style="text-align: right;">Page 149</p> <p>1 facilities to conduct this exam? 2 A. You mean was I present on his 3 premises? 4 Q. Right. 5 A. Yes. 6 Q. Did you drive on to the compound 7 and park or did someone have to come and 8 pick you up? 9 MR. FOCHT: Object to the 10 relevancy. 11 BY MR. MAXWELL: 12 Q. Go ahead and answer. 13 A. Well, I don't remember. 14 Sometimes I would especially if there 15 was some kind of threat outside, he 16 would give me a ride. Occasionally if 17 there were particularly hostile 18 protestors outside or people with 19 criminal backgrounds or in one case that 20 there was a bomb threat and the bomb 21 squad was there. Times like that I 22 would get a ride in. 23 Q. Okay. Where would you park your 24 car when you would do that? 25 A. Different places around town.</p>

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<p style="text-align: right;">Page 150</p> <p>1 Q. Did you ever spend the night down 2 there? 3 A. Occasionally. 4 Q. Okay. Where would you spend the 5 night? 6 A. At hotels. 7 Q. Any particular one? 8 A. No -- well, no. 9 Q. Okay. Do you remember the names? 10 A. I stayed at Holiday Inn down on 11 Kellogg. I stayed at Wichita Suites. 12 MR. FOCHT: Can you get your 13 voice up for me. 14 A. Oh, sorry. I stayed at Wichita 15 Suites before. I don't do that much any 16 more, not since my son was born. 17 BY MR. MAXWELL: 18 Q. When -- when -- when you would 19 stay at a hotel when you were down there 20 would you pay the hotel bill or would 21 Doctor Tiller pay it? 22 A. I would pay it. 23 Q. What about mileage down there and 24 back in total? 25 A. I paid all of that.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Lawrence, okay. And this was 2 where you were banking at the time? 3 A. Correct. 4 Q. So this file -- this file number 5 30, you saw this patient for 6 approximately how long again? 7 A. Half an hour on so. 8 Q. Did you do a physical exam of the 9 patient? 10 A. I did a mental status type 11 evaluation. I didn't actually 12 physically examine her eyes, ears, nose, 13 throat, heart, lungs, abdomen. 14 Q. You didn't do that part? 15 A. I didn't do that part of the 16 exam, no. Did a directed exam based on 17 her medical history. 18 Q. Did you -- you say you took a 19 direct exam -- a mental status exam? 20 A. Right. 21 Q. How long did that take you? 22 A. Like I said, about a half an hour 23 or so. 24 Q. Okay. Did you talk to anybody 25 else on this particular patient?</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. You paid all of that? 2 A. Of course. 3 Q. So did this -- when you did this 4 particular case, this one on 7-22 file 5 number 30, 072203 L N did you -- did 6 this patient -- how did this patient pay 7 you; do you have any record of that? 8 A. No, not really other than my bank 9 statements. 10 Q. Okay. When -- you say your bank 11 statements. Would this patient have 12 paid you by cash or check? 13 A. Usually by cash. 14 Q. Okay. By cash. Did you ever get 15 checks? 16 A. Occasionally. I don't like to 17 because I have had people cancel them. 18 Q. Okay. And where would you bank? 19 A. I bank at Commerce. 20 Q. Commerce Bank and Trust? 21 A. I don't know if it's bank and 22 trust. It's just Commerce. 23 Q. Commerce Bank. Is that here in 24 Topeka? 25 A. No, it's in Lawrence.</p>	<p style="text-align: right;">Page 153</p> <p>1 A. I don't recall specifically. 2 Q. Okay. Do you have any notes or 3 any other indications that you did? 4 A. Well, I talked with her mother. 5 The mother was present. 6 Q. Okay. How do you know that? 7 A. Because I never interview a minor 8 without the parent at least part of the 9 interview. 10 Q. But you don't recall specifically 11 whether it was the mother or father or 12 uncle or aunt or grandmother or 13 grandfather? 14 A. I'm not sure. Yeah, it was the 15 mother. 16 Q. How do you know? 17 A. Because I have the name. 18 Q. Okay. You have the name of the 19 mother? Okay. 20 A. Yes, and her signature is on 21 here. 22 Q. Okay. All right. Okay. And 23 this particular child you diagnosed with 24 what? 25 A. Anxiety disorder NOS.</p>

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<p style="text-align: right;">Page 154</p> <p>1 Q. Okay. And --</p> <p>2 THE REPORTER: Anxiety disorder</p> <p>3 --</p> <p>4 A. Not otherwise specified.</p> <p>5 MR. FOCHT: Don't lean over. You</p> <p>6 get to where you are just talking to him</p> <p>7 softly.</p> <p>8 THE WITNESS: Oh, sorry.</p> <p>9 BY MR. MAXWELL:</p> <p>10 Q. So then did you -- could you</p> <p>11 provide us what your history of this</p> <p>12 child was? Can you do it through your</p> <p>13 file?</p> <p>14 A. When I did her evaluation I had</p> <p>15 this file available.</p> <p>16 Q. Okay.</p> <p>17 A. Sometimes I don't get my copy of</p> <p>18 that information in here and this one</p> <p>19 doesn't happen to contain all of the</p> <p>20 information that I had available at the</p> <p>21 time of the interview, so I will need to</p> <p>22 review it from here.</p> <p>23 MR. FOCHT: When you say this,</p> <p>24 are you referring to your file?</p> <p>25 A. My file. I didn't get the copy</p>	<p style="text-align: right;">Page 156</p> <p>1 30-044, 30-043, 30-042, 30-041, 30-040,</p> <p>2 30-039, 30-038. Not necessarily in</p> <p>3 order.</p> <p>4 Q. You looked at this file the last</p> <p>5 time and I asked you whether you were</p> <p>6 basically talking about this file and</p> <p>7 you said that you thought you took a</p> <p>8 history, that you did yourself and that</p> <p>9 you had it in your file, but apparently</p> <p>10 that's not --</p> <p>11 A. I didn't say that I had it in my</p> <p>12 file. I said that I took a history.</p> <p>13 Q. But you don't know -- that's not</p> <p>14 -- your history was not written down</p> <p>15 anywhere in Doctor Tiller's file, is it?</p> <p>16 A. No.</p> <p>17 Q. Okay. Is it written down</p> <p>18 anywhere in your file?</p> <p>19 A. No.</p> <p>20 Q. Okay. Okay. You diagnosed this</p> <p>21 patient with anxiety disorder not</p> <p>22 otherwise specified, is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. We have already talked</p> <p>25 about -- a little bit about that anxiety</p>
<p style="text-align: right;">Page 155</p> <p>1 that I normally have available.</p> <p>2 BY MR. MAXWELL:</p> <p>3 Q. Okay. So your file doesn't</p> <p>4 contain enough information for you to</p> <p>5 tell us what you recall as the history?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Does this file contain</p> <p>8 that?</p> <p>9 MR. FOCHT: By this you mean?</p> <p>10 BY MR. MAXWELL:</p> <p>11 Q. And that's -- the file number 30?</p> <p>12 A. Well, I am going to assume you</p> <p>13 are asking me which pages that I am</p> <p>14 using, so I am looking at that now.</p> <p>15 Q. What are you looking -- just tell</p> <p>16 us which pages you are referring?</p> <p>17 A. I am looking at 30-011, 30-009</p> <p>18 and 010. So, yes, I had some of the</p> <p>19 information that I would have used here.</p> <p>20 Q. Is that your handwriting on those</p> <p>21 notes that you were referring to?</p> <p>22 A. No.</p> <p>23 Q. Okay. Okay.</p> <p>24 A. There is other information, too,</p> <p>25 that was available, specifically 30-045,</p>	<p style="text-align: right;">Page 157</p> <p>1 disorder generally. You have seen that</p> <p>2 as a physician in other patients,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. Anxiety disorder not</p> <p>6 otherwise specified, it -- I mean as I</p> <p>7 recall we were talking about -- what we</p> <p>8 were talking about last time, this</p> <p>9 anxiety disorder is not necessarily a</p> <p>10 permanent condition, is it, meaning that</p> <p>11 you -- sometimes you can get it and be</p> <p>12 cured from it if your -- the reason for</p> <p>13 your anxiety becomes not the case,</p> <p>14 correct?</p> <p>15 MR. FOCHT: Object to the</p> <p>16 relevancy of that and object to any</p> <p>17 testimony as to her kind of judgments</p> <p>18 unless it's based upon the statutory</p> <p>19 test of whether or not the pregnancy</p> <p>20 could be relief of it.</p> <p>21 BY MR. MAXWELL:</p> <p>22 Q. Go ahead.</p> <p>23 A. The question doesn't seem to be</p> <p>24 aimed at understanding what my thought</p> <p>25 processes are.</p>

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<p style="text-align: right;">Page 158</p> <p>1 Q. Okay. Let me ask it this way.  2 Is anxiety — as a physician is anxiety  3 disorder according to your training an  4 irreversible condition meaning once you  5 get it you'll have it forever?  6 MR. FOCHT: Object to it. It's  7 not relevant and it's not part of the  8 test and does not lead to whether or not  9 there is a reasonable dispute as to  10 medical judgment. You — during the  11 entire last deposition you did not use  12 the correct test and you are not now.  13 BY MR. MAXWELL:  14 Q. Go ahead.  15 A. I agree, I think it's irrelevant,  16 the question.  17 Q. Answer the question anyway. Is  18 it an irreversible condition; anxiety  19 disorder?  20 MR. FOCHT: Object to the form of  21 the question.  22 A. It can be or may not be. You  23 can't tell just from the diagnosis.  24 BY MR. MAXWELL:  25 Q. Okay. So there are —</p>	<p style="text-align: right;">Page 160</p> <p>1 to medical judgment and therefore not  2 relevant to this proceeding.  3 BY MR. MAXWELL:  4 Q. Go ahead, ma'am.  5 A. Right, first of all, this was  6 simply a laundry list of symptoms that I  7 elicited. It was part of my judgment,  8 but obviously not the entire picture.  9 You know, as I have said before I am  10 there for the purpose of complying with  11 the law. All of this was established  12 with rigorous counsel in coordination  13 with the State from my understanding,  14 the Board of Healing Arts and a huge  15 panel of attorneys. I was asked to  16 evaluate each patient on a case by case  17 basis to see if the continuation of  18 their pregnancy would cause a  19 substantial and irreversible impairment  20 of a bodily function. And most of what  21 I do cannot be adequately recorded on  22 paper anyway and if I were to sit there  23 or ideally hire a stenographer or a  24 video camera person it would interfere  25 with the process and keep me from doing</p>
<p style="text-align: right;">Page 159</p> <p>1 A. The diagnosis is different than a  2 prognosis.  3 Q. As everything, anxiety disorder  4 by itself is not like then, for example,  5 you have — once you get herpes — I'm  6 just using an example you get herpes and  7 you have it forever, right? Is that  8 right?  9 A. Correct.  10 Q. And herpes you can never get rid  11 of. You can treat it, but you can't  12 ever get rid of it, right?  13 A. That's the current scientific  14 thinking.  15 Q. Right. Anxiety disorder, once  16 you get it can it be resolved by  17 treatment?  18 A. In some cases, but most people  19 end up taking a medication for life.  20 Q. Okay. But some people don't,  21 right?  22 MR. FOCHT: Object to it as  23 irrelevant and it is not designed --  24 it's only arguing with her about an area  25 of if there is a reasonable dispute as</p>	<p style="text-align: right;">Page 161</p> <p>1 my job.  2 Q. Okay. Thank you. My question I  3 guess is that I still pose is that is  4 anxiety disorder not otherwise specified  5 as you have diagnosed it under DSM IV,  6 is it recognized by the medical  7 professionals as an irreversible  8 condition?  9 MR. FOCHT: Object to it as not  10 relevant because it doesn't make any  11 difference other than the test. It's  12 whether or not the termination of the  13 pregnancy would.  14 BY MR. MAXWELL:  15 Q. Go ahead and answer.  16 A. Presumably if nothing changes,  17 the anxiety disorder won't change  18 either. I would not consider drug  19 intervention a cure.  20 Q. Did you consider -- do you  21 consider anxiety disorder not otherwise  22 specified as established in DSM IV as an  23 irreversible condition?  24 MR. FOCHT: Object to the  25 relevancy of the question and it's</p>

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<p style="text-align: right;">Page 162</p> <p>1 merely argumentative. Counsel, you 2 cannot change no matter how the Attorney 3 General might like the law in the State 4 of Kansas. 5 BY MR. MAXWELL: 6 Q. Go ahead and answer. 7 A. I am going to refuse at this 8 point. 9 MR. FOCHT: No, don't refuse. 10 A. This is wasting time. 11 MR. FOCHT: Don't refuse to 12 answer. 13 A. All right, I will say just for 14 the purpose of argumentation I don't 15 know. How is that? Is that an adequate 16 answer? Say I don't know if this 17 particular case would be reversible or 18 not because I don't have a time machine. 19 So I would say in general it's possible 20 that it's curable. In this case we 21 don't know. 22 MR. FOCHT: May I object to move 23 to strike the answer because the 24 question is whether or not the pregnancy 25 will cause irreversible and that's the</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. Okay. And that's the same file 2 that — that we are talking about here? 3 A. Uh-huh. 4 Q. What date was the abortion? 5 A. 7-8-03. 6 MR. FOCHT: Can you tell that 7 from your file or what do you -- 8 A. Yes, uh-huh. 9 BY MR. MAXWELL: 10 Q. 7-8-03. Would you tell us what 11 is contained in your file? 12 A. A copy of 31-30. 13 Q. 030? 14 A. 030. 15 Q. Okay. 16 A. An authorization to disclose 17 protected health information. Patient 18 regular disclosures. 19 Q. Now identify those. Those are 20 two documents that aren't -- 21 A. The HIPAA disclosure. 22 Q. What was the one previous to 23 that? 24 A. My personal authorization to 25 disclose protected health information to</p>
<p style="text-align: right;">Page 163</p> <p>1 test in Kansas and you are not asking 2 that question. You are asking whether 3 anxiety generally was ever reversed. 4 MR. MAXWELL: Next file 31. 5 BY MR. MAXWELL: 6 Q. Let's pull out, Doctor Neuhaus -- 7 let's pull out file number 31, which is 8 -- are you able to identify it by -- 9 MR. FOCHT: We have put a pencil 10 mark on the folder so that we can 11 correlate them back and forth as much as 12 we could identify. 13 BY MR. MAXWELL: 14 Q. Is that -- would you take those 15 -- 16 A. Uh-huh. 17 Q. You've got file number 31 out 18 your own file. I am showing you file 19 number 31 which is patient ID -- these 20 are for the records, patient ID 070803 G 21 G. Would you confirm it appears to be 22 on a ten year old from California. 23 Would you confirm that you have got your 24 file in that case? 25 A. Uh-huh, yes, I do.</p>	<p style="text-align: right;">Page 165</p> <p>1 Women's Healthcare Services. 2 Q. Okay. And those two aren't 3 contained in Doctor Tiller's file? 4 A. No. 5 Q. Okay. And what's the third? 6 A. 31-005 through 8. 7 Q. So 31-005, 006, 007 and 008 from 8 Doctor Tiller's file is contained in 9 your file? 10 A. Yes. 11 Q. Okay, what else? 12 A. That's it. 13 Q. Nothing else, okay. So what -- 14 do you have any notes in that particular 15 file? 16 A. No. 17 Q. Do you have any notes anywhere on 18 the file or anywhere that you -- other 19 than this file? 20 A. No. 21 Q. Okay. Can you tell from your own 22 file what the history was? 23 A. I remember her history. 24 Q. Okay. 25 A. But I don't need it. I remember</p>

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<p style="text-align: right;">Page 166</p> <p>1 this one.</p> <p>2 Q. Well, can you tell from your</p> <p>3 file?</p> <p>4 A. But it reminded me of the</p> <p>5 situation.</p> <p>6 Q. Okay. So this was a -- I guess a</p> <p>7 ten year old you diagnosed with what?</p> <p>8 A. Major depressive disorder.</p> <p>9 Q. And did you physically see this</p> <p>10 ten year old?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And where was that?</p> <p>13 A. At Women's Healthcare Services on</p> <p>14 Kellogg in Wichita, Kansas.</p> <p>15 Q. And that would be inside Doctor</p> <p>16 Tiller's clinic?</p> <p>17 A. Correct.</p> <p>18 Q. And did you use your own</p> <p>19 equipment or did you examine --</p> <p>20 physically examine this child?</p> <p>21 A. I did the same thing as I said</p> <p>22 before. I did a mental status</p> <p>23 evaluation of her.</p> <p>24 Q. Did you do a physical --</p> <p>25 A. I did not feel the need to do</p>	<p style="text-align: right;">Page 168</p> <p>1 or check her pregnancy or check, you</p> <p>2 know, all the stuff?</p> <p>3 MR. FOCHT: Object to the form of</p> <p>4 the question. It's compound and</p> <p>5 ambiguous.</p> <p>6 BY MR. MAXWELL:</p> <p>7 Q. Go ahead and answer.</p> <p>8 MR. FOCHT: If you did any one of</p> <p>9 those you say yes.</p> <p>10 A. Ask me specifically and I will</p> <p>11 say yes or no.</p> <p>12 BY MR. MAXWELL:</p> <p>13 Q. Did you examine her physically?</p> <p>14 A. Can you be more specific?</p> <p>15 Q. What doctors do. Check eyes --</p> <p>16 MR. FOCHT: Object to the form of</p> <p>17 the question and move to strike it as</p> <p>18 argumentative.</p> <p>19 BY MR. MAXWELL:</p> <p>20 Q. Go ahead.</p> <p>21 A. I examined the things that I felt</p> <p>22 were relevant.</p> <p>23 Q. Which were?</p> <p>24 A. As I said before, her mental</p> <p>25 status as comprised by her intellect</p>
<p style="text-align: right;">Page 167</p> <p>1 head and neck, throat and all the other.</p> <p>2 Q. So you didn't --</p> <p>3 A. I did a directed exam of her.</p> <p>4 Q. I take it then -- remember we've</p> <p>5 got to be on the record. So did you do</p> <p>6 a physical exam of this child or not?</p> <p>7 A. I did a directed physical</p> <p>8 examination of her, yes.</p> <p>9 Q. What is that?</p> <p>10 A. In other words, I evaluated her</p> <p>11 neurologic status, be gait, speech,</p> <p>12 mannerisms, the usual things that are</p> <p>13 part of a mental status exam.</p> <p>14 Q. I am talking about physical like</p> <p>15 where you --</p> <p>16 A. I didn't look into her eyes.</p> <p>17 MR. FOCHT: Excuse me, I object</p> <p>18 to the form of the question that it's</p> <p>19 ambiguous because he isn't defining what</p> <p>20 he means. Obviously you are not talking</p> <p>21 about the same thing.</p> <p>22 BY MR. MAXWELL:</p> <p>23 Q. Let me define it, Doctor,</p> <p>24 physical examine eyes, ears, nose,</p> <p>25 throat, did you check her blood pressure</p>	<p style="text-align: right;">Page 169</p> <p>1 functioning, her ability to answer</p> <p>2 questions, whether or not her thinking</p> <p>3 was concrete or obstruct, whether her</p> <p>4 behavior was age appropriate, her basic</p> <p>5 gross neurologic functioning; that is</p> <p>6 can she walk, does she have any apparent</p> <p>7 disabilities that would impede her</p> <p>8 ability to decision make in an age</p> <p>9 appropriate way. Those types of things.</p> <p>10 Q. Okay. Any other examination?</p> <p>11 A. Not that I recall, no.</p> <p>12 Q. Okay. Do you have any notes or</p> <p>13 any indication in your own file that you</p> <p>14 did any other type of exam?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. Physical exam, that's what you're</p> <p>18 saying?</p> <p>19 Q. Right. That's what I am asking.</p> <p>20 Now, let's talk a little bit about you</p> <p>21 diagnosed her with major depressive</p> <p>22 disorder single episode, right?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And you have -- you've</p> <p>25 designated there was several documents</p>

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<p style="text-align: right;">Page 170</p> <p>1 that you designated that you had in your 2 file which were 31-005 through 008, 3 which are four pages? 4 A. Correct. 5 Q. Other than the consent forms and 6 some of the document forms, that's 7 really the only thing you have in your 8 file that talks specifically about your 9 examination of the patient, true? 10 A. Right. 11 Q. Okay. So you did what's called a 12 GAF report and what's called a D-Tree 13 report? 14 A. Correct. 15 Q. Two different documents two pages 16 each on this particular person? 17 A. Correct. 18 Q. Okay. So let's talk a little bit 19 about you've got a copy there in front 20 of you from your own file. First, on 21 the GAF report that would be page 31-005 22 the first page, you -- it's a two page 23 form, it's got page 2 of 2 on the second 24 page, right? 25 A. Right.</p>	<p style="text-align: right;">Page 172</p> <p>1 depressed, but that she had no -- 2 apparently no history? 3 A. Not prior to her being raped by 4 her family member, no. 5 Q. Right. And, so no history of 6 depression and therefore you diagnosed 7 it as a single episode as a result of 8 this that she was pregnant? 9 MR. FOCHT: Object to the form of 10 the question. It's compound. 11 BY MR. MAXWELL: 12 Q. Correct? 13 A. I diagnosed her as being 14 depressed, yes. 15 Q. Okay. Is depression a major 16 depression disorder single episode an 17 irreversible condition? 18 MR. FOCHT: Object to the form of 19 the question. It does not correct -- 20 it's not relevant and does not correctly 21 state any test that the physician is -- 22 BY MR. MAXWELL: 23 Q. Go ahead and answer. 24 MR. FOCHT: -- related to under 25 the Kansas abortion law.</p>
<p style="text-align: right;">Page 171</p> <p>1 Q. Okay. And it's 31-005 and 006. 2 You can check these. 3 MR. FOCHT: She doesn't have them 4 numbered. 5 BY MR. MAXWELL: 6 Q. Let me just make sure. 31-005 7 and 006? 8 A. Uh-huh. 9 Q. Right? 10 A. Uh-huh. 11 Q. A two page form? 12 A. Correct. 13 Q. And then the other one is D-Tree, 14 which is 31-007 and 008? 15 A. Right. 16 Q. Okay. 17 MR. FOCHT: Do you have those? 18 A. Uh-huh, yes. 19 BY MR. MAXWELL: 20 Q. You diagnosed this person with 21 major depressive disorder single episode. 22 Okay, what -- that means that you 23 diagnosed this person was depressed? 24 A. Correct. 25 Q. Correct? And this child was</p>	<p style="text-align: right;">Page 173</p> <p>1 BY MR. MAXWELL: 2 Q. Go ahead and answer. 3 A. I have a question for you; are we 4 going to go through this same argument 5 on every single chart? 6 MR. MAXWELL: Just answer my 7 questions, Doctor. 8 MR. FOCHT: Counsel, why don't 9 you ask her the question whether it 10 complies with the law or not instead of 11 trying to mislead. 12 MR. MAXWELL: You can object, but 13 that's it. 14 MR. FOCHT: I just did. 15 MR. MAXWELL: Now, there's no 16 more going to be -- unless we need to 17 call the judge. You can object on the 18 record to the question, but otherwise 19 you are not allowed to speak in this 20 inquisition. 21 MR. FOCHT: I just made my 22 objection. 23 BY MR. MAXWELL: 24 Q. Okay. So let me just ask it 25 again. Is major depression --</p>

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<p style="text-align: right;">Page 174</p> <p>1 depressive disorder single episode as 2 you have diagnosed under DSM IV an 3 irreversible condition? 4 MR. FOCHT: I object to the form 5 of the - wait a minute. I object to 6 the form of the question as not 7 relevant. 8 BY MR. MAXWELL: 9 Q. Go ahead and answer. 10 MR. FOCHT: You just did. 11 A. It often is. 12 BY MR. MAXWELL: 13 Q. Is it always? 14 A. Especially if it's the result of 15 incest and rape at the age of ten, yes. 16 I would say that this person is scarred 17 for life. 18 Q. Is it always? 19 A. Yes. 20 Q. Always in every case? 21 A. It is very unusual that a ten 22 year old can experience something like 23 this without substantial and irreversible 24 harm to a bodily function. 25 Q. Okay. So what you're saying is</p>	<p style="text-align: right;">Page 176</p> <p>1 had their condition resolved in the 2 future? 3 MR. FOCHT: Excuse me, I object 4 to that. 5 A. Let me ask you a question. How 6 many angels can dance on the head of a 7 pin and do you know how many people were 8 burned at the stake over those kind of 9 theoretical unanswerable questions? 10 BY MR. MAXWELL: 11 Q. Doctor, please -- 12 MR. FOCHT: I object to the form 13 of the question as not relevant, because 14 it does not include the question whether 15 or not termination of the pregnancy will 16 cause a reversal. 17 A. Right, if you would word it that 18 way I could answer. You are giving me 19 an unanswerable question. 20 BY MR. MAXWELL: 21 Q. Doctor, you've got an MD degree, 22 right? 23 A. You are asking me something 24 that's not possible to answer in a 25 global sense.</p>
<p style="text-align: right;">Page 175</p> <p>1 that major depressive disorder single 2 episode is always an irreversible 3 condition? 4 MR. FOCHT: Object to the form of 5 the question. I also object to the 6 relevancy of the question. 7 BY MR. MAXWELL: 8 Q. Go ahead and answer. 9 A. I think it's an unanswerable 10 question. I'm sorry, I think there is 11 no way that that question can be 12 rationally answered. 13 Q. Okay. 14 A. Because there is no way that 15 someone can make a blanket statement 16 that covers the entire human race, which 17 is what you're asking me to do. 18 Q. Well, if -- you diagnosed people 19 with major depressive disorder in the 20 past, correct? 21 A. Yes. 22 Q. Single episode? 23 A. Yes. 24 Q. And has it come to pass that 25 those people, any of them, have been not</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. Stop. Please stop. Stop. 2 Answer my questions that I ask. 3 A. I can't. 4 Q. First thing is -- first question 5 is you've got an MD degree, right? 6 A. Yes. 7 Q. Okay. You have been trained and 8 you have a license to practice medicine, 9 true? 10 A. True. 11 Q. And you said that you had some 12 training in psychiatry as a medical 13 student and that you have since 14 practiced medicine and you have seen 15 patients for various sundry psychiatric 16 conditions? 17 A. Right. 18 MR. FOCHT: Object It is 19 repetitious and it is just harassment of 20 this doctor. 21 BY MR. MAXWELL: 22 Q. Okay. True? 23 A. It is harassment. I agree with 24 that. 25 Q. You have done that, right?</p>

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<p style="text-align: right;">Page 178</p> <p>1 A. Yes, I have.</p> <p>2 Q. Okay. My question —</p> <p>3 A. And in my experience most people</p> <p>4 with depression are depressed throughout</p> <p>5 their life. They will have episodes of</p> <p>6 depression, sometimes better, sometimes</p> <p>7 worse, but in general it becomes a</p> <p>8 chronic condition in a substantial</p> <p>9 number of cases.</p> <p>10 Q. Does that always happen?</p> <p>11 A. It's much worse when it happens</p> <p>12 at a younger age.</p> <p>13 Q. Does it always happen?</p> <p>14 MR. FOCHT: Excuse me. Object to</p> <p>15 that as not relevant and has nothing to</p> <p>16 do with any tests or any investigation</p> <p>17 that you are authorized under the</p> <p>18 inquisition to look into.</p> <p>19 A. Right. I think it's an</p> <p>20 unanswerable question, because you would</p> <p>21 assume that I would see every patient on</p> <p>22 Earth and I haven't. If we could find</p> <p>23 one exception.</p> <p>24 BY MR. MAXWELL:</p> <p>25 Q. Have you ever had a patient that</p>	<p style="text-align: right;">Page 180</p> <p>1 status of medical information about this</p> <p>2 is that prolonged stress or depression</p> <p>3 causes permanent changes in a person's</p> <p>4 brain structure. And as far as I</p> <p>5 understand things at this point that is</p> <p>6 not reversible.</p> <p>7 BY MR. MAXWELL:</p> <p>8 Q. Okay. So you're saying — let me</p> <p>9 make sure I've got this clear. You are</p> <p>10 saying that in your opinion major</p> <p>11 depressive disorder single episode is an</p> <p>12 irreversible condition?</p> <p>13 MR. FOCHT: Object to the form of</p> <p>14 the question and it's a misstatement of</p> <p>15 what she said. She said there are some</p> <p>16 cases where it is irreversible, not in</p> <p>17 every case.</p> <p>18 A. I said it's unknowable that in</p> <p>19 every single case could be</p> <p>20 prognosticated at any particular point</p> <p>21 in time.</p> <p>22 BY MR. MAXWELL:</p> <p>23 Q. Do you make room for the</p> <p>24 possibility that major depressive</p> <p>25 disorder single episode can be resolved.</p>
<p style="text-align: right;">Page 179</p> <p>1 was diagnosed with depression who later</p> <p>2 was — the condition was resolved?</p> <p>3 MR. FOCHT: I object to that</p> <p>4 unless you ask her —</p> <p>5 A. Unless the person is dead and has</p> <p>6 no other episodes, I can't make that</p> <p>7 assessment. It can always reoccur at a</p> <p>8 later point in life under stress or</p> <p>9 changes in circumstances. What you're</p> <p>10 trying to say or apparently trying to</p> <p>11 lead me to say is that what happens to</p> <p>12 us in the past has no bearing on the</p> <p>13 future in at least one case and I can't.</p> <p>14 BY MR. MAXWELL:</p> <p>15 Q. I am simply asking you if major</p> <p>16 depressive disorder single episode as</p> <p>17 you have diagnosed it here is always an</p> <p>18 irreversible condition?</p> <p>19 MR. FOCHT: To which I object as</p> <p>20 not relevant under the test that she is</p> <p>21 to meet under the statute and that is</p> <p>22 having to do with whether a continuation</p> <p>23 of the pregnancy would cause an</p> <p>24 irreversible situation.</p> <p>25 A. And I will say that the current</p>	<p style="text-align: right;">Page 181</p> <p>1 and therefore not an irreversible</p> <p>2 condition?</p> <p>3 A. Well, there have been cases of</p> <p>4 spontaneous remission of all sorts of</p> <p>5 incurable disorders. I am not saying</p> <p>6 that that's impossible. I am saying</p> <p>7 that it's generally not expected or</p> <p>8 predicted.</p> <p>9 Q. Okay.</p> <p>10 MR. MAXWELL: File number 30.</p> <p>11 MR. FOCHT: We have been going</p> <p>12 about an hour, how about a break?</p> <p>13 A. Okay.</p> <p>14 MR. FOCHT: I would like some</p> <p>15 more coffee and go to the restroom.</p> <p>16 MR. MAXWELL: Okay. We are in</p> <p>17 recess for five minutes.</p> <p>18 (THEREUPON, a recess was taken.)</p> <p>19 MR. MAXWELL: Back on the record.</p> <p>20 It's 10 -- or 11:15.</p> <p>21 BY MR. MAXWELL:</p> <p>22 Q. Before we move on, Doctor</p> <p>23 Neuhaus, I remind you that you are still</p> <p>24 under oath. We — the two files that we</p> <p>25 just looked at were files number 30 and</p>

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<p style="text-align: right;">Page 182</p> <p>1 31 and I forgot to talk to you about 2 these two letters. There is a letter in 3 file number 30, it's 30-005 and in file 4 number 31 it's 31-004. There's two 5 letters, apparently you are looking at 6 these letters in Doctor Tiller's files. 7 Did you sign those? 8 A. Yes. 9 Q. Okay. And read the first line of 10 — outloud here on file number 30-005. 11 A. I am referring the above name 12 patient to your organization for 13 consultation regarding the unwanted 14 pregnancy. 15 Q. Okay, so let me — stop there and 16 that's the first line. Did you actually 17 refer them to Doctor Tiller? 18 A. I referred them back to Doctor 19 Tiller after he referred her to me. 20 Q. So he was the first one to 21 contact you about this patient? 22 A. Right, correct. 23 Q. Okay. Not very good phrasing of 24 the letter. I think we agreed with that 25 the last time?</p>	<p style="text-align: right;">Page 184</p> <p>1 I believe from New Jersey, correct? 2 A. Correct. 3 Q. And, again, she was late term. 4 She was 28 weeks along, correct? 5 A. Correct, well, at least — that's 6 right. That's what that report says. 7 MR. FOCHT: Wait a minute, you 8 are mumbling. You pointed at something. 9 A. That information was derived from 10 Doctor Tiller's chart, correct. 11 BY MR. MAXWELL: 12 Q. Okay. So — and this was again a 13 viable baby according to Doctor Tiller's 14 chart? 15 A. A viable fetus, yes. 16 Q. Okay. And so then we've got what 17 is contained in your file. Tell me what 18 pages? 19 A. 32-026, the HIPAA and disclosure 20 forms that Doctor Tiller doesn't have. 21 And 32-016 and 017. 22 Q. Okay. 23 A. 32-006, 007, 008 and that's it. 24 Q. Okay. So you don't have any 25 notes in your file?</p>
<p style="text-align: right;">Page 183</p> <p>1 A. It could have been more clear. 2 Q. Okay. And then the same way with 3 the file number 31, the letter reads the 4 same. I am referring the above named 5 patient to your organization for 6 consultation regarding her unwanted 7 pregnancy. Again, did you refer this 8 patient to Doctor Tiller? 9 A. I referred her back after he had 10 referred her to me, yes. 11 Q. So he was the initial referring 12 physician in both cases? 13 A. Correct. 14 Q. Okay. 15 A. Correct. 16 Q. All right. Let's go to 32. 17 Would you pull your file on number 32. 18 It appears that this is a — would you 19 compare your file 32 to what I have got 20 here as Doctor Tiller's file number 32. 21 A. Yes. 22 Q. Same — same person we are 23 talking about, it's 071503 J L? 24 A. Correct. 25 Q. Okay. And this was a 15 year old</p>	<p style="text-align: right;">Page 185</p> <p>1 A. No, not on this one. 2 Q. Other than forms everything that 3 you have is contained in Doctor Tiller's 4 file? 5 A. Correct. 6 Q. So, and this was a — okay, this 7 was a — you diagnosed this young girl 8 with major depressive disorder single 9 episode again, true? 10 A. Correct. 11 Q. Okay. And did you do — did you 12 see this patient? 13 A. Yes. 14 Q. Where at? 15 A. At Doctor Tiller's facility in 16 Wichita, Kansas. 17 Q. On what date? 18 A. 7-15-03. 19 Q. 7-15-03. Did you — as we have 20 defined it in the past how did you 21 examine this child? 22 A. The same way as the last ones. 23 Q. The mental status? 24 A. I reviewed her and evaluated her 25 mental status.</p>

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<p style="text-align: right;">Page 186</p> <p>1 Q. Okay. And did you do —</p> <p>2 otherwise do a physical exam as we have</p> <p>3 discussed?</p> <p>4 A. I didn't do head and neck, chest,</p> <p>5 abdomen exam on her.</p> <p>6 Q. And how long did you spend with</p> <p>7 this patient?</p> <p>8 A. Oh, I don't remember</p> <p>9 specifically, but probably around half</p> <p>10 an hour or so.</p> <p>11 Q. Okay. And you have diagnosed</p> <p>12 this patient with major depressive</p> <p>13 disorder single episode. Was this</p> <p>14 another one where you had your laptop</p> <p>15 there?</p> <p>16 A. No, I probably didn't that day.</p> <p>17 Well, yeah, I guess I could have. Yep,</p> <p>18 I probably did. Yeah, I did. It is</p> <p>19 1:30, it had to be.</p> <p>20 Q. Okay. And when you did this exam</p> <p>21 you were inside Doctor Tiller's clinic?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. You diagnosed her with</p> <p>24 major depressive disorder single episode</p> <p>25 and you also did a letter that — is</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Usually cash?</p> <p>2 A. It can be checks from insurance</p> <p>3 companies.</p> <p>4 Q. Okay. Is there any —</p> <p>5 A. I don't take checks from</p> <p>6 individuals.</p> <p>7 Q. Okay.</p> <p>8 A. Because — well, I do</p> <p>9 occasionally. It's an exception.</p> <p>10 Q. All right. And in this</p> <p>11 particular diagnosis what you said was</p> <p>12 major depressive disorder single episode.</p> <p>13 Is that an irreversible condition?</p> <p>14 MR. FOCHT: Object to the form of</p> <p>15 the question.</p> <p>16 THE REPORTER: I'm sorry. You're</p> <p>17 both talking at the same time. I didn't</p> <p>18 hear your objection.</p> <p>19 MR. FOCHT: Of relevancy and form</p> <p>20 of the question. Go ahead.</p> <p>21 A. It's possible if the condition is</p> <p>22 precipitating the depression are</p> <p>23 eliminated that the depression would</p> <p>24 have a better chance of resolving, yes.</p> <p>25 BY MR. MAXWELL:</p>
<p style="text-align: right;">Page 187</p> <p>1 this your letter 32 form is 32-005?</p> <p>2 A. Correct.</p> <p>3 Q. And the letter again says I am</p> <p>4 referring the above patient to your</p> <p>5 organization addressed to Doctor Tiller.</p> <p>6 Did you actually refer him — this</p> <p>7 patient to him or was it the other way</p> <p>8 around?</p> <p>9 A. He referred her to me and I</p> <p>10 referred her back to him.</p> <p>11 Q. Okay. Doctor Tiller is the one</p> <p>12 who arranged for you to see all three of</p> <p>13 these patients, files 31, 32 and 30?</p> <p>14 A. He arranged the consultation with</p> <p>15 me, that's correct.</p> <p>16 Q. And in each of these</p> <p>17 consultations you were paid?</p> <p>18 A. By the patient, yes.</p> <p>19 Q. Okay. And you said that was</p> <p>20 cash. Do you have any records of</p> <p>21 payments by these patients?</p> <p>22 A. I just deposit everything in my</p> <p>23 bank account.</p> <p>24 Q. Is it cash or check?</p> <p>25 A. It's usually cash.</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Okay. So it's not an</p> <p>2 irreversible condition?</p> <p>3 A. Possibly not. Once again, we are</p> <p>4 in the same dilemma. You can't tell for</p> <p>5 sure how any one individual will respond</p> <p>6 but in general the history of depression</p> <p>7 is chronic.</p> <p>8 Q. Okay. But it can be resolved?</p> <p>9 A. Possibly, yes, if the</p> <p>10 intervention is done early and it's</p> <p>11 significant.</p> <p>12 Q. Okay. File number —</p> <p>13 MR. FOCHT: Did you want anything</p> <p>14 out of that file?</p> <p>15 MR. MAXWELL: No.</p> <p>16 MR. FOCHT: Okay.</p> <p>17 MR. MAXWELL: File number 59.</p> <p>18 MR. FOCHT: Say again.</p> <p>19 MR. MAXWELL: 59.</p> <p>20 BY MR. MAXWELL:</p> <p>21 Q. Let's make sure that we are</p> <p>22 talking about the right person here. A</p> <p>23 16 year old from Kansas patient ID</p> <p>24 number 111803 L R?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 190</p> <p>1 Q. This is the same person that we 2 are talking about, this file number 59? 3 A. Correct. 4 Q. This is a 16 year old. What date 5 is the abortion? 6 A. 11-18-03. 7 Q. Okay. And how long -- far 8 advanced was the pregnancy? 9 A. I don't have that information in 10 my -- I would have to see that chart to 11 know. 12 MR. FOCHT: When you say that 13 chart say Doctor Tiller's file. 14 A. Doctor Tiller's chart. I would 15 need to see -- 29.5 weeks. 16 MR. FOCHT: Counsel was pointing 17 you to something there. 18 BY MR. MAXWELL: 19 Q. In Doctor Tiller's chart? 20 A. Ultra sound. 21 Q. And this was also a viable fetus, 22 true? 23 A. Presumably, yes. 24 Q. Do you have any indication that 25 it wasn't?</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. All right. And all of those 2 except -- all of these forms except for 3 the informed consent form is in Doctor 4 Tiller's file? 5 A. Pardon? 6 Q. All of -- everything but the -- 7 your consent form is in Doctor Tiller's 8 file? 9 A. Correct. 10 Q. Okay. This was another young 16 11 year old who was diagnosed by you with 12 major depressive disorder single episode, 13 correct? 14 A. Correct. 15 Q. Okay. You also wrote again that 16 on here there is a letter in the file 17 that is marked 59-017 where you say I am 18 referring the above named patient to you 19 -- your organization for consultation 20 regarding your unwanted pregnancy and 21 did you refer her to Doctor Tiller? 22 A. I referred her back to Doctor 23 Tiller after he referred her to me. 24 Q. Did you physically see this 25 patient?</p>
<p style="text-align: right;">Page 191</p> <p>1 A. No, I don't have any indication 2 that it was not, no. 3 Q. What's in your file? 4 A. 59-028. 5 MR. FOCHT: Wait a minute, does 6 his file have things on it that your 7 file doesn't have? 8 A. Yes, his has writing on it and 9 mine does not. 10 BY MR. MAXWELL: 11 Q. Uh-huh, okay. 12 A. Authorizations or authorization in 13 that case. I am missing the HIPAA form. 14 Q. Okay. 15 A. 59-014 and 015 and 016 and that's 16 it. 17 Q. Okay. Any other notes or any 18 other documents? 19 A. Not in that chart, no. 20 Q. Okay. So other than the HIPAA 21 form or the patient informed consent and 22 copies of 59-028 and the GAF report and 23 the D-Tree report, your file contains no 24 other documents? 25 A. No, correct.</p>	<p style="text-align: right;">Page 193</p> <p>1 A. Yes. 2 Q. And that was at his clinic? 3 A. Yes, on the 18th. 4 Q. Okay. Did you use your computer 5 again or his? 6 A. Yes, my computer. 7 Q. Was there any circumstances where 8 you used Doctor Tiller's computer? 9 A. No. Well, I have used it a 10 couple of times to look up something on 11 the internet. 12 Q. Okay. What about his exam room, 13 did you use that all the time in each 14 one of these cases? 15 A. Correct. 16 Q. Was there ever a case where you 17 did this -- any of these consultations 18 by telephone? 19 A. Yes. 20 Q. Okay. When you did that where -- 21 how did that occur? 22 A. What do you mean? 23 Q. Well, tell us about you would see 24 a patient over the telephone? 25 A. If there was no other way of</p>

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<p style="text-align: right;">Page 194</p> <p>1 managing it, yes.</p> <p>2 Q. Okay. How often did that occur?</p> <p>3 A. I don't know, a couple of times a</p> <p>4 month maybe at the most.</p> <p>5 Q. Okay. How do -- how can you tell</p> <p>6 from your file or Doctor Tiller's file</p> <p>7 whether or not you physically saw the</p> <p>8 patient?</p> <p>9 A. Well, in those cases they usually</p> <p>10 faxed me the information so there would</p> <p>11 be a fax number at the top would be one</p> <p>12 way. Also, if it was on a day when I</p> <p>13 wasn't actually there, that would be</p> <p>14 away to infer it.</p> <p>15 Q. When can you -- or files 30, 31</p> <p>16 and 32, this is 32 that we have already</p> <p>17 gone through the first three, are you</p> <p>18 sure you physically saw them or are you</p> <p>19 saying that you saw them, that you</p> <p>20 consulted with them?</p> <p>21 MR. FOCHT: Object to the form.</p> <p>22 A. Well, I couldn't have gotten the</p> <p>23 consent signed by the parent or the</p> <p>24 patient if I wasn't there.</p> <p>25 BY MR. MAXWELL:</p>	<p style="text-align: right;">Page 196</p> <p>1 available for an interview. They would</p> <p>2 fax whatever records were necessary to</p> <p>3 me at my house or my office in my house.</p> <p>4 And I would review those just as if I</p> <p>5 were sitting there in person. And I</p> <p>6 would usually conduct a longer interview</p> <p>7 simply because you don't have the option</p> <p>8 of examining their body language and</p> <p>9 things like that.</p> <p>10 Q. So how would -- how long would</p> <p>11 those interviews last?</p> <p>12 A. Anywhere from half an hour to an</p> <p>13 hour generally.</p> <p>14 Q. Any of these files that you</p> <p>15 brought today, those telephone</p> <p>16 consultations as opposed to physical</p> <p>17 were done?</p> <p>18 A. Not that I can tell. Doesn't</p> <p>19 seem to be any. Not --</p> <p>20 Q. Any of the ones that you --</p> <p>21 A. I have -- I am not looking</p> <p>22 through all of them. Would you like me</p> <p>23 to look through all of them?</p> <p>24 Q. Sure, just take a minute and see.</p> <p>25 A. We may as well take a break. It</p>
<p style="text-align: right;">Page 195</p> <p>1 Q. Okay.</p> <p>2 A. So --</p> <p>3 Q. Okay. When you would physic --</p> <p>4 or consult with them by telephone how</p> <p>5 would that -- I mean describe that</p> <p>6 process?</p> <p>7 MR. FOCHT: Object to it as not</p> <p>8 relevant to the proceedings in front of</p> <p>9 us.</p> <p>10 A. Well, I would conduct the</p> <p>11 interview over the telephone instead of</p> <p>12 in person.</p> <p>13 BY MR. MAXWELL:</p> <p>14 Q. Okay. And you would -- they</p> <p>15 would call you or you would call them or</p> <p>16 how?</p> <p>17 A. I would be notified that there</p> <p>18 was a patient who had come in outside</p> <p>19 the normal time.</p> <p>20 Q. By Doctor Tiller?</p> <p>21 A. Right, by his office. Then I</p> <p>22 would contact them at some point in the</p> <p>23 day to see if the patient was available</p> <p>24 for an interview. Or they would contact</p> <p>25 me and notify me that the patient was</p>	<p style="text-align: right;">Page 197</p> <p>1 might take awhile.</p> <p>2 MR. FOCHT: You should be able to</p> <p>3 tell real quick.</p> <p>4 A. None of the ones that we have</p> <p>5 gone over so far were. Well, of course</p> <p>6 there are faxed records in here, but</p> <p>7 nothing so far that were faxed to me</p> <p>8 that I can tell. Those were faxed from</p> <p>9 other providers to Doctor Tiller.</p> <p>10 MR. MAXWELL: Did you find one?</p> <p>11 A. Well, I found something that I am</p> <p>12 really confused about.</p> <p>13 MR. FOCHT: You are mumbling</p> <p>14 terribly.</p> <p>15 A. Oh, I'm sorry. I found something</p> <p>16 that seems to have a fax mark on it.</p> <p>17 And I can't figure out -- but it's got</p> <p>18 what looks like original ink.</p> <p>19 MR. FOCHT: Maybe you faxed it.</p> <p>20 A. I don't know. There is one that</p> <p>21 I guess is a possibility, but --</p> <p>22 BY MR. MAXWELL:</p> <p>23 Q. Did you get through all of them</p> <p>24 or you?</p> <p>25 A. There are a couple more here.</p>

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<p style="text-align: right;">Page 198</p> <p>1 But there is a possibility on number 44.  2 Q. 44?  3 A. But I don't think so, only  4 because there is a -- some kind of a  5 note, you know, like a line, a partial  6 line, but I don't know whether it was  7 preexisting on the paper or what. I  8 will have to take a closer look at it.  9 Well, okay, somehow I think that was  10 just on the paper that I copied. Never  11 mind. I was copying -- when I made a  12 copy of the form -- a blank copy of the  13 form it had some kind of junk at the top  14 so it looks like I don't think so, so  15 far. Doesn't look like any, so, anyway  16 that was just a flaw in the copy;  17 because it is on this one, too. It is  18 just a bad copy that I made.  19 MR. FOCHT: You are mumbling.  20 A. It was a bad copy so far. I  21 haven't seen any. I still have a few  22 more to go. I don't know, I would have  23 to -- so as far as I can tell none of  24 these were telephone consultations.  25 MR. FOCHT: What?</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. And how would you get paid?  2 A. They would have to make some  3 arrangements for the patient to leave  4 the money for me and the staff would  5 lock it in the safe for me.  6 Q. Doctor Tiller's staff would keep  7 it for you?  8 A. They had to lock it in the safe,  9 right. There wasn't really any other  10 way to do it.  11 Q. And then you picked it up?  12 A. When I came down.  13 Q. When you came down the next time?  14 A. Right.  15 Q. How many times do you suppose you  16 were down there in the calendar year of  17 2003?  18 A. I don't know, 50 maybe.  19 Q. Fifty.  20 A. 40 or 50.  21 Q. You said earlier that you were  22 the only one that was doing the  23 consulting?  24 A. At that point I think so.  25 MR. FOCHT: Excuse me -- sorry.</p>
<p style="text-align: right;">Page 199</p> <p>1 A. I would say that these were all  2 in person. I have no evidence  3 suggesting otherwise. To be 100 percent  4 certain I would probably have to look at  5 the calendar. But doesn't look like it.  6 BY MR. MAXWELL:  7 Q. Possibly some of them could have  8 been?  9 A. It's possible but --  10 MR. FOCHT: Object to the  11 question. Calls for speculation. When  12 I object you be quiet.  13 BY MR. MAXWELL:  14 Q. Go ahead and answer. Is it  15 possible that some of them are?  16 A. I seriously doubt it.  17 Q. Okay. When you would do these --  18 you said you did this once or twice a  19 month, would that be through the  20 calendar year of 2003?  21 A. I don't really know for sure, but  22 that is about what I recall.  23 Q. Okay. Did Doctor Tiller know  24 that you were consulting by the phone?  25 A. Yes.</p>	<p style="text-align: right;">Page 201</p> <p>1 BY MR. MAXWELL:  2 Q. You were the only one consulting  3 for the second physician in regards to  4 late term abortions?  5 A. Correct.  6 MR. FOCHT: Excuse me, I object  7 to the form of the question unless you  8 identify some time.  9 BY MR. MAXWELL:  10 Q. In 2003?  11 A. I don't remember at what point I  12 became the main -- the only person that  13 was doing it.  14 Q. What -- does that seem to be  15 right, 2003?  16 A. I have no idea. It was some time  17 around the time when the bomb squad was  18 there and the FBI or whatever it was,  19 the ATF.  20 MR. FOCHT: You are mumbling.  21 A. It was sometime around some  22 disruptive process that was happening  23 there, but I don't remember exactly.  24 BY MR. MAXWELL:  25 Q. Okay. The record shows -- at</p>

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<p style="text-align: right;">Page 202</p> <p>1 least the public record shows that he 2 performed in excess of 300 late term 3 abortions in 2003. Were you the only 4 one or did you just do a part of those? 5 MR. FOCHT: Object to the form of 6 the question. 7 A. I don't - 8 MR. FOCHT: Wait. Object to the 9 form of the question. It calls for 10 speculation. Now respond. 11 A. Could you clarify that? 12 BY MR. MAXWELL: 13 Q. Did you -- to your knowledge were 14 you the only one doing them? 15 A. I don't remember. 16 Q. Is it possible that you did 300? 17 A. Possible. 18 Q. How many would you do each time 19 that you would be there? 20 A. Well, I do remember it was busier 21 then, but I don't know. I haven't done 22 the consensus. 23 Q. 300 dollars per is what you got? 24 A. Well, I think it was 250 then, 25 some of it.</p>	<p style="text-align: right;">Page 204</p> <p>1 approximately? 2 A. I don't recall. 3 Q. Can you give us a ballpark? 4 MR. FOCHT: Object to the form of 5 the question. Calls for speculation. 6 A. No, I don't. I can't speculate. 7 BY MR. MAXWELL: 8 Q. Okay. Did you do any other -- 9 have any other source of income in any 10 other fashion paid for any other thing 11 during the calendar year of 2003? 12 MR. FOCHT: Object to the 13 question. It's repetitious. You asked 14 this the first time and she told you 15 about some medical director of something 16 or other. 17 BY MR. MAXWELL: 18 Q. Go ahead, answer the question. 19 A. What was the question again? 20 Q. Did you have any other income 21 other than this consulting for Doctor 22 Tiller during the calendar year of 2003? 23 A. Not that I recall. 24 Q. Okay. Okay. Well, let's -- 25 let's finish what we've got file number</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. 250 to 300? 2 A. That's fair. 3 Q. Somewhere in that range? 4 A. Correct. 5 Q. Okay. So do you know did you 6 have any other income for 2003? 7 A. No, at that point I wasn't 8 working anywhere else. 9 Q. So all of your income that you 10 would have reported to the IRS and to 11 the Department of Revenue would have 12 come or been generated from Doctor 13 Tiller's consultations? 14 MR. FOCHT: Object to the form of 15 the question. Clearly she said it came 16 from the patients. 17 A. Correct, from the patients. 18 BY MR. MAXWELL: 19 Q. From the patients, but all that 20 income was from the -- these 21 consultations? 22 A. Yes, as far as I recall or from 23 insurance companies. 24 Q. What did you report if you recall 25 in 2003 your gross annual income</p>	<p style="text-align: right;">Page 205</p> <p>1 59 out here. You diagnosed -- your 2 understanding that when this procedure 3 happens the obligation what you have got 4 to do is you've got to decide that -- or 5 when you are asked to look at a patient 6 or consult with a patient you are asked 7 to diagnose that patient or give a 8 diagnosis if possible, right? 9 MR. FOCHT: Object to the form of 10 the question. That's not what the 11 statute requires. The statute only 12 requires that 65-6721 that in the 13 judgment of the physician the 14 continuation of a pregnancy will cause a 15 substantial and irreversible impairment 16 of either major physical or mental 17 function of the pregnant woman. That's 18 what the statute requires. 19 MR. MAXWELL: Hold on one second. 20 Let me just clarify something. Counsel, 21 you are reading the wrong statute. 22 MR. FOCHT: Okay. 23 MR. MAXWELL: So -- 24 MR. FOCHT: Well, whatever 25 statute it is, that is the standard that</p>

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<p style="text-align: right;">Page 206</p> <p>1 is to be applied.  2 MR. MAXWELL: Okay, it's not --  3 you misstated the standard under the  4 law, Counsel. You are reading the wrong  5 -- under 65-6703, not 21.  6 MR. FOCHT: You are right.  7 BY MR. MAXWELL:  8 Q. Okay. Now --  9 MR. FOCHT: Still the same  10 standard.  11 MR. MAXWELL: No, it's not. It's  12 just not stated the same way.  13 BY MR. MAXWELL:  14 Q. Now, let me ask you this. Do you  15 -- you are asked to do this -- you are  16 asked to consult and what -- tell me  17 your understanding of what is required  18 to get somebody to get a late term  19 abortion after the fetus is viable at 22  20 weeks of age what you understand the  21 statute requires here in Kansas?  22 A. I understand that the statute  23 requires that any opinion of two  24 physicians who are financially unrelated  25 that the patient will suffer a</p>	<p style="text-align: right;">Page 208</p> <p>1 A. My understanding is that both  2 physicians have to agree that the  3 patient will suffer a substantial and  4 irreversible impairment of a major  5 bodily function if the pregnancy  6 continues, correct.  7 BY MR. MAXWELL:  8 Q. Okay. And on file number 59 that  9 we were talking about you diagnosed the  10 patient, the 16 year old from Kansas  11 with major depressive disorder single  12 episode, right?  13 A. Correct.  14 Q. Okay. And this was the 29 and a  15 half weeks. What did Doctor Tiller  16 diagnose the patient with?  17 MR. FOCHT: Object, that is  18 calling for her to read a record that is  19 hearsay.  20 BY MR. MAXWELL:  21 Q. 59-012. Go ahead.  22 A. Well, he felt that she had a  23 depressive reaction, but that it was  24 recurrent over the past year. Where as  25 I diagnosed that as a single episode</p>
<p style="text-align: right;">Page 207</p> <p>1 substantial and irreversible impairment  2 of a major bodily function if the  3 pregnancy continues.  4 Q. Okay. Do both physicians have to  5 concur in the finding?  6 A. My understanding is that the  7 physician who is doing the procedure has  8 to have a supporting decision that  9 concurs with that.  10 Q. So basically if you diagnosis one  11 thing, he has to diagnosis the same  12 thing and you both have to agree in  13 order to --  14 A. We both have to agree --  15 MR. FOCHT: Object to the form of  16 the question. That's a misstatement of  17 what she said. There is no requirement  18 under the law that they come to the same  19 diagnosis. Only that they fit within  20 the statutory definition. One can say  21 paranoia and another one can say anxiety  22 if they arrive at the same conclusion.  23 That's unfair and irrelevant.  24 BY MR. MAXWELL:  25 Q. Go ahead and answer.</p>	<p style="text-align: right;">Page 209</p> <p>1 because it had been a continuous state  2 over a period of under two years. So  3 there is maybe a definition difference,  4 but it looks like we had the same  5 conclusion.  6 Q. He diagnosed her with a different  7 axis I diagnosis under DSM IV?  8 A. Different modifier. The same  9 diagnosis. Different modifier.  10 Q. Okay. Is it recorded different  11 in the -- in the numerical designation  12 under DSM IV?  13 MR. FOCHT: Object to that as  14 irrelevant.  15 A. Like I said, it's just a  16 modifier.  17 BY MR. MAXWELL:  18 Q. Is it recorded different?  19 A. He said it --  20 MR. FOCHT: Object to that as  21 irrelevant.  22 A. -- he has recurrent. I felt that  23 the state was continuous over the same  24 period of time.  25 BY MR. MAXWELL:</p>

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<p>1 Q. Okay. Well, in the records that</p> <p>2 —</p> <p>3 A. In others what he -- he implied</p> <p>4 was she had a complete remission of her</p> <p>5 symptoms, I am guessing, where as I</p> <p>6 didn't find that to be the case.</p> <p>7 Q. We have a paperwork glitch here.</p> <p>8 You diagnosed her under Axis I under DSM</p> <p>9 IV as 296.23, true?</p> <p>10 A. Uh-huh.</p> <p>11 Q. That's the sub paragraph in DSM</p> <p>12 IV?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Doctor Tiller diagnosed her under</p> <p>15 what paragraph under DSM IV?</p> <p>16 A. 296.33.</p> <p>17 Q. 296.33?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Okay. Now, again, this is the</p> <p>20 same -- you gave the same diagnosis</p> <p>21 major depressive disorder single episode</p> <p>22 that we have previously discussed about</p> <p>23 that particular condition, true?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. And, again, this letter</p>	<p>1 the time. A constitutional law</p> <p>2 specialist.</p> <p>3 Q. Rachel Perner, P-U-R --</p> <p>4 A. I don't know how to spell it.</p> <p>5 Q. Okay. Okay. And this is the one</p> <p>6 that you talked to?</p> <p>7 A. Correct. I spent some time with</p> <p>8 her prior to beginning to do these</p> <p>9 consultations.</p> <p>10 Q. Okay. We have already agreed</p> <p>11 that the letter really shouldn't say</p> <p>12 that, is that --</p> <p>13 A. Well, it could be probably more</p> <p>14 clearer.</p> <p>15 MR. MAXWELL: File 33, Jared.</p> <p>16 MR. CAVANAUGH: You are not</p> <p>17 marking anything out of 59, correct?</p> <p>18 MR. MAXWELL: No.</p> <p>19 BY MR. MAXWELL:</p> <p>20 Q. Would you pull your file 33. Do</p> <p>21 you have file 33?</p> <p>22 A. Yes.</p> <p>23 Q. Is it the patient ID's as 073003</p> <p>24 C S?</p> <p>25 A. Probably.</p>
Page 211	Page 213
<p>1 also -- this file also contains a letter</p> <p>2 where you are saying you referred Doctor</p> <p>3 Tiller -- the patient to Doctor Tiller</p> <p>4 was actually -- he referred the patient</p> <p>5 to you and you referred them back?</p> <p>6 MR. FOCHT: Object to the form of</p> <p>7 the question.</p> <p>8 A. Correct, as we discussed that was</p> <p>9 the language established by the panel of</p> <p>10 attorneys.</p> <p>11 BY MR. MAXWELL:</p> <p>12 Q. Okay. That was -- again, we</p> <p>13 discussed that the last time as I</p> <p>14 recall. This is when you got together</p> <p>15 with some lawyers and -- Doctor Tiller's</p> <p>16 lawyers, right?</p> <p>17 A. Doctor Tiller's lawyers and the</p> <p>18 board attorney I believe and some</p> <p>19 representative of the State although</p> <p>20 that's all hearsay. I wasn't there.</p> <p>21 Q. Okay.</p> <p>22 A. That was the understanding that I</p> <p>23 was given by Rachel Perner.</p> <p>24 Q. Who is Rachel Perner?</p> <p>25 A. She was one of his attorneys at</p>	<p>1 Q. A 19 year old from Missouri?</p> <p>2 A. Probably, yes.</p> <p>3 Q. Well, let's make sure.</p> <p>4 A. Yeah, uh-huh.</p> <p>5 Q. Okay. All right. This 19 year</p> <p>6 old from Missouri is -- was 27 weeks</p> <p>7 pregnant?</p> <p>8 A. Yes.</p> <p>9 Q. This was viable?</p> <p>10 A. Most likely. Right.</p> <p>11 Q. Okay. And you went and saw this</p> <p>12 patient in person or over the phone?</p> <p>13 A. This one does look like it -- I'm</p> <p>14 sorry, I must have missed that. This</p> <p>15 one does look like a fax possibly. It</p> <p>16 was a faxed one to me. So I would say</p> <p>17 it's possible that I consulted with her</p> <p>18 over the phone.</p> <p>19 MR. FOCHT: Do you have --</p> <p>20 A. I missed that.</p> <p>21 MR. FOCHT: Do you have the</p> <p>22 patient consent?</p> <p>23 A. No, I don't.</p> <p>24 MR. FOCHT: That might indicate</p> <p>25 to you.</p>

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<p style="text-align: right;">Page 214</p> <p>1 A. This one must have been a 2 telephone one. 3 BY MR. MAXWELL: 4 Q. This was a telephone one? 5 A. Yeah. 6 Q. I want this entire file marked, 7 Steve. So let's make that inquisition 8 Exhibit 1. This would be file 33, 9 Doctor Neuhaus's file number 33. If you 10 would mark that whole file as an 11 exhibit. What's contained in the file? 12 A. Let me see that one so I can 13 identify the pages. 33-016. 14 Q. 30 — so a copy of 33-016? 15 A. 33-008, 33-009. It goes to then 16 33-005 and 33-006 and 33-007. 17 Q. Anything else? 18 A. No. 19 Q. Any other — 20 MR. FOCHT: Let me see the file 21 number. 22 A. 33. 23 BY MR. MAXWELL: 24 Q. 33, right? 25 A. Uh-huh.</p>	<p style="text-align: right;">Page 216</p> <p>1 A. Correct. 2 Q. Okay. So you diagnosed her with 3 major depressive disorder single episode? 4 A. Correct. 5 Q. Okay. What did Doctor Tiller 6 diagnosis her with? 7 A. I don't know without looking at 8 his chart. 9 Q. Okay. 10 MR. FOCHT: Object to it as 11 irrelevant. 12 BY MR. MAXWELL: 13 Q. Did you have — do you have 14 copies of what he diagnosed her with in 15 your chart? 16 A. No. 17 (THEREUPON, a discussion was had 18 off the record.) 19 MR. MAXWELL: Excuse me, I didn't 20 know that we had an Exhibit 1 already, 21 but we'll make this Exhibit 2 the entire 22 file. 23 THE REPORTER: Exhibit 1 was the 24 grant of immunity letter. 25 MR. MAXWELL: Okay, that's right.</p>
<p style="text-align: right;">Page 215</p> <p>1 Q. Okay. So anything else any other 2 notes or any other documents? 3 A. Nothing that is in here. 4 Q. So you would have talked to this 5 patient on what day? 6 A. 7-30-03. 7 Q. Okay. What time? 8 A. Some time after 10:45 a.m. 9 Q. Okay. How long did you talk with 10 the patient? 11 A. Probably about half an hour. 12 Q. Okay. And you ultimately also 13 wrote a letter in this case that would 14 be saying that you referred this patient 15 to Doctor Tiller when in fact he 16 referred the patient to you and you 17 referred him back? 18 MR. FOCHT: Object to the form of 19 the question. When in fact assumes 20 facts not correct. 21 BY MR. MAXWELL: 22 Q. Is that right? 23 A. He referred her to me and then I 24 referred her back to him. 25 Q. By telephone?</p>	<p style="text-align: right;">Page 217</p> <p>1 That's right. You are right. File 2 number 37, please. 3 MR. FOCHT: Steve, I will send 4 this file to you with some pencil sticky 5 note on it indicating that it is to you 6 to put the appropriate. 7 MR. CAVANAUGH: Okay. If you 8 would like, Kenda, what I can do after I 9 confirm redaction I can go ahead and put 10 a sticker on it for that exhibit if you 11 would like me to. 12 THE REPORTER: That's fine. 13 BY MR. MAXWELL: 14 Q. We have next is file number 37 15 patient ID number 081903 E W. It's a 22 16 year old from Missouri, is that right? 17 A. Yes, so far. 18 Q. Is that the same file that I am 19 looking at? 20 A. Yes. 21 Q. And what do you have in your 22 file? 23 A. 37-021, 37-018 and 37-019 and 24 37-010 and 37-0 -- 011 plus the 25 authorization to disclose and the HIPAA</p>

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<p style="text-align: right;">Page 218</p> <p>1 disclosure. 37-006, 37-007 and 37-008.  2 Q. Anything else?  3 A. No.  4 Q. So other than the HIPAA  5 disclosures and your own personal  6 consent, everything that you have is  7 contained in Doctor Tiller's file?  8 A. Correct.  9 Q. Did you have any other notes or  10 anything?  11 A. No.  12 Q. Okay. This was a 22 year old  13 from Missouri who was 31 weeks pregnant,  14 true?  15 A. Correct.  16 Q. And the fetus was viable?  17 A. Correct.  18 Q. And you -- you diagnosed this  19 patient with what?  20 A. Major depressive disorder single  21 episode.  22 Q. Do you know what Doctor Tiller  23 diagnosed this patient with?  24 A. No.  25 Q. Okay.</p>	<p style="text-align: right;">Page 220</p> <p>1 the other files.  2 A. Right, it somehow -- a copy of  3 the bill from me.  4 Q. Did you give the patients copies  5 of bills?  6 A. Well, I had some preprinted ones,  7 so obviously that wasn't one that I gave  8 her. I don't know how that got in  9 there. I can't account for that.  10 Q. Okay. We are done with file 37?  11 MR. FOCHT: Do you need anything?  12 MR. MAXWELL: No, not out of that  13 file. Okay, do you want to take a quick  14 break for lunch or do you want to --  15 guys want to keep going?  16 MR. FOCHT: As far as I'm  17 concerned I would like to get out of  18 here.  19 MR. CAVANAUGH: I can keep going.  20 It is up to you.  21 MR. FOCHT: I'm sorry, I didn't  22 ask you.  23 A. I am fine.  24 BY MR. MAXWELL:  25 Q. 38.</p>
<p style="text-align: right;">Page 219</p> <p>1 A. I felt like she was actively  2 suicidal.  3 MR. FOCHT: You are mumbling.  4 A. I felt like she had a substantial  5 active suicidal ideation.  6 BY MR. MAXWELL:  7 Q. And, again, you referred this  8 patient back to Doctor Tiller after he  9 referred her to you?  10 A. Correct.  11 Q. Was this by phone or in person?  12 A. As far as I can tell it was in  13 person.  14 Q. Okay.  15 A. Should have been. I can't see  16 anything that indicates otherwise other  17 than a fax artifact on this disclosure,  18 which I have discussed earlier on  19 several of them.  20 Q. And what date did you see this  21 patient?  22 A. 8-19-03.  23 Q. And then I see in this page this  24 bill. Do you see that, page 37-009;  25 what's that? I didn't see it in any of</p>	<p style="text-align: right;">Page 221</p> <p>1 A. 38?  2 Q. 38. This was a 15 year old from  3 Kansas who was 26 weeks along. The  4 fetus was viable, correct?  5 A. Presumably, yes. Looks like the  6 same chart says 26 3.  7 Q. Is that right?  8 A. That is the right chart.  9 Q. And you -- was this a person or  10 by phone consultation?  11 A. In person.  12 Q. What?  13 A. In person.  14 Q. In person. And did this -- what  15 date did the consultation occur with  16 you?  17 A. 8-05-03.  18 Q. 8-05-03, okay, where at?  19 A. At Doctor Tiller's facility in  20 Wichita.  21 Q. And how long did you see the  22 patient?  23 A. Oh, I would imagine about 45  24 minutes or so.  25 Q. What's contained in your file?</p>

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<p style="text-align: right;">Page 222</p> <p>1 A. 38-025.  2 MR. FOCHT: When you say that  3 does that have the notes?  4 A. No, I don't have any of the ink  5 marks.  6 BY MR. MAXWELL:  7 Q. Okay.  8 A. There is a duplicate of the same  9 page, so it's either 38-025 or 026 same  10 page.  11 Q. Okay. Here --  12 A. Well, I'm sure that's in there,  13 too. I can just guess. It would be a  14 lot quicker.  15 MR. FOCHT: Don't guess.  16 A. I am not going to. That is  17 38-006 and 007 should be present. 008  18 and 009 presumably. And the typed M I  19 statement, which is three pages 38-022  20 and 23. There should be another page.  21 22, 23 and then.  22 BY MR. MAXWELL:  23 Q. 21?  24 A. Yes, correct.  25 Q. Okay. Anything else contained in</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. Okay.  2 MR. FOCHT: Do you want anything  3 from that file?  4 MR. MAXWELL: No.  5 MR. FOCHT: - Can we just assume  6 you don't want anything unless you ask?  7 MR. MAXWELL: You can.  8 BY MR. MAXWELL:  9 Q. That was -- this is 39?  10 A. You want 39?  11 Q. This would be on a 15 year old  12 from New York who was 28 weeks pregnant  13 with a viable fetus, correct?  14 A. Can I see the chart, please.  15 Yeah, same one.  16 Q. Okay. Same one. And this is  17 file number 39 and -  18 A. Pardon?  19 Q. File number 39?  20 A. Oh, sorry.  21 Q. File 39 and she is -- you see  22 this person on what day?  23 A. 8-5-03.  24 Q. Okay. And what did you diagnosis  25 her with?</p>
<p style="text-align: right;">Page 223</p> <p>1 your file that's not contained in Doctor  2 Tiller file other than the informed  3 consent forms?  4 A. The two disclosures.  5 Q. Other than that?  6 A. No.  7 Q. No notes or anything else?  8 A. No.  9 Q. Okay. This is again a patient  10 that you referred back to Doctor Tiller  11 after he referred her to you?  12 A. Correct.  13 Q. You see this patient in person?  14 A. Yes.  15 Q. In Wichita?  16 A. Yes.  17 Q. On what date?  18 A. 8-05-03.  19 Q. And you diagnosed this patient  20 with what?  21 A. Major depressive disorder single  22 episode.  23 Q. This is the 15 year old from  24 Kansas?  25 A. Yes.</p>	<p style="text-align: right;">Page 225</p> <p>1 A. Acute stress dis -- acute stress  2 disorder, moderate; with suicidal  3 ideation.  4 Q. Do you think -- do you know what  5 Doctor Tiller diagnosed her with?  6 A. No, I do not.  7 Q. Accuse stress disorder. That's a  8 DSM IV diagnosis?  9 A. Correct.  10 Q. Okay. And is acute stress  11 disorder an irreversible condition?  12 MR. FOCHT: Object to the form of  13 the question.  14 A. It can lead to a post traumatic  15 stress disorder if the conditions remain  16 in place or even if they don't  17 sometimes. It's called acute because it  18 has to have lasted only a month at that  19 point.  20 BY MR. MAXWELL:  21 Q. My question is, is it  22 irreversible?  23 MR. FOCHT: And my objection is  24 that it's irrelevant, because the  25 statute does not require irreversibility</p>

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<p style="text-align: right;">Page 226</p> <p>1 outside the context of 6-56703.  2 BY MR. MAXWELL:  3 Q. Go ahead and answer.  4 A. It's generally requires years of  5 therapy. It's possible. But -- --  6 Q. Possible what?  7 A. Possible with years of therapy  8 that people who undergo these types of  9 traumas can improve.  10 Q. So it's not irreversible?  11 MR. FOCHT: Object to the form of  12 the question. It's irrelevant because  13 you refuse to ask it in the context of  14 the statutory requirement of the  15 physician.  16 BY MR. MAXWELL:  17 Q. Go ahead and answer.  18 A. I would say in this particular  19 case that the damage was irreversible.  20 Q. My -- my question again is acute  21 stress disorder generally considered in  22 the medical community to be an  23 irreversible condition?  24 MR. FOCHT: Object to the form of  25 the question. It's irrelevant whether</p>	<p style="text-align: right;">Page 228</p> <p>1 diagnosable in DSM IV an irrevers --  2 considered an irreversible condition in  3 the medical community; yes or no?  4 MR. FOCHT: Object to the form of  5 the question. It is irrelevant.  6 A. I would say it would certainly be  7 controversial. That is my  8 understanding.  9 BY MR. MAXWELL:  10 Q. Yes or no?  11 A. It's controversial. That's my  12 opinion. The data is controversial. So  13 there is data on both sides of the  14 argument.  15 Q. What you're saying is there is no  16 agreement?  17 A. There is no general agreement,  18 that's correct.  19 Q. Okay. So some people believe  20 what you are saying is that some  21 psychiatrists say that it is reversible  22 and some say it's not?  23 A. In general and that's abstracted  24 from each individual patient, yes.  25 Q. Okay. Have you ever seen a</p>
<p style="text-align: right;">Page 227</p> <p>1 it's considered by the medical community  2 one way or another. The question should  3 be to the doctor is whether or not in  4 her opinion that could be reversed with  5 the discontinuation of the pregnancy.  6 MR. MAXWELL: Counsel, you can  7 make your objections, but don't make  8 statements.  9 BY MR. MAXWELL:  10 Q. Go ahead and answer the question.  11 Is it considered to be an irreversible  12 condition in the medical community?  13 MR. FOCHT: I will make the same  14 objection.  15 A. All I can say is that in this  16 patient I felt that her pregnancy  17 constituted a substantial and  18 irreversible impairment to a major  19 bodily function. And at the time I saw  20 her she was suffering already from an  21 acute distress -- or acute stress  22 disorder with active suicide ideation.  23 BY MR. MAXWELL:  24 Q. I will make the question yes nor.  25 Is acute stress disorder as a condition</p>	<p style="text-align: right;">Page 229</p> <p>1 patient with acute stress disorder have  2 the situation resolved when the stress  3 was eliminated?  4 A. Well, you are asking me to  5 support my decision here by asking me  6 that.  7 Q. Have you seen a patient in the  8 past?  9 A. I have seen patients symptoms  10 resolve once their condition is  11 improved, yes.  12 Q. So you have seen cases where they  13 had the disorder and then it was no  14 longer a problem?  15 A. The conditions were removed and  16 the symptoms ameliorated, yes.  17 Q. Okay. So in that case, the one  18 that you are talking about, it was not  19 irreversible?  20 MR. FOCHT: Object to the form of  21 the question. It's irrelevant.  22 A. Right.  23 MR. FOCHT: The question is  24 whether or not the termination of the  25 pregnancy would reverse it.</p>

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<p style="text-align: right;">Page 230</p> <p>1 A. And I would say that if the 2 pregnancy continued that it would not be 3 an irreversible condition. 4 BY MR. MAXWELL: 5 Q. Okay, but if just acute stress 6 disorder itself is a reversible 7 condition? 8 MR. FOCHT: Object to it. It's 9 irrelevant. 10 A. I am going to say it's 11 controversial. You are asking it in 12 such a general way with no specifics 13 about it. This particular case in 14 general it's controversial. 15 BY MR. MAXWELL: 16 Q. Okay. So you are refusing to 17 answer the question yes or no? 18 A. I am answering to the best of my 19 intellectual ability based on the 20 knowledge and understanding that I have 21 of that condition. 22 Q. All right. There is nothing 23 contained in your file that's not 24 contained in Doctor Tiller's file other 25 than the actual informed consent forms</p>	<p style="text-align: right;">Page 232</p> <p>1 not contained in Doctor Tiller's file 2 other than the informed consent forms 3 and the HIPAA forms? I am trying to 4 make this quicker. 5 A. Not that I can tell, no. Just 6 briefly, no. 7 MR. FOCHT: Just make sure. 8 A. No. 9 BY MR. MAXWELL: 10 Q. Okay. So you diagnosed this 11 patient with what? 12 A. Major depressive disorder single 13 episode. 14 Q. And you referred this patient 15 back to Doctor Tiller after he referred 16 her to you? 17 A. Correct. 18 Q. By the phone or in person? 19 A. In person. 20 Q. This was at Doctor Tiller's 21 clinic? 22 A. Correct. 23 Q. Okay. 41. Looks like we have 24 five or six files to go. 25 MR. FOCHT: I'm sorry?</p>
<p style="text-align: right;">Page 231</p> <p>1 or the HIPAA forms, right? 2 A. Correct. 3 Q. All right, let's go to 40. For 4 the record this is file number 40 5 patient ID 081203 S P. A 15 year old 6 from Canada who had an abortion on 8-12 7 of '03 when she was 25 weeks along and 8 the fetus was viable. Is that your 9 understanding of the file we are talking 10 about? 11 THE REPORTER: Can you give me 12 that ID again. 13 A. Yes, that looks like it. 14 BY MR. MAXWELL: 15 Q. That's your understanding. The 16 ID was 081203 S P? 17 THE REPORTER: Thank you. 18 BY MR. MAXWELL: 19 Q. So we are talking about a 15 year 20 old from Canada. And what's contained 21 is — what's contained in your file 22 compared to Doctor Tiller's file? Is 23 there anything — I guess the question I 24 will ask you to — ask to look at this 25 anything contained in your file that's</p>	<p style="text-align: right;">Page 233</p> <p>1 MR. MAXWELL: Five or six files 2 to go. 3 MR. FOCHT: Okay. 4 BY MR. MAXWELL: 5 Q. This is a file number 41 patient 6 ID number would be 081903 A G, a 15 year 7 old from Illinois that was 26 weeks 8 pregnant with a viable fetus? 9 A. I don't have that information. 10 Yes. 11 Q. Okay. So you diagnosed this 12 patient with what? 13 A. Acute distress -- acute stress 14 disorder moderate. 15 Q. Is that the same diagnosis that 16 we just talked about a minute ago? 17 A. Right. Right. 18 Q. Okay. And you referred this 19 patient back to Doctor Tiller after he 20 referred them to you? 21 A. Correct. 22 Q. Was this in person or by phone? 23 A. In person. 24 Q. Okay. File 55, Jared. Okay. 25 That — this is a 15 year old from</p>

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<p style="text-align: right;">Page 234</p> <p>1 Illinois again patient number 110403.  2 110403 B B. And this was an abortion  3 that occurred on 11-04 of '03 and did  4 you see this patient?  5 A. Yes.  6 Q. Where? Personally or by phone?  7 A. Personally as far as I can tell.  8 Personally.  9 Q. She was 25 weeks along, viable  10 fetus, right?  11 MR. FOCHT: Doctor, do you need  12 to look at the government's file there  13 to determine that or Doctor Tiller's  14 name, the government has it.  15 A. Yes. Yes.  16 BY MR. MAXWELL:  17 Q. Okay. We have got the same file  18 that we are talking about here. Is  19 there anything contained in your file  20 that's not contained in Doctor Tiller's  21 file other than the HIPAA request form  22 or the informed consent form?  23 A. No. Well, let me check and make  24 sure. No. No, there is nothing.  25 Q. 43, 44, 58 and 53?</p>	<p style="text-align: right;">Page 236</p> <p>1 BY MR. MAXWELL:  2 Q. Did you actually perform this  3 abortion?  4 A. No, of course not. No, I did  5 not.  6 Q. Did you see this patient in  7 person or by phone?  8 A. In person. Let me see.  9 MR. FOCHT: What number is that?  10 A. 55.  11 BY MR. MAXWELL:  12 Q. What did you diagnosis this  13 patient with?  14 A. Major depressive disorder single  15 episode.  16 Q. And what -- is there anything in  17 your file not contained other than the  18 HIPAA forms and the consent forms that  19 is not contained in Doctor Tiller's  20 file?  21 A. Well, do you want me to be sure?  22 Q. Go ahead.  23 A. Just to speed things up doesn't  24 look like it.  25 MR. FOCHT: Well, don't just</p>
<p style="text-align: right;">Page 235</p> <p>1 A. 53.  2 Q. I am giving Jared the next files  3 in order. We are not done with 55.  4 A. Sorry.  5 Q. Okay. So this was another 15  6 year old. Would you explain document  7 55-024 to me?  8 A. Looks like some error on the part  9 of the insurance company.  10 Q. What is that?  11 A. It's from an insurance provider.  12 MR. FOCHT: Get your voice up.  13 A. It's a letter from an insurance  14 provider where they accidentally somehow  15 put my name on there. There is one that  16 I am dealing with right now with that.  17 But I have never seen this before. My  18 fee isn't on here. So it was just an  19 error. What probably happened -- well,  20 can I speculate about what happened?  21 MR. FOCHT: If you want to.  22 A. Probably what happened was she  23 submitted my invoice along with his. As  24 you can see, my fee isn't on here  25 anywhere.</p>	<p style="text-align: right;">Page 237</p> <p>1 speed things up. Make sure that you are  2 accurate. These things have a way to  3 come back and haunt you if you don't.  4 A. No.  5 BY MR. MAXWELL:  6 Q. Okay. So this bill that's on  7 here page 55-024 and 025 is somehow an  8 error?  9 A. I have never seen it. I have  10 nothing to do with it.  11 Q. Addressed to you A Kristin  12 Neuhaus MD, Women's Healthcare, 5107  13 East Kellogg, Wichita, KS 67218-1625?  14 A. I said it is a mistake. I had  15 nothing to do with that.  16 Q. Have you ever been employed at  17 that clinic?  18 A. No.  19 Q. Or done any abortions at that  20 clinic?  21 A. No. Like I said probably what  22 happened stupid insurance company mixed  23 the two invoices up. I am dealing with  24 one right now that's taken me six months  25 and still hasn't been straightened out.</p>

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<p style="text-align: right;">Page 238</p> <p>1 Q. What address do you do on your 2 invoices? 3 A. I used to use my PO box and now I 4 use my house. 5 Q. Which is in Nortonville? 6 A. The one that I didn't want to 7 list before, yes. 8 Q. All right, okay. Okay, so this 9 one is a 15 year old, 25 week viable 10 fetus and you diagnosed this one with 11 major depressive disorder? 12 A. Correct. 13 Q. Let's go to 43. 14 MR. FOCHT: That was compound, 15 but it was fast. 16 MR. MAXWELL: Do you want me to 17 be here all day? 18 MR. FOCHT: You notice I didn't 19 say anything. 20 A. What are we looking at now? 21 BY MR. MAXWELL: 22 Q. 43. Okay. Fourteen, this is a 23 -- file 43 is a 14 year old from New 24 York 082603 T K is the patient ID 25 number. And the patient was 25 weeks</p>	<p style="text-align: right;">Page 240</p> <p>1 Parenthood to the administrator at that 2 time. That somehow got into my chart 3 instead of his. 4 Q. So you have a two page letter 5 from Planned Parenthood in your file 6 that's not contained in Doctor Tiller's 7 file? 8 A. That I don't see it anywhere in 9 there. 10 Q. Anything else? 11 A. The two disclosures. 12 Q. Other than the HIPAA and the 13 informed consent? 14 A. No, not that I can see, I don't. 15 Well, there is three. Just duplicates 16 of some things, but otherwise it is the 17 same. 18 Q. So other than the two page 19 Planned Parenthood letter, everything 20 else is contained in Doctor Tiller's 21 file other than the informed consents 22 and the HIPAA forms? 23 A. Correct. 24 Q. Okay. 25 MR. MAXWELL: Exhibit 3 is the</p>
<p style="text-align: right;">Page 239</p> <p>1 along, viable fetus. Are we talking 2 about the same person? 3 A. Yes. 4 Q. Okay. Anything contained in your 5 file that is not contained in Doctor 6 Tiller's file other than the HIPAA and 7 the informed consent form? 8 A. This is going to take a while. 9 It's pretty long. Well right off the 10 bat it looks like two copies of my 11 computer print out for some reason, but 12 it's the same print out. 13 Q. So there is nothing in Doctor 14 Tiller's file that's not -- 15 A. I haven't looked through every 16 page, but I found that I have two copies 17 and he only has one. That really 18 wouldn't qualify. There is a fax from 19 Planned Parenthood that I haven't seen 20 so far in his. 21 Q. Is this in person or by phone? 22 A. This was definitely in person. I 23 remember her. I have something that 24 should have been in Doctor Tiller's 25 chart. It's a two page fax from Planned</p>	<p style="text-align: right;">Page 241</p> <p>1 letter from Planned Parenthood. 2 MR. CAVANAUGH: Can we identify 3 that by date and who it was directed to. 4 MR. FOCHT: August 21, 2003 the 5 letter is date -- is addressed to Kerry 6 Klaege, K-L-A-E-G-E Women's Health 7 Services PA. And what's the second one? 8 A. That is just the cover sheet. 9 MR. FOCHT: And there is the 10 cover sheet that same date indicating 11 that it's a fax. Fax cover sheet 12 indicating the two page transmission. 13 So those are the two things, Steve. 14 Yeah, it does have patient information 15 on it. 16 BY MR. MAXWELL: 17 Q. We are going to talk about it 18 some more. Okay. All right. This is 19 the 14 year old from New York late term 20 viable fetus 25 weeks along that what 21 did you diagnosis her with? 22 A. I am taking your word that it's 23 25 weeks. Yeah, looks like it. 24 MR. FOCHT: He is pointing to 25 what in the file?</p>

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<p>1 A. An ultrasound. 2 MR. FOCHT: What? 3 A. An ultrasound report by Dr. 4 Tiller. 5 MR. FOCHT: That's where you made 6 that call? 7 A. Right. 8 BY MR. MAXWELL: 9 Q. What did you diagnosis her with? 10 A. Acute stress disorder. 11 Q. Is that the same acute stress 12 disorder that we previously discussed? 13 A. Yes. 14 Q. All right, this was in person? 15 A. Yes. 16 Q. Okay. 44. This is a 15 year old 17 from Missouri. Patient ID 090903 J C. 18 And I believe she was 25 weeks and 19 viable fetus, is that -- is that right? 20 A. Correct. 21 Q. Correct. Okay. And we are 22 talking about the same person, right? 23 A. Correct. 24 Q. Is there anything contained in 25 your file that's not contained in Doctor</p>	<p>1 Q. Okay. Did you - what did you 2 diagnosis this patient with? 3 A. Acute stress disorder and anxiety 4 disorder not otherwise specified in 5 partial remission. 6 Q. What is contained in your file 7 that is not contained in Doctor Tiller's 8 other than the informed consent and the 9 HIPAA? 10 A. Nothing. 11 Q. Other than the informed consent 12 and the HIPAA forms, correct? 13 A. Correct. 14 Q. Okay. You say you diagnosed her 15 with acute stress disorder and what else 16 anxiety disorder? 17 A. She had a preexisting anxiety 18 disorder that had somewhat resolved 19 prior to the onset of the current 20 condition. 21 Q. Okay. And this was physical or 22 did you do her by phone? 23 A. It was in person. 24 Q. In person. Okay. On what day? 25 A. 11-4-03.</p>
Page 243	Page 245
<p>1 Tiller's file other than the consent 2 forms and the HIPAA forms? 3 A. No. 4 Q. Okay. And let me see, you 5 diagnosed this patient with what? Is 6 this in person or by phone? 7 A. In person. 8 Q. On what day? 9 A. 9-9-03. 10 Q. At Doctor Tiller's clinic? 11 A. Correct. 12 Q. What did you diagnosis her with? 13 A. Major depressive disorder single 14 episode. 15 Q. Is that the same major depressive 16 disorder single episode that we 17 previously discussed? 18 A. Yes. 19 Q. Okay. All right, thank you. 20 Next file is 58. File 58 is an eighteen 21 year old patient from Kansas. File 22 number -- strike that. 110403 K H who 23 is a 25 weeks along viable preg -- 24 viable fetus? 25 A. Correct.</p>	<p>1 Q. Why does the D-Tree report have a 2 fax cover? Why does all of that have a 3 fax of 11:30 -- 11:30 a.m.? 4 A. Mine doesn't. It maybe his 5 because I used to fax them to them. I 6 used to fax those there. 7 Q. If you were there in person why 8 would you have to fax it on the same day 9 to Doctor Tiller? 10 A. Because I must not have left him 11 a copy then. So I copied mine and faxed 12 it later. 13 Q. But if you were there -- if you 14 were there at 8:30 a.m. which is what it 15 indicates, how would you have gotten 16 home by 11:30 and seen the patient? 17 A. Like I said, I didn't always 18 print those out right on the spot and in 19 some cases I might have printed them out 20 once I got home or even the next day, 21 because like I said -- 22 Q. When did you print this form, 23 this page number 58-025? 24 A. 11-13, 2003. 25 Q. Okay. 11-13. And when was the</p>

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1 abortion?  
 2 A. Well, my consultation with her  
 3 was on 11-4 and I printed it out later a  
 4 week later it looks like.  
 5 Q. What's the -- what is the date of  
 6 the form blacked out on Doctor Tiller's  
 7 copy?  
 8 A. Mine is the 13th.  
 9 Q. That's when you printed it?  
 10 A. Right.  
 11 Q. Okay. Like I said, I didn't use  
 12 that to make my diagnosis. I merely  
 13 used that as a recording tool.  
 14 Q. So you wouldn't have done this,  
 15 you would have faxed it to him later?  
 16 A. Correct.  
 17 Q. Okay. Some nine days later?  
 18 A. In that case, yeah.  
 19 Q. But you did see this patient in  
 20 person?  
 21 A. Correct.  
 22 Q. Okay. All right. Looks like my  
 23 last file. File number 53. Anything  
 24 about file number 53 that is a 13 year  
 25 old from New Jersey patient ID 110403 T

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1 Q. What did you diagnose the patient  
 2 with?  
 3 A. I diagnosed her with a -- let's  
 4 see, suicidal ideation and acute stress  
 5 disorder.  
 6 Q. How do you know this?  
 7 A. Based on her history and I  
 8 remember her. She was so young.  
 9 Q. Are you reading anything in the  
 10 part of your file or are you just --  
 11 A. I am refreshing my memory from  
 12 seeing her statement.  
 13 Q. Is there anything in your file in  
 14 written form that would indicate what  
 15 you diagnosed her with?  
 16 A. Well, my diagnosis, like I said,  
 17 is a complex process that ultimately  
 18 culminated me referring her to Doctor  
 19 Tiller because I felt that her pregnancy  
 20 -- her continued pregnancy was a  
 21 substantial irreversible impairment to  
 22 her health.  
 23 Q. Okay.  
 24 A. So --  
 25 Q. My question is, is there anything

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1 D S. She was 25 weeks along viable  
 2 pregnant -- viable fetus, true?  
 3 A. 25, yes, correct.  
 4 Q. 25 weeks along. And what day did  
 5 you see her?  
 6 A. 11-4-03.  
 7 Q. In person or by phone?  
 8 A. In person.  
 9 Q. What day is your -- I don't see  
 10 any D-Tree's in here.  
 11 A. I don't have one either. I don't  
 12 know what happened to that one.  
 13 Q. Okay. So what's in your file?  
 14 A. 53-021.  
 15 Q. Okay.  
 16 A. The two disclaimers.  
 17 Q. Informed consent and the HIPAA?  
 18 A. Informed consent and  
 19 authorization.  
 20 Q. What else?  
 21 A. And 53-013 and 53-014.  
 22 Q. Is that it?  
 23 A. Yeah.  
 24 Q. Any other notes?  
 25 A. No.

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1 -- if I was to sit down and look at your  
 2 file or another doctor for that matter  
 3 who could determine what you diagnosed  
 4 her with?  
 5 A. Probably, yeah, I would say so.  
 6 Q. Where? On what page?  
 7 A. Well, I didn't write it down and  
 8 I can't find that copy of the D-Tree,  
 9 so, no, there is not specific but you  
 10 can go back and look at the history.  
 11 Q. And the history you are talking  
 12 about is on pages 53-013 and 014?  
 13 A. Right.  
 14 Q. Doctor Tiller's file?  
 15 A. Correct.  
 16 Q. Did you do this history or did  
 17 someone else?  
 18 A. That history was provided to me  
 19 before I actually saw the patient.  
 20 Q. Did you see her in person or by  
 21 phone?  
 22 A. In person with her mother.  
 23 Q. And, so, I mean I guess what did  
 24 you diagnosis her with?  
 25 MR. FOCHT: Object. She just

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<p style="text-align: right;">Page 250</p> <p>1 told you.</p> <p>2 A. I diagnosed her with a pregnancy</p> <p>3 that was threatening her health.</p> <p>4 BY MR. MAXWELL:</p> <p>5 Q. That was the substantial and</p> <p>6 irreversible condition?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. What -- what medical</p> <p>9 diagnosis?</p> <p>10 A. That's it. It doesn't have a</p> <p>11 code.</p> <p>12 Q. Is that listed in DSM IV?</p> <p>13 A. Well, actually it is. It's 648.4</p> <p>14 I believe. Pregnancy complicated by a</p> <p>15 mental condition.</p> <p>16 Q. What mental condition?</p> <p>17 A. Acute stress disorder.</p> <p>18 Q. Okay. And --</p> <p>19 A. It's not specific in the coding.</p> <p>20 Q. Okay. What code stress disorder,</p> <p>21 which sub paragraph?</p> <p>22 A. Well, in her case it was severe.</p> <p>23 Are you waiting for --</p> <p>24 Q. I am waiting for what code and</p> <p>25 what paragraph, what sub paragraph?</p>	<p style="text-align: right;">Page 252</p> <p>1 BY MR. MAXWELL:</p> <p>2 Q. Without seeing the patient or</p> <p>3 seeing anything else, determine what you</p> <p>4 diagnosed her with?</p> <p>5 A. Possibly.</p> <p>6 Q. How would he do that?</p> <p>7 A. He would look at the history and</p> <p>8 her age and the things that she said.</p> <p>9 Might be able to come to the same</p> <p>10 conclusion. I don't know, obviously.</p> <p>11 Q. Because your diagnosis is not</p> <p>12 written down anywhere in there?</p> <p>13 A. No. What I am asked to do and</p> <p>14 the statute requires is that the</p> <p>15 physician who performs the procedure has</p> <p>16 to have a written diagnosis. The</p> <p>17 consultant merely has to state in</p> <p>18 writing that it's their opinion that the</p> <p>19 continued pregnancy poses a substantial</p> <p>20 and irreversible impairment to the</p> <p>21 person's major bodily function.</p> <p>22 Q. Okay. So what -- and I will</p> <p>23 quote the statute exactly, what</p> <p>24 substantial and irreversible impairment</p> <p>25 of a major bodily function was present</p>
<p style="text-align: right;">Page 251</p> <p>1 A. Pardon me?</p> <p>2 Q. What paragraph under DSM IV did</p> <p>3 you diagnose --</p> <p>4 MR. FOCHT: Are you asking her</p> <p>5 the number?</p> <p>6 BY MR. MAXWELL:</p> <p>7 Q. Uh-huh.</p> <p>8 A. I don't have the numbers</p> <p>9 memorized, but it would be acute stress</p> <p>10 disorder severe.</p> <p>11 Q. Okay. But you put them on all</p> <p>12 the rest of your documents?</p> <p>13 A. The computer does it for me so I</p> <p>14 don't have to memorize the codes.</p> <p>15 Q. You don't have a computer or</p> <p>16 anything.</p> <p>17 A. I don't memorize the codes. I</p> <p>18 know the categories.</p> <p>19 Q. My next -- my -- I guess my</p> <p>20 question to you is could another doctor</p> <p>21 take this file and look what your file</p> <p>22 is in your file and determine what you</p> <p>23 specifically diagnosed her with?</p> <p>24 MR. FOCHT: Without seeing the</p> <p>25 patient?</p>	<p style="text-align: right;">Page 253</p> <p>1 in this case?</p> <p>2 A. Being forced to carry a pregnancy</p> <p>3 at the age of 13 in my opinion is</p> <p>4 predisposition to that diagnosis. And</p> <p>5 complicated by the fact that she is</p> <p>6 actively suicidal and extremely</p> <p>7 depressed. Although the time span</p> <p>8 doesn't support a full diagnosis of</p> <p>9 depression yet. And her family</p> <p>10 circumstances. All of that would lead</p> <p>11 to an expectation that her life would be</p> <p>12 very difficult.</p> <p>13 Q. What family circumstances were</p> <p>14 you talking about?</p> <p>15 A. Just she wouldn't be able to</p> <p>16 continue her schooling, all of the</p> <p>17 things that she mentioned in here.</p> <p>18 Q. Do you know what her family</p> <p>19 circumstances were?</p> <p>20 A. Well, I can tell some of them</p> <p>21 from here. Like I said it was three</p> <p>22 years ago. I don't remember every</p> <p>23 detail. But at the time when I heard</p> <p>24 the --</p> <p>25 Q. You don't have a family --</p>

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<p style="text-align: right;">Page 254</p> <p>1 MR. FOCHT: Excuse me, object to 2 interrupting her. She is trying to 3 answer your questions and you don't like 4 the answer so you interrupt her. That's 5 not fair, counsel. 6 BY MR. MAXWELL: 7 Q. Go ahead. 8 MR. FOCHT: You were talking 9 about -- would you read back where she 10 was, please. 11 MR. MAXWELL: No. No, she is not 12 going to do that. Go ahead and answer. 13 A. I don't even remember the 14 question. 15 BY MR. MAXWELL: 16 Q. Okay. Well, do you have -- 17 MR. FOCHT: I object to that and 18 move to strike because it's unfair 19 badgering of the witness. Go ahead. 20 BY MR. MAXWELL: 21 Q. Do you have a social and family 22 history anywhere in your file? 23 A. Well, I had it available in 24 Doctor Tiller's file when I was seeing 25 the patient. And I didn't make a copy</p>	<p style="text-align: right;">Page 256</p> <p>1 A. Well, but in fact I did. 2 BY MR. MAXWELL: 3 Q. What did you do? 4 MR. FOCHT: It's irrelevant, but 5 go ahead. 6 A. Oh, in these particular patients? 7 BY MR. MAXWELL: 8 Q. Yes. 9 A. There is no notation of that, but 10 whenever there is any kind of indication 11 that the person is actively suicidal or 12 any of these assault situations, all of 13 these, any time there is any type of 14 post-traumatic stress disorder or acute 15 stress disorder or any of those I always 16 spend a very extended period of time 17 with the caregiver or if the patient is 18 alone with the patient discussing the 19 need for follow up counseling. 20 Obviously due to the circumstances of 21 them being generally out of State or in 22 some circumstances indigent many times 23 it's not actually possible to supervise 24 that or to obtain permission from them 25 to locate a counselor. It's not.</p>
<p style="text-align: right;">Page 255</p> <p>1 of everything. 2 Q. All right. This -- this was in 3 person that you saw this patient? 4 A. Yes. 5 Q. Did you on any of these cases 6 where you said there was a major -- you 7 can put the files away. We are done 8 with the files for now. On any of the 9 cases where you found that these 10 patients in what you said in writing 11 that they were -- suffer substantial and 12 irreversible impairment of a major 13 bodily function, did you -- like major 14 depressive disorder or single episode, 15 acute stress disorder or anxiety 16 disorder those are the three that we 17 discussed today, correct? 18 A. Correct. 19 Q. Okay. And in any of those times 20 did you make any other referrals or give 21 them any follow up care or do any 22 referrals to other physicians to treat 23 those irreversible conditions that you 24 said? 25 MR. FOCHT: Object as irrelevant.</p>	<p style="text-align: right;">Page 257</p> <p>1 technically possible to do that within 2 the format that I am in. 3 But I have on a number of occasions 4 engaged in lengthy post care counseling 5 with patients who I felt had no other 6 resources than myself. But -- do not 7 interrupt me, please. 8 I am here doing this act for purposes 9 of being in compliance with this law. 10 But once I am there my own priorities 11 are always first and that is that I make 12 sure that I do to the best of my ability 13 evaluate that person's entire life 14 situation and to the best of my ability 15 offer the best guidance that I can, the 16 best medical information that I have and 17 the best medical judgment that I can 18 use. Because ultimately -- can I be 19 rude? I don't give a crap what Phil 20 Kline thinks. 21 What I care about is the patient that 22 I am -- whose trust is invested in me 23 during that consultation period. So my 24 first priority is to the patient. And 25 my second priority is to make sure that</p>

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<p style="text-align: right;">Page 258</p> <p>1 I am doing the best that I can and being 2 in compliance with the law. 3 Q. Okay, this is a court proceeding. 4 A. Right. 5 Q. Please use some decorum. 6 MR. FOCHT: Let's not lecture 7 her. 8 BY MR. MAXWELL: 9 Q. Now, let me ask you this. Is 10 there any -- 11 MR. FOCHT: You can use whatever 12 words you choose. 13 BY MR. MAXWELL: 14 Q. Is there any evidence in any of 15 your follow up directions or 16 prescriptions or any evidence that you 17 did any follow up counseling or any of 18 these 15 files that we have looked at 19 according to your records? 20 A. In these particular files, no. 21 In these particular files I felt that 22 the situation would be adequately 23 resolved or was already being taken care 24 of through the social worker or the 25 police or the counselors that were</p>	<p style="text-align: right;">Page 260</p> <p>1 nothing to do with the law and it's 2 irrelevant. Don't lecture me, counsel. 3 BY MR. MAXWELL: 4 Q. Okay. What -- what about -- what 5 are the treatment modalities for single - 6 episode depression? 7 MR. FOCHT: Object to that as 8 irrelevant. 9 A. I have already answered that it 10 is pretty similar. 11 BY MR. MAXWELL: 12 Q. Go ahead and answer. 13 MR. FOCHT: I object to it. It's 14 repetitious. And you are just harassing 15 her because of who you work for. 16 A. There are lots of treatment 17 modalities. There's Pharmac 18 therapeutics, cognitive therapy, psycho 19 analysis, group therapy, all of which 20 are expensive and time consuming. 21 BY MR. MAXWELL: 22 Q. During this time period in 2003 23 we are talking about, let's establish 24 that, the year 2003 when you were 25 consulting down there for Doctor Tiller,</p>
<p style="text-align: right;">Page 259</p> <p>1 already involved in these cases of child 2 rape. 3 Q. What are the treatment modalities 4 for treating anxiety disorder first? 5 A. There are lots. There is 6 cognitive treatment, there is pharmaco 7 therapeutics and psycho analysis. There 8 are a number of treatment modalities 9 available. 10 Q. Is abortion a recognized 11 treatment for anxiety disorder? 12 MR. FOCHT: Object to the form of 13 the question. 14 A. That is absurd. I can't possibly 15 answer something that is totally -- it's 16 ludicrous. 17 MR. FOCHT: I object to it 18 because Mr. Kline obviously has not 19 agreed with the law, but it is the law. 20 MR. MAXWELL: Counsel, make your 21 objections under the evidentiary 22 standards and that's all you need to do. 23 Don't make speeches. Don't make 24 speeches. I will cut you off. 25 MR. FOCHT: Your question has</p>	<p style="text-align: right;">Page 261</p> <p>1 you would either go down there and I 2 think you said how many times a week? 3 A. Once. 4 MR. FOCHT: Object to it. It has 5 been asked and answered and it's 6 repetitious. 7 BY MR. MAXWELL: 8 Q. How many? 9 A. Once again -- on the average? 10 You are asking me the average? Once. 11 Q. Once a week and 52 weeks a year? 12 A. 50. 13 Q. 50 weeks, okay. 50 times a year. 14 You saw multiple patients each time. I 15 think we agreed with that, right? 16 A. Correct. 17 Q. Okay. Were there occasions where 18 you said you looked at a patient and you 19 saw the patient and you said no, this 20 person does not qualify for a late term 21 abortion? 22 A. Yes. 23 Q. Okay. Describe those conditions. 24 What happened? 25 MR. FOCHT: Excuse me. I object</p>

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<p style="text-align: right;">Page 262</p> <p>1 to the form of that. That is so general 2 it causes for speculation to the form of 3 the question. 4 A. Basically I would proceed with my 5 process and if at some point I decided 6 that the situation was not one that 7 merited intervention I would say so. 8 BY MR. MAXWELL: 9 Q. Describe the situation. 10 MR. FOCHT: Object to the form of 11 the question. It's too general. 12 A. You are asking me to make a 13 specific description of a specific case? 14 BY MR. MAXWELL: 15 Q. Uh-huh. 16 A. Or just in general? 17 MR. FOCHT: Pick a hypothetical 18 case. 19 A. Hypothetical. 20 BY MR. MAXWELL: 21 Q. No, I am asking one that you 22 found. 23 MR. FOCHT: Don't identify the 24 person. 25 A. I have had cases where people</p>	<p style="text-align: right;">Page 264</p> <p>1 people won't be traveling halfway across 2 the country or halfway across the world, 3 but I did just very recently turn down a 4 patient who had flown clear from England 5 and, you know, so there is some -- 6 obviously some care needs to be taken in 7 those cases. But -- 8 BY MR. MAXWELL: 9 Q. Did you keep records on those 10 cases? 11 A. Usually if there was an extensive 12 encounter I did. If it seemed obvious 13 from the beginning and things weren't 14 progressing well I wouldn't. 15 Q. Are you not required to keep 16 records on every patient that you see? 17 A. Well, on the face of it it isn't 18 if I am not engaging in a significant 19 interaction. I haven't like discussed 20 any disclosures or collected a fee or 21 anything at that point. If basically 22 the prima facie evidence to me is this 23 person isn't going to qualify, I won't 24 feel comfortable charging them a fee 25 and, you know, just rather than put them</p>
<p style="text-align: right;">Page 263</p> <p>1 obviously had statements that weren't 2 strong enough. Reasons that weren't 3 convincing from a medical standpoint. 4 People whose mental status precluded 5 them from making a decision for various 6 reasons. People who were either too 7 chemically impaired to make an informed 8 decision on anything at the moment. 9 People whose cognitive processes were 10 too impaired to do the same and didn't 11 have a guardian present. People who had 12 compelling situations -- sometimes 13 extremely compelling, but who had 14 contraindications due to my expectation 15 that the outcome would be worse in the 16 event of an intervention. 17 BY MR. MAXWELL: 18 Q. How many times in 2003 did you 19 turn someone down? 20 A. I don't know. 21 Q. Rough ballpark? 22 MR. FOCHT: Object as 23 speculation. 24 A. I really don't know. You know, 25 with this screening process hopefully</p>	<p style="text-align: right;">Page 265</p> <p>1 through that distress I don't. But 2 obviously if there is any kind of 3 significant encounter I do keep a 4 record. 5 Q. So you would have records in your 6 possession of cases where you turned 7 down their ability to get a late term 8 abortion? 9 A. Correct. 10 Q. Okay. Are you required under the 11 rules for medical licensing to keep a 12 record on every patient you see? 13 A. Every patient who -- 14 MR. FOCHT: Object to the form of 15 the question. 16 A. Every patient who I have, you 17 know, who I have a therapeutic 18 relationship with, yes. 19 BY MR. MAXWELL: 20 Q. Okay. Did you do that? 21 A. Yes, of course. 22 Q. Okay. But there are some people 23 that you didn't keep records when you 24 saw them and you talked to them and -- 25 A. Right, occasionally. I have had</p>

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1 people — well, we have occasion there I  
 2 have seen a number of people who were  
 3 significantly chemically impaired and it  
 4 was obvious from just a very brief  
 5 exposure that they weren't even going to  
 6 be able to engage in an intelligent  
 7 conversation. Those cases, you know,  
 8 just don't feel a need to enter into a  
 9 relationship that obviously isn't going  
 10 to go anywhere that is an example.  
 11 Q. Was there cases where you  
 12 actually consulted with someone and  
 13 turned them down and still charged them?  
 14 A. If I had engaged in a significant  
 15 therapeutic interaction, yes, because I  
 16 am billing for my time and expertise.  
 17 So I felt that was the reasonable thing  
 18 to do, yes.  
 19 Q. Okay. And then you would charge  
 20 them the same 300 dollars?  
 21 A. Correct.  
 22 Q. Okay.  
 23 A. Or 250.  
 24 Q. You prepare an invoice for each  
 25 patient?

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1 A. I spent the amount of time that I  
 2 felt necessary and that generally would  
 3 run about that length of time. It could  
 4 be as little as 15 minutes in a very  
 5 obvious case or as long as a day.  
 6 Sometimes two days in a complicated  
 7 case.  
 8 Q. You said that you were there  
 9 about 50 times, approximately once a  
 10 week?  
 11 A. Right.  
 12 Q. Ever more than once a week?  
 13 A. Yeah. I have even come down on a  
 14 Sunday.  
 15 Q. Stayed the night?  
 16 A. No, I always come back. I am  
 17 used to spending long periods of time,  
 18 but I can't leave my child alone at  
 19 night.  
 20 Q. Did you — how many patients was  
 21 the most you ever saw in one day?  
 22 A. Ten maybe.  
 23 Q. Ten. Okay, did you ever  
 24 personally — some of these were  
 25 children, you would agree with that?

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1 A. Yes.  
 2 Q. Okay. Where are those kept?  
 3 A. I give them to the patient.  
 4 Q. Okay. You don't keep copies?  
 5 A. No.  
 6 Q. How do you do that?  
 7 A. How do I do it?  
 8 Q. Uh-huh?  
 9 A. I print up a blank and fill out  
 10 their name and the date and give it to  
 11 the patient at the encounter.  
 12 Q. You just have a bunch of blank  
 13 ones?  
 14 A. Correct, I put the code number at  
 15 the top.  
 16 Q. You don't keep copies of those  
 17 somewhere in your files?  
 18 A. No.  
 19 (THEREUPON, a recess was taken.)  
 20 MR. MAXWELL: Back on the record.  
 21 BY MR. MAXWELL:  
 22 Q. Doctor Neuhaus, we talked about  
 23 you spent half an hour or an hour with  
 24 these patients as you were examining  
 25 them. Is that —

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1 A. Right.  
 2 Q. And they were pregnant?  
 3 A. Right.  
 4 Q. Obviously you are aware that  
 5 Kansas law makes that a felony?  
 6 MR. FOCHT: Well, object to the  
 7 form of the question. It's not quite  
 8 correct.  
 9 A. I think there is a lot of debate  
 10 about that.  
 11 BY MR. MAXWELL:  
 12 Q. Are you aware that Kansas law  
 13 says that sex with someone 15 or under  
 14 is a felony offense?  
 15 MR. FOCHT: Object to the form of  
 16 the question. You are ignoring the  
 17 decision by Judge Martin.  
 18 A. I am aware that the law states  
 19 that each case has to be evaluated and  
 20 determined on an individual basis.  
 21 BY MR. MAXWELL:  
 22 Q. Are you aware that sex with a  
 23 minor or 15 and under is a felony in the  
 24 State?  
 25 A. My understanding —

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<p style="text-align: right;">Page 270</p> <p>1 MR. FOCHT: Object to the form of 2 the question. 3 A. Not in all cases, no. 4 BY MR. MAXWELL: 5 Q. Okay. Did you ever personally 6 report to S.R.S. or any State authority 7 or law enforcement officer that a child 8 that appeared in front of you 15 or 9 under and was pregnant? 10 A. Yes. 11 Q. When did you do that? 12 A. I don't know. I have in the past 13 several times. 14 Q. Okay. What about while you were 15 doing this for Doctor Tiller during the 16 years 2003? 17 A. I don't know what years. But I 18 have -- yes, I have. 19 Q. From Doctor Tiller's clinic while 20 you -- 21 A. A patient that I was seeing while 22 I was there. 23 Q. Okay, you have. Who did you 24 report it to? 25 A. Who did I report it to?</p>	<p style="text-align: right;">Page 272</p> <p>1 Q. Did you ever write him a letter 2 or document in some way to him where you 3 did that? 4 A. Well, I have given him copies of 5 notes, right. I didn't actually say 6 dear, Doctor Tiller, I am not referring 7 this patient back to you, no, I didn't 8 do that. 9 Q. Did you ever disagree with Doctor 10 Tiller about whether or not somebody had 11 a substantial irreversible major bodily 12 impairment? 13 A. Well, whether or not an 14 intervention was merited, yes and -- 15 yes, yes, we disagreed on quite a number 16 of occasions. 17 Q. How do you communicate that 18 disagreement? 19 A. Well, usually since I am right 20 there I would carry on a conversation 21 with him. 22 Q. Did you ever turn someone down 23 when you were doing it by phone? 24 A. I am trying to think. Those 25 aren't very numerous. They are usually</p>
<p style="text-align: right;">Page 271</p> <p>1 Q. Uh-huh. 2 A. The S.R.S. department or some -- 3 I don't remember exactly who, but it was 4 a department of child protective 5 services. But honestly I don't 6 remember. 7 Q. How many times have you done 8 that? 9 MR. FOCHT: Object to it. It is 10 immaterial. 11 A. At least twice to Kansas. 12 BY MR. MAXWELL: 13 Q. Any other States? 14 A. At least once to Missouri. I had 15 extensive discussions about a case from 16 Tennessee. New York, I think at least 17 on one occasion. 18 Q. Did you -- when you generated or 19 decided that somebody wasn't able to get 20 a late term abortion in your opinion, 21 did you ever generate a letter or report 22 as a result of that? 23 A. I keep a record of my own chart 24 and I usually discuss the case verbally 25 with Doctor Tiller.</p>	<p style="text-align: right;">Page 273</p> <p>1 people who have had some type of 2 emergency problem. Not that I recall. 3 I wouldn't rule it out of hand. 4 Q. Okay. 5 A. I wouldn't say no, but not that I 6 can recall a specific case. 7 Q. How many times do you suppose 8 that you consulted -- did this by phone? 9 A. I don't know it is really rare 10 now. I would say in the last year 11 probably less than five or six. 12 Q. What about 2003? 13 MR. FOCHT: Object to the form of 14 the question. This is asking for her to 15 speculate. 16 A. Right, you know, I don't know. I 17 don't know. 18 BY MR. MAXWELL: 19 Q. More than five? 20 A. Less than -- less than -- like I 21 said, once or twice a month that would 22 be at the most. Well, twice is probably 23 even too much. I would say maybe ten 24 times a year. Usually in cases like 25 that it would be someone who had some</p>

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<p style="text-align: right;">Page 274</p> <p>1 recent disturbing news from their doctor 2 and had an emergency situation. Not 3 always, but that proportion — that type 4 of patient is disproportionately 5 represented in that group. 6 Q. Was there ever any indication of 7 an emergency on the ones that we talked 8 about? 9 A. No, but I was saying is the ones 10 that aren't scheduled to be seen in 11 person generally have to have some 12 reason why they weren't there. 13 Q. Where would you talk to the 14 patients at? Is it always Doctor 15 Tiller's clinic or talk to them out of 16 State? 17 A. Out of my car. No, out of State? 18 You mean on the telephone beforehand? 19 Q. Yes. 20 A. No, because it's important to 21 have some permission from the parent and 22 all that. So, no, generally it was 23 always at his clinic. 24 Q. While they were there in his 25 clinic?</p>	<p style="text-align: right;">Page 276</p> <p>1 Q. Did you ever do any amniocentesis 2 or CT scans? 3 A. No. 4 Q. Or — 5 A. CT scan, no. 6 Q. Order them? You can order them. 7 A. Oh, I can order them. No, I 8 didn't. 9 Q. Did you ever set up a fetal 10 monitor or do any blood tests or 11 anything like that on these patients? 12 A. No. 13 MR. FOCHT: He filled it in at 14 the last, so I didn't have an objection. 15 You said on any of these patients. 16 BY MR. MAXWELL: 17 Q. On any of these patients? 18 A. I am assuming you are referring 19 to the group of patients that's coming 20 because they have in addition to their 21 own mental health issues a fetal 22 anomaly, is that correct? 23 Q. I am asking on any of the 24 patients that we discussed today, did 25 you put any fetal monitors on them when</p>
<p style="text-align: right;">Page 275</p> <p>1 A. Right. Right. 2 Q. Would you do it you said by cell 3 phone? 4 MR. FOCHT: Object to the form. 5 A. In the clinic? 6 MR. FOCHT: You are confusing her 7 that she talked to the people on the 8 phone while they were in the clinic. 9 BY MR. MAXWELL: 10 Q. Right. I don't want to confuse 11 you. You said — you said while you 12 were in your car. What I am asking you 13 — 14 A. I thought maybe I would consulted 15 with them in my car since I don't have 16 an office there. 17 Q. Whether or not you did it by cell 18 phone because — 19 A. Well, by telephone, right. I 20 used to have a land line. I don't have 21 one any more. So all my communications 22 are by cell phone, yes. 23 Q. Did you ever do any ultrasounds 24 or sonograms yourself? 25 A. No.</p>	<p style="text-align: right;">Page 277</p> <p>1 you examined them or do any blood tests 2 or — 3 A. No, no, I did not. 4 Q. Were you involved in the 5 determination of the gestational age of 6 the fetus? 7 A. No. 8 Q. That was all done by Doctor 9 Tiller? 10 A. Right, or by the referring 11 physicians and Doctor Tiller. 12 Q. Okay. Were you ever determin — 13 involved in the determination of the 14 viability of the fetus? 15 A. No. 16 Q. Did you ever have a case where 17 you had to determine that the abortion 18 was necessary to preserve the life of 19 the pregnant woman, the first clause of 20 the statute? 21 A. Possibly. 22 Q. I would have to tell that you it 23 has been reported that there was zero 24 for that reason in the public documents 25 with KDHE. When did you do that?</p>

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<p style="text-align: right;">Page 278</p> <p>1 A. Well, we had a patient years ago 2 who had shoved a screw driver through 3 her cervix, so I would say that her life 4 was threatened. 5 Q. When was that? 6 A. That was before 2003. That was 7 quite some time ago. Probably -- 8 Q. Since 2003? 9 A. Not since -- well, let me think. 10 I mean you are asking me to rule out the 11 possibility, so I am going to have to 12 think of every possible case. But there 13 were none in which that was the primary 14 determination. There were -- there was 15 -- there were several cases who were 16 only released from hospital supervision 17 under direct care of care givers to fly 18 directly there due to -- 19 Q. The reason I was asking that 20 since 2003 I believe that KDHE who has 21 to report the statistics on late term 22 abortions has reported that there were 23 zero done for the life of the mother? 24 MR. FOCHT: Object to the form of 25 the question.</p>	<p style="text-align: right;">Page 280</p> <p>1 Q. Okay. Did you have this program 2 that you talked about, this D-Tree 3 program installed on any of the 4 computers down there at his office? 5 A. No. 6 Q. Okay. 7 A. It's licensed only to me. 8 Q. Excuse me? 9 A. It's only licensed to me. 10 Q. The software program? 11 A. (Witness nods head affirmatively.) 12 Q. Do you have any contracts with 13 Doctor Tiller? 14 A. No. 15 Q. Do you have any -- have you ever 16 received any funds from him since 17 January 1st, 2003? 18 A. No. 19 Q. Have you ever received any 20 payments of any sort from Doctor Tiller 21 since January 1st, 2003? 22 A. No. 23 Q. Are you a member of any -- 24 MR. FOCHT: Object to it as 25 irrelevant. Go ahead.</p>
<p style="text-align: right;">Page 279</p> <p>1 BY MR. MAXWELL: 2 Q. That's what I am asking. 3 MR. FOCHT: Object to the form of 4 the question. Assumes facts that 5 certainly aren't before us. It's the 6 medical report of KDHE. 7 A. I would say that there were cases 8 where that could easily be argued. He 9 chose not to report it that way. Maybe 10 he didn't have that information at the 11 time. 12 BY MR. MAXWELL: 13 Q. Well, did you have any equipment 14 that you had from Doctor Tiller? Did he 15 ever give you any tools or like medical 16 equipment or let you use his or how did 17 that work? 18 MR. FOCHT: Excuse me, object to 19 the form of the question. That's 20 compound whether he gave you any or let 21 you use any. 22 BY MR. MAXWELL: 23 Q. Either one? 24 A. No. A pen. Grab a pen here and 25 there.</p>	<p style="text-align: right;">Page 281</p> <p>1 A. I was in the past. I'm not 2 currently. 3 BY MR. MAXWELL: 4 Q. When was the last time that you 5 were a member? 6 MR. FOCHT: Object to it as 7 immaterial and irrelevant. Go ahead. 8 A. Maybe mid to late 90's. It was 9 through another clinic actually. 10 MR. MAXWELL: I think we are 11 almost done. We should have Exhibit 1 12 is the immunity. Exhibit 2 is the first 13 file that we talked about. 14 MR. CAVANAUGH: File number 33. 15 MR. MAXWELL: 33. 16 MR. FOCHT: Let me make a note. 17 This is 2. 18 MR. MAXWELL: This is 2 and the 19 third one is the two page letter or two 20 page document from file number -- what's 21 the number? 22 MR. CAVANAUGH: 43. 23 MR. FOCHT: 43. 24 MR. MAXWELL: That's all. That 25 shouldn't be that much.</p>

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1 MR. FOCHT: No, I can get that  
2 done tomorrow.  
3 MR. MAXWELL: I think that we  
4 have all of our exhibits and we will --  
5 and Mr. Cavanaugh will send those to you  
6 for inclusion with the transcript. Any  
7 other things that we need to cover, Mr.  
8 Cavanaugh?  
9 MR. CAVANAUGH: No, I think -- I  
10 think that is sufficient. Like I said,  
11 we talked about earlier as soon as I get  
12 those redacted versions of the documents  
13 from Jack, the court reporter gave me  
14 exhibit stickers, I will place them on  
15 it and have them hand delivered to the  
16 court reporter.  
17 MR. MAXWELL: Okay. All right.  
18 Well, in that event the record is  
19 closed. You're released from your  
20 testimony, thank you very much.  
21 (THEREUPON, the inquisition was  
22 concluded at 1:30 p.m.)  
23 .  
24 .  
25 .

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