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APPEARANCES: SHAPIRO, COOPER, LEWIS & APPLETON, P.C.
By: James C. Lewis, Esquire,
counsel for the Plaintiff.

GOODMAN, ALLEN & FILETTI, P.L.L.C.
By: Douglas E. Penner, Esquire,
counsel for the Defendants.

ALSO PRESENT: Sentara Risk Management
By: Carl F. Medley, Risk Manager, and
Jay Sweeney, Claims Manager.

LEGAL VIDEO SOLUTIONS, Inc.
By: Tim Koehl, Videographer.

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EXAMINATION

CHARLES L. HARRIS, MD

PAGE

Examination by Mr. Lewis. 5

EXHIBIT INDEX

HARRIS DEPOSITION EXHIBIT

PAGE

No. 1 -- Complete Chart 4

No. 2 -- Encounter Form 111

1 Videotaped deposition upon oral examination of
2 Charles L. Harris, MD, taken before Shannon A.
3 Crittenden-Mann, a Notary Public for the Commonwealth of
4 Virginia at Large, pursuant to Notice and Agreement,
5 commencing at 10:20 a.m. on April 2, 2010, at the Law
6 Offices of Goodman, Allen & Filetti, PLLC, Harbour Place,
7 215 Brooke Avenue, Suite A, Norfolk, Virginia, and these in
8 accordance with the Rules of the Supreme Court of Virginia,
9 1950, as Amended.

10
11 (Complete Chart was marked as Harris Deposition
12 Exhibit Number one.)

13
14 THE VIDEOGRAPHER: We're on record at
15 10:20 a.m. This is the videotaped deposition of
16 Dr. Charles Larry Harris in the case of John Mini
17 versus Charles Larry Harris, MD, and Sentara
18 Medical Group, trading as Intracoastal Family
19 Practice, At Law Number CL09003544-00, pending in
20 the Circuit Court for the City of Norfolk. This
21 deposition is being taken on behalf of the
22 plaintiff's counsel.

23 My name is Tim Koehl. I'm with the firm of
24 Legal Video Solutions, located at 40 Rader
25 Street, Unit 302, Norfolk, Virginia. I'm the
Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 video specialist for the deposition. Today's
2 date is April 2nd, 2010. The location is 215
3 Brooke Avenue, Suite A, Norfolk. The court
4 reporter is Shannon Mann of Old Dominion Court
5 Reporting.

6 Will counsel please introduce themselves for
7 the record and state whom they represent?

8 MR. LEWIS: My name is Jim Lewis. I
9 represent now the estate of John Mini and the
10 person of T. C. Emory, administrator.

11 MR. PENNER: I'm Doug Penner. I represent
12 Dr. Harris and Intracoastal Family Practice.

13 THE COURT REPORTER: Would you raise your
14 right hand?

15
16 CHARLES L. HARRIS, MD, called as a witness on
17 discovery, after having been first duly sworn, was examined
18 and testified as follows:

19
20 BY MR. LEWIS:

21 Q For the record, sir, would you please tell us your
22 full name?

23 A Charles Larry Harris.

24 Q You're a medical doctor?

25 A Yes, sir.

1 Q Board certified by the American Board of Family
2 Practice?

3 A Yes, sir.

4 Q Your professional address still 633 South
5 Battlefield Boulevard, Suite 300, Chesapeake?

6 A That's correct.

7 Q Dr. Harris, have you ever had your deposition
8 taken before?

9 A I have.

10 Q Then may I dispense with all of the usual
11 introductory instructions and comments and assume that you
12 understand this process?

13 A Yes, sir.

14 Q Okay. Mr. Penner has given me a curriculum vitae
15 this morning that I want to briefly go over with you. Where
16 did you get your undergraduate degree, sir?

17 A Old Dominion University.

18 Q What year?

19 A 1972.

20 Q And what did you degree in?

21 A Economics.

22 Q Any other college or post-degree education prior
23 to going to EVMS?

24 A Old Dominion University.

25 Q What did you do?

1 A Chemistry.

2 Q What degree did you achieve in chemistry?

3 A I just obtained the basic courses necessary for
4 medical school.

5 Q Did I -- my memory serving me correctly when you
6 said your got you degree in economics in '72?

7 A That's correct.

8 Q When did you matriculate EVMS?

9 A 1981.

10 Q It says here you -- you graduated in '81. When
11 did you start?

12 A 1978.

13 Q What did you do between '72 and '78?

14 A Work, went to school.

15 Q Worked doing what?

16 A Various things, doctor's office, grocery store,
17 hospital. I worked for a mechanical contractor.

18 Q Born and raised in Tidewater?

19 A No, sir.

20 Q Where are you from?

21 A Washington, North Carolina.

22 Q You graduated from medical school in 1981, and
23 this says Eastern Virginia Graduate School of Medicine,
24 graduated in 1984. What is that? Is that an internship?

25 A And residency.

1 Q Both?

2 A Yes, sir.

3 Q And you completed that training in 1984?

4 A That is correct.

5 Q And you were boarded the following year?

6 A That is correct.

7 Q Presumably from the timing you passed them the
8 first time you tried?

9 A Yes, sir.

10 Q Okay. And you have been practicing family
11 medicine in the Tidewater, Virginia area ever since?

12 A Yes, sir.

13 Q And you've actually been in Chesapeake ever since?

14 A Yes, sir.

15 Q And do I take it from reading this, Dr. Harris,
16 that SMG took your practice over in 2003, bought it?

17 A They did not buy it. I joined SMG, Sentara
18 Medical Group in 2003.

19 Q And there are how many doctors in your particular
20 location?

21 A Four including myself.

22 Q You, Dr. Hartline, Dr. Hanna and Dr. Blowe?

23 A Yes, sir.

24 Q Okay. Do you have admitting privileges anywhere
25 other than Chesapeake General, Dr. Harris?

1 A I do not.

2 Q Have you ever had any adverse action taken against
3 your medical license by the Commonwealth of Virginia Board
4 of Medicine?

5 A I have --

6 MR. PENNER: Don't answer. We've already
7 had a ruling on that.

8 MR. LEWIS: We had a ruling on an
9 interrogatory. If you -- if you instruct him not
10 to answer that's fine.

11 MR. PENNER: I am.

12 MR. LEWIS: I can argue about it.

13

14 BY MR. LEWIS:

15 Q Have you ever been sued or had a claim made
16 against you in which it was claimed that your care
17 failure to -- failed to comply with the appropriate medical
18 standard of care?

19 MR. PENNER: Same objection. Same
20 instruction.

21

22 BY MR. LEWIS:

23 Q How often are you required to be recertified by
24 the American Board of Family Practice?

25 A Every seven years.

1 Q In addition to the recertification, does the
2 Commonwealth of Virginia or the American Board of Family
3 practice impose upon you any CME requirements on an annual
4 or other periodic basis?

5 A They do.

6 Q And what are their requirements?

7 A American Board of Family Practice 350 hours.

8 Q Per what time period?

9 A Seven year time period.

10 Q Okay.

11 A And board of -- State of Virginia is 50 hours a
12 year.

13 Q Does the 50 hours -- is it encompassed by the 350?

14 A Yes, sir. It's just 50 hours of continuing
15 medical education.

16 Q Okay. Doctor, I have in front of you what's been
17 marked as Deposition Exhibit Number One. It is a composite
18 that was represented to me to be a copy of your office chart
19 on a fellow named John Mini. Have you had a chance to at
20 least take a cursory look at it and confirm for me that
21 that's what it is?

22 A Yes, sir, I have.

23 Q And is that what it is?

24 A Yes, sir.

25 Q Okay. What we're going to do, Dr. Harris, is
Old Dominion Reporting

1 going to be somewhat tedious but -- and I don't mean this as
2 a criticism, but your handwriting is terrible and I think I
3 know what these entries in this chart say but we're -- one
4 of the things we're going to do today is to make sure that I
5 know what these entries say. Fair enough?

6 A Yes, sir.

7 MR. PENNER: Object to the form.

8

9 BY MR. LEWIS:

10 Q As I read your chart, Doctor, you first saw this
11 gentleman on October the 9th of 1991?

12 A Yes, sir.

13 Q Can you read for me what you wrote in your chart
14 that day?

15 A Turned while crawling under house and had several
16 pains in butt and down right thigh, pain constant in back
17 with occasional radiation into right leg, bending okay --
18 well, urinating okay.

19 Q Keep going.

20 A PMH -- it's a dash, PMH is abbreviation for past
21 medical history. SH is social history. It says married
22 with a three, which means three children. ETOH, ethanol
23 occasionally, tobacco pack a day. Family history, father is
24 living. Mother died of breast cancer. Physical exam, back
25 tenderness right side, gait in a flexed position leaning

Old Dominion Reporting

1 towards right hip, limp on the right side. Reflexes,
2 patella plus two, plus four bilateral. Sensory, okay.
3 Straight leg raise positive right at 20 degrees.

4 Q Had you ever seen Mr. Mini before that day?

5 A Not to my knowledge.

6 Q Do you know how he came to see you?

7 A I do not.

8 Q At that time, Dr. Harris, did you hold yourself
9 out to the community in the location where your office was
10 as a primary care physician?

11 A I did.

12 Q A family doctor?

13 A That is correct.

14 Q All right. And when Mr. Mini came to see you, as
15 I read this, his primary reason for being there was back
16 pain?

17 A That is correct.

18 Q And what was the reason for your taking a social
19 history?

20 A It was his first visit to see me.

21 Q Same question with family history?

22 A That is correct.

23 Q Same answer?

24 A Yes, sir.

25 Q Under diagnosis, read for me what you wrote there,
 Old Dominion Reporting

1 sir.

2 A Tobacco use, low back strain, possible HNP, which
3 is abbreviation for herniated nucleus pulposus.

4 Q And on RX what did you write in there?

5 A Stop smoking, Flexeril two tablets three times a
6 day for one day, Percodan number 20 pills one every three to
7 four hours as needed, Ansaid 100 milligrams twice a day,
8 letter, heat, rest.

9 Q Does that say letter?

10 A No. It doesn't say letter. I'm unable to say
11 what the word is.

12 Q Okay. Why did you tell Mr. Mini to stop smoking?

13 A Because it was good for his health.

14 Q To stop would be good for his health?

15 A Yes, sir.

16 Q And as I read your chart, Doctor, when he showed
17 up that day his temperature was taken; correct?

18 A Yes, sir, it was.

19 Q Pulse was taken; correct?

20 A Yes, sir.

21 Q And his blood pressure was taken?

22 A That is correct.

23 Q All right. Did you ask him to come back to see
24 you?

25 A No, sir, I did not.

1 Q When did he next appear in your office?

2 A October 12th, 1991.

3 Q Three days later, four days later?

4 A Yes, sir.

5 Q Again his blood pressure was taken?

6 A That is correct.

7 Q And is that your handwriting there where it says
8 ambulating better?

9 A Yes, sir.

10 Q What else does it say?

11 A Less forward flexion at 20 degrees.

12 Q And under RX?

13 A It says continue above, Vicodin number 30, one to
14 two every four hours as needed.

15 Q Did you tell him to come back?

16 A I did not.

17 Q As I read this, Dr. Harris, the next time your
18 chart has an entry regarding Mr. Mini it's two days later on
19 October 14th, and the word "ultrasound" appears. What does
20 that mean?

21 A It means that he was not progressing and that we
22 started physical therapy.

23 Q And how is it that you can tell that from what
24 you've written here? Did he come back?

25 A To get the ultrasound treatment he would have had
Old Dominion Reporting

1 to come back to the office.

2 Q So and I take it he came back and said, "I'm not
3 getting any better"?

4 A Either that or he may have had a phone call.

5 Q Okay. And is ultrasound a form of physical
6 therapy that your office provided to your patients back in
7 1991?

8 A It was.

9 Q Is there any reason why the return, "I'm not
10 getting any better," isn't documented here?

11 A No, sir.

12 Q And he came back on the 15th, had another
13 ultrasound treatment?

14 A That is correct.

15 Q Came back on the 16th. What -- what did you write
16 there?

17 A I wrote range of motion flexes to mid lower leg.
18 Straight leg raises is negative. Reflexes are plus two,
19 plus four. There's a diagram to the right indicating those
20 reflexes that I checked. Strength was okay. His gait was
21 normal.

22 Q Under RX what did you write?

23 A May return to work desk times two days. In other
24 words, he could go back to work in two days, light duty for
25 three days and heat.

1 Q Asked him to come back?

2 A No, sir.

3 Q When did he return to your office?

4 A April 22nd, 1992.

5 Q What was -- again, his temperature was taken, his
6 pulse was taken and his blood pressure was taken; correct?

7 A Yes, sir.

8 Q And what was he there for?

9 A He was having pain in his right shoulder.

10 Q Read me your entry, please.

11 A I did not make this entry.

12 Q Who did?

13 A My -- the physician that I was working with at the
14 time.

15 Q Named?

16 A Dr. Claude Benham.

17 Q Can you read his handwriting?

18 A I'll try.

19 Q Thank you.

20 A Pain left shoulder times six weeks. Hurts on
21 abduction and external rotation. Reflexes okay, and it says
22 plus 126/80, which is blood pressure.

23 Q Okay. What did he write under diagnosis if you
24 can read it?

25 A Bursitis, rule out -- I'm unable to -- to make
Old Dominion Reporting

1 that out.

2 Q Okay. And he prescribed what, Kenalog and
3 Naprosyn?

4 A That's correct. Kenalog is an injection.

5 Q He gave him an injection, and were you made aware
6 of the fact that Mr. Mini had returned to your practice when
7 he came in and saw this doctor?

8 A Only by chart note.

9 Q And that would mean the next time you picked up
10 the chart you would have noticed in there that he had been
11 seen by one of your partners?

12 A That's correct, sir.

13 Q Okay. He came back on October 28th, as I read it?

14 A That's correct, sir.

15 Q Did you see him?

16 A I did not.

17 Q Again, it looks like this time he was weighed. Do
18 you have any explanation for why he was weighed on the 28th?

19 A No, sir, other than it just not having been done
20 before.

21 Q His blood pressure was taken?

22 A That's correct.

23 Q And his temperature?

24 A That's correct.

25 Q And his pulse?

1 A That's correct.

2 Q And is this -- whose handwriting is this on the
3 28th?

4 A Dr. Benham's handwriting.

5 Q Can you read it for me as best you can?

6 A In the left column it says smokes two packs a day,
7 father died at age 75 recently. The note had episode of
8 heart fluttering and everything went black momentarily, also
9 ringing in ears, heart beats in ears, chest decreased breath
10 sounds. This is his physical exam.

11 Q Yes, sir.

12 A Chest is decreased breath sounds. I'm unable to
13 make out the next word. Drinks two pots of coffee
14 eight-ounce cups plus iced tea.

15 Q Diagnosis?

16 A Serous otitis.

17 Q And prescribed what?

18 A Seldane.

19 Q What is Seldane?

20 A It's an antihistamine.

21 Q What else?

22 A Amoxicillin 500 milligrams three times a day, stop
23 smoking, Nicoderm.

24 Q Okay. He shows up approximately one year later as
25 I understand it, Doctor?

1 A That is correct.

2 Q Specifically October 26th of '93?

3 A That is correct.

4 Q And to your knowledge was he seen in that interim
5 period by anyone in your practice?

6 A No, sir.

7 Q To your knowledge was he seen by any other primary
8 care physicians during that one-year period?

9 A Not that I would know of.

10 Q Okay. And did you see him on the 26th?

11 A I did.

12 Q Can you read me your entry, please?

13 A While driving had fluttering --

14 Q I'm sorry. Let me interrupt. He was -- this time
15 his height was measured?

16 A That is correct.

17 Q And why was that done?

18 A Well, I guess it wasn't part of the chart, and
19 it's just part of the protocol that we had in the office.

20 Q Any reason why his weight and height weren't noted
21 on October the 9th of 1991?

22 A I'm unable to tell at that time.

23 Q His height was measured, his weight was taken and
24 his blood pressure was measured at the beginning of that
25 visit?

1 A That is correct.

2 Q Back in '93, if you can possibly remember that far
3 back, was that something you would have done or did your
4 office personnel do that before your coming into the room?

5 A Office personnel did that before I entered the
6 room.

7 Q Okay. And what's the purpose for that protocol
8 for your patients, height, weight, blood pressure,
9 temperature, pulse? Why do you do all that?

10 A It's the vital signs. It's to create some
11 baseline for the patient.

12 Q To be used over time so that you can monitor any
13 changes in those vitals?

14 A That's correct.

15 Q Okay. Read -- read for me your entry here,
16 Dr. Harris.

17 A While driving had fluttering in chest and gets
18 dizzy. Had before. Tried to stop smoking but returned,
19 pains in area, i.e., that is the chest, started sweating,
20 rested, started moving mowing grass, felt okay. On nicotine
21 patch. Gets light-headed with biking. Physical exam, the
22 lungs are clear. Coronary, there's a regular rate, S for a
23 gallop. Abdomen was soft. Bowel sounds positive,
24 non-tender.

25 Q From reading this note, Doctor, if -- can you tell
Old Dominion Reporting

1 me what you considered to be Mr. Mini's reason for coming to
2 see you that day?

3 MR. PENNER: Object to the form.

4 A I'm unable to say what Mr. Mini was thinking.

5

6 BY MR. LEWIS:

7 Q I didn't ask you what he was thinking. I was
8 asking you if you can tell me what your impression was as to
9 why this fellow was in your office?

10 A I think he had a flutter in his chest, and he was
11 probably concerned about it.

12 Q Okay. And your diagnosis was what, sir?

13 A Palpitations, dizziness.

14 Q And your RX was what?

15 A An exercise stress test, return to office in four
16 days, check for smoking cessation.

17 Q And the exercise stress test was to be performed
18 where?

19 A At the hospital.

20 Q Did he get that test?

21 A Yes, sir.

22 Q And he returned in four days as you asked him to
23 do?

24 A Thereabouts.

25 Q Thereabouts. Check for smoking cessation, that's
Old Dominion Reporting

1 because he told you he had a -- was using a nicotine patch?

2 A Well, I had him come back to discuss his
3 smoking --

4 Q Okay. Why?

5 A -- problem.

6 Q Why?

7 A Because Nicoderm is a patch and you're still using
8 nicotine. You haven't really quit smoking. You're no --
9 it's just changed forms of use.

10 Q And as best you can tell from reviewing your chart
11 entries, did the -- did that issue have anything to do with
12 his heart fluttering that he had -- was experiencing?

13 A It may have or it may not have.

14 Q Okay. He came back on November the 1st, '93?

15 A That is correct.

16 Q And would you -- did you see him?

17 A I did.

18 Q What did you write down?

19 A No smoking for 15 days, using Nicoderm 21
20 milligrams, having feeling of exploding.

21 Q And, again, on this day his weight was measured,
22 his blood pressure was measured and his temperature was
23 taken; correct?

24 A That is correct.

25 Q And what was your diagnosis?

Old Dominion Reporting

1 A I didn't put a diagnosis at that time.

2 Q What did you prescribe?

3 A Catapres.

4 Q What's that?

5 A It's a blood pressure medication but it's also
6 used for other things.

7 Q What did you prescribe it to him for if you can
8 tell?

9 A I would have used it to try and help him relax.

10 Q What is it about this entry or your memory,
11 Dr. Harris, that makes you -- that led you to conclude that
12 he wasn't relaxed?

13 A Well, it says he's having a feeling of exploding.
14 If I go back to the previous note and the note that
15 Dr. Benham saw him for for having seen a group of symptoms
16 where the patient is having chest pain, and after doing the
17 stress test that was normal and after some of the other
18 events that he was participating in without heart pain it
19 was being clear that the patient did not have a
20 heart-related problem. Generally those issues are related
21 to anxiety type problems.

22 Q Okay. He came back on the 23rd of November?

23 A Yes, sir.

24 Q Blood pressure, temperature and weight were
25 measured?

1 A That is correct.

2 Q And you saw him on that day?

3 A I did.

4 Q Read for me what you wrote.

5 A Thinking about dieing, not feeling better and also
6 not smoking, doesn't want to sleep, feeling like exploding
7 inside, started about a year prior to stop smoking, feeling
8 of light-headedness, irritable, doesn't enjoy things, sex is
9 okay. Physical exam, neck, it's no thyromegaly. Lungs are
10 clear. Coronary has a regular rate. There were no murmurs.
11 Abdomen was soft. Bowel sounds were present. It's
12 non-tender.

13 Q Diagnosis?

14 A Depression, anxiety, question of panic attack.

15 Q And you prescribed what for his, sir?

16 A Prozac, taking it daily, return to office in two
17 weeks to check for his depression and check the TSH, which
18 is a test for thyroid.

19 Q And Prozac is what, an antidepressant of sorts?

20 A It is classified as an antidepressant.

21 Q Is or is not? I'm sorry.

22 A It is.

23 Q Is, and you prescribed it for this fellow because
24 of your diagnosis of depression?

25 A That is correct.

1 Q And tell me about the return in two weeks for a
2 thyroid check. Why -- why did you want to have his thyroid
3 checked?

4 A His thyroid was checked at the time of his office
5 visit on November 23rd. Thyroid is always checked in people
6 with depression and/or anxiety.

7 Q And why would you check thyroid in someone who was
8 suspected of being depressed?

9 A It's what we do because if the thyroid gland is
10 not functioning properly it can cause anxiety and/or
11 depression.

12 Q Okay. And he returned to your office on
13 December 7th?

14 A That is correct.

15 Q You saw him that day?

16 A I did.

17 Q His blood pressure was measured, his temperature
18 was taken and his weight was measured?

19 A That is correct.

20 Q And what did you write down on that day?

21 A Doing much better, no longer with thinking of
22 dieing.

23 Q And your diagnosis?

24 A Depression with anxiety, panic attack, glucose
25 intolerance, hyperlipidemia.

1 Q Okay. How about the thyroid follow-up? I take it
2 the test was drawn and ordered on the 23rd. You would have
3 received it before December the 7th?

4 A Yes, sir. That would have been the case.

5 Q Do you have a recall or from reviewing your chart
6 can you tell me whether that thyroid measurement was within
7 normal limits or not?

8 A It was normal.

9 Q Okay. And under diagnosis on the 7th, Dr. Harris,
10 glucose intolerance and hyperlipidemia appear for the first
11 time in this fellow's chart; correct?

12 A That is correct.

13 Q And how is it that you ascertained that he was
14 glucose intolerant and suffered hyperlipidemia?

15 A We had done some lab tests.

16 Q Is that the same series that you had done to
17 determine his thyroid function?

18 A We did thyroid function at that time. I think --
19 I also had repeated those studies later. The test on 11/23
20 was a battery of lab tests, and it indicated an elevated
21 glucose. It also indicated a normal thyroid function.

22 Q And why did you order that panel of labs on the
23 23rd?

24 A Because I had started the patient -- or was going
25 to start the patient on Prozac. I wanted to be sure that

1 liver functions were normal.

2 Q How about fasting -- it wasn't fasting. How about
3 glucose, why did you order that test?

4 A As part of the panel.

5 Q It's just part of the protocol that you do when
6 you get a lab assay on a patient?

7 A This particular assay, yes, sir.

8 Q What did you -- what did you prescribe him,
9 Dr. Harris, on -- on December 7th?

10 A I wanted him to come back in three months. I
11 wanted to check on his depression, wanted him to check
12 weight. So I would have asked him to lose weight.

13 Q Did you consider 191 for this gentleman to be
14 overweight?

15 A With the glucose intolerance weight loss is
16 usually the first approach toward getting people to lower
17 their glucose. As I remember, Mr. Mini was -- well, 5'11",
18 191, yes, sir, that would have been overweight.

19 Q Okay. You also made a notation there as I read
20 it, "continue Prozac"?

21 A That is correct.

22 Q Okay. You wanted him to come back in three months
23 to check on his depression, his weight. You also wanted to
24 see him again for his blood pleasure?

25 A That is correct.

1 Q You consider his blood pressure on the 7th of
2 December to be elevated?

3 A Yes, sir, I did.

4 Q And what's the entry right under "check blood
5 pressure"?

6 A SMA-18, which is a lab test.

7 Q And?

8 A Cholesterol profile.

9 Q Why did you want a -- did you -- did you order an
10 SMA-18 on the 7th?

11 A I think this was referring to three months at the
12 patient's next visit, Mr. -- at John's next visit.

13 Q Okay. And how about the cholesterol profile you
14 were going to -- you were going to take a look at that in
15 three months?

16 A At the same time.

17 Q Okay. He didn't wait three months to come back as
18 I read this; correct?

19 A That is correct.

20 Q Came back on December 27th of the same year, 1993?

21 A That's correct.

22 Q And his temperature was taken, his blood pressure
23 was taken and his weight was measured?

24 A That is correct.

25 Q And you saw him on that day?

Old Dominion Reporting

1 A Yes, sir.

2 Q Read for me what you wrote, please.

3 A Sore throat, aches, chills, temperature not taken
4 at home, no sneezing --

5 Q It says T not taken. It doesn't say "at home."
6 You added that. How is it that you can tell? Is -- how do
7 you know that that's what you meant when you wrote that?

8 A Because that's what I do.

9 Q Okay.

10 A I've been doing that for 25 years.

11 Q So that -- this is intended to tell the reader and
12 you that you asked him if he had been following his temp at
13 home, and he said no?

14 A That is correct.

15 Q Okay. Continue. I'm sorry.

16 A No sneezing. Runny nose times one day, sore
17 throat times five days. Physical exam, ears are clear, nose
18 membranes are red. Mouth/throat, pharynx is red, neck
19 moderate, tender nodes. Lungs are clear.

20 Q So he came back 20 days after his earlier visit
21 because he had cold-like symptoms?

22 A Yes, sir, the symptoms that are -- were addressed
23 in the chart.

24 Q Right. And your diagnosis was what, sir?

25 A Pharyngitis.

1 Q And you prescribed what?

2 A Keflex.

3 Q What's that?

4 A It's an antibiotic.

5 Q Okay. What else did you prescribe?

6 A Tylenol #3.

7 Q What is different about Tylenol #3 from what I can
8 buy at the Rite Aid?

9 A Tylenol #3 has 30 milligrams of codeine.

10 Q And what was it that you were prescribing codeine
11 to address?

12 A His sore throat.

13 Q Okay. Did you ask him to come back or follow-up
14 with you on the cold symptoms?

15 A I did not.

16 Q Next time you see him is March 7th of 1994?

17 A That is correct.

18 Q And is that, from what you can tell, a follow-up
19 to his December 7th, 1993 visit?

20 A It would be in that time frame.

21 Q Okay. And you saw him on that day?

22 A I did.

23 Q Immediately above that in your chart is a
24 February 22nd, 1994 entry that I read to say, "Called to
25 Revco 482-3391 Prozac 20 milligrams." Do I read that
Old Dominion Reporting

1 correctly?

2 A Yes, sir.

3 Q And do I take -- well, strike that. Why don't I
4 just ask you. What's that -- what's that entry mean?

5 A It means that he had -- well, he was no longer
6 taking the Prozac and he needed to be drugged because he had
7 no further refills, and he called the office and we called
8 the drugstore. That's the phone number to it, and gave a
9 prescription for Prozac, gave him 30 pills. He was to take
10 one a day.

11 Q March 7th of 1994 his blood pressure was taken,
12 his temperature was taken and his weight was -- was
13 measured?

14 A That is correct.

15 Q And read for me what you wrote there.

16 A Doing well, relaxed, stopped smoking, gets
17 occasional panic, not as severe as --

18 Q Panic attack?

19 A Yes, sir. Not as severe as in the past, wants
20 lesson from ear removal.

21 Q Is that lesion?

22 A Lesion, it's lesion from ear removal.

23 Q Yes, sir.

24 A From ear removed. Physical exam, mouth/throat,
25 pharynx is red. Neck, no thyromegaly. Lungs are clear.

1 Coronary is a regular rate, no murmur.s, abdomen soft, bowel
2 sounds are present.

3 Q And -- and tell me, Dr. Harris, why you were
4 checking his abdomen during this visit?

5 A It's just an exam that I did.

6 Q Just sort of your standard office procedure for
7 anybody who comes in on a follow-up visit?

8 A Not necessarily. Sometimes I do a little more
9 than others.

10 Q As you sit here today, do you have a reason for
11 why you did the abdominal exam on this fellow on March 7th
12 of '94?

13 A No, I do not.

14 Q Okay. Was he complaining of any abdominal
15 symptoms?

16 A No, he was not.

17 Q Okay. Under diagnosis, read for me what you
18 wrote, sir.

19 A Anxiety, panic attack, glucose intolerance,
20 hyperlipidemia.

21 Q I take it, Doctor, or maybe I'm wrong, when he
22 came back on March 7th did you have new labs on him or did
23 you draw the blood for new labs that day?

24 A I drew labs for him that day.

25 Q That day. So the glucose intolerance and
Old Dominion Reporting

1 hyperlipidemia diagnoses are just brought forward from his
2 last visit without the benefit of new laboratories -- new
3 labs for you to look at on the 7th?

4 A That is correct.

5 Q All right. And you prescribed him what, sir?

6 A To continue with Prozac and I ordered the lab work
7 that we talked about previously.

8 Q Yes, sir.

9 A Had him come back in three months to check his
10 weight, his blood pressure and the anxiety.

11 Q Dr. Harris, the copy that I'm reading from has a
12 mark across this page, and I don't see one on the original.
13 Am I correct about the original?

14 A That is correct.

15 Q So however this mark got on the page that I'm
16 holding up in front of you, it was not put there by you or
17 your office?

18 A As far as I know.

19 Q Okay.

20 A I didn't put it there.

21 Q I don't know who did, but I don't think it makes a
22 whole lot of difference. And so you asked John to come back
23 in three months?

24 A Yes, sir.

25 Q Follow-up on the things you told me about?

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1 A That is correct.

2 Q And he did that? He came back on June 7th?

3 A That is correct.

4 Q He was weighed and his blood pressure was taken?

5 A Yes, sir.

6 Q Okay. And you saw him that day?

7 A I did.

8 Q Read for me what you wrote in his chart, please.

9 A Working out three times a week, weight gain, no
10 cigarettes, has an occasional episode of anxiety but is able
11 to think process away, gets episode about once every two
12 weeks, okay.

13 Q What's the "okay" mean if you can remember?

14 A I -- I can't remember that.

15 Q Fair enough. You performed another physical exam.
16 Read me what you wrote in there, please.

17 A Neck, no thyromegaly. Lungs were clear.
18 Coronary, there's a regular rate. There were no murmurs.
19 Abdomen was soft. Bowel sounds were present, was
20 non-tender.

21 Q And, again, this abdominal exam was performed
22 because it is just sort of part of your routine at least as
23 it related to Mr. Mini at that time?

24 A At that time that's correct.

25 Q All right. And under diagnosis you put "as above"
Old Dominion Reporting

1 as referring to your March 7th, 1994 entry?

2 A That is correct.

3 Q So he was still carrying a diagnosis of glucose
4 intolerance and hyperlipidemia?

5 A That is correct.

6 Q Had you -- did you get new blood work on the 7th
7 of June or did you simply interpret or review the blood work
8 results that you had obtained on the 7th of March?

9 A I didn't do any blood work at the June visit, so I
10 would have looked over the work from the March visit.

11 Q But his glucose and his lipids weren't remeasured
12 for you to rely on for your June 7th entry?

13 A That is correct.

14 Q And you prescribed what for him on that day, sir?

15 A I continued with his Prozac, and, of course, we
16 were to look at his weight. I mentioned weight -- weight
17 gain and weight was continuing an issue.

18 Q And you asked him to come back in three months to
19 take a look at those three issues?

20 A That is correct.

21 Q All right. And it looks like there were a couple
22 of phone calls made to pharmacies for Prozac, one in July
23 and one in September?

24 A That is correct.

25 Q And he came back to see you on September 7th?
Old Dominion Reporting

1 A Yes, sir.

2 Q And his blood pressure was measured, his
3 temperature was taken and his weight was measured; correct?

4 A Yes, sir.

5 Q Did you have him on any blood pressure medicine at
6 this point?

7 A I did not.

8 Q If you were concerned -- at least on this page I
9 see you're concerned about blood pressure on March 7th and
10 June 7th. Can you tell me why there was no medication
11 intervention during that time?

12 A The guidelines for treatment of blood pressure do
13 not indicate blood pressure be treated at that time except
14 by weight management.

15 Q Okay.

16 A And other things like salt restriction.

17 Q Right. And you saw him on September 7th?

18 A Yes, sir.

19 Q Read for me what you wrote.

20 A Weight gain continues, continue with working out
21 and walking. Prozac continues to be effective. No further
22 panic attack. Ear pain after swimming. Physical exam,
23 ears, tympanic membranes are dark. Mouth/throat is clear.
24 Neck is no thyromegaly. The lungs are clear. Coronary,
25 there's a regular rate. There were no murmurs. Abdomen was

1 soft. Bowel sounds are present. It was non-tender. Repeat
2 blood pressure's 130/90.

3 Q Does that tell the reader that you took his blood
4 pressure again at or at the -- during or at the end of your
5 physical exam?

6 A That is correct, and I did that.

7 Q And why did you do that, Dr. Harris?

8 A Sometimes when we're concerned about blood
9 pressure we like to do it ourselves.

10 Q Okay. And you prescribed -- well, strike that.
11 Your diagnosis was what?

12 A Anxiety, panic attack.

13 Q And why did you drop the diagnoses of glucose
14 intolerance and hyperlipidemia?

15 A The glucose intolerance because the lab work no
16 longer supported that.

17 Q Did he have new lab work?

18 A No, but the lab work from the June -- or from the
19 March visit showed a normal blood sugar.

20 Q Okay. And your prescription for him on that day?

21 A Was continue with Prozac and talked to him about
22 smoking, wanted him to come back in six months, check his
23 weight, his blood pressure, his medication.

24 Q As I read this, Dr. Harris, it says, "Plan on
25 stopping in spring." Am I reading that correctly?

1 A Yes, sir.

2 Q Stopping what?

3 A Smoking.

4 Q Okay. And we have another phone call in to the
5 drugstore on -- what's that date? Mine's cut off.

6 A 12/9/94.

7 Q Okay. And you had asked him to come back in six
8 months, and it looks like that's what he did, March 7th of
9 1994?

10 A This date was from -- I had him come back in six
11 months was September 1994 and my next --

12 Q Oops. I've got a duplicate. I'm sorry.

13 A And my next visit for Mr. Mini was 11/5/96.

14 Q Okay. Wait a minute. Out of order here. Okay.
15 The office visit we just talked about was September 7th,
16 1994?

17 A That is correct.

18 Q And the next visit I see is March 17th of '95.

19 A That is correct.

20 Q And that is a follow-up to his September 7th, '94
21 visit?

22 A Yes, sir.

23 Q His blood pressure was taken, his temperature was
24 taken and his weight was measured?

25 A Yes, sir.

1 Q And did you see him that day?

2 A I did.

3 Q What's your -- read me what you wrote.

4 A Taking medication, doing well, no complaints, no
5 smoking. Physical exam, neck, no nodes. The lungs are
6 clear. Coronary, there's a regular rate, no murmurs.
7 Abdomen was soft. Bowel sounds were present.

8 Q And your diagnosis?

9 A Depression resolved.

10 Q And your prescription?

11 A Taper Prozac every other day times two weeks then
12 every two days for one week, then stop.

13 Q Okay. And did you ask him to come back to see you
14 at the conclusion of your March 17th visit?

15 A I did not.

16 Q Is there any particular reason why you didn't?

17 A I'm unable to say why I didn't do that.

18 Q Okay. And it looks like -- well, you tell me,
19 when's the next time he showed up in your office?

20 A Looks like it was November 5th, 1996.

21 Q Okay. Doctor, the page that I'm reading from --
22 I'll just show it to you. Again, it's the page that starts
23 off with the March 17th, '95 visit.

24 A Yes, sir.

25 Q And it's got this line just like the other one we
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1 talked about going through it. You see that?

2 A I see that, sir.

3 Q That was not put on there by you or anybody in
4 your office that you know of?

5 A Not that I know of.

6 Q Okay. And on this piece of paper I'm holding, the
7 next visit noted is an '01 visit on the same page. Does
8 your page read the same way?

9 A My page does, but there's another page that says
10 his next visit was November 5th, 1996.

11 Q Can you explain for me how these papers got
12 shuffled that way?

13 A Well, I would imagine it's an administrative
14 situation.

15 Q Okay. There was no rhyme to this reason?

16 A That's correct, sir.

17 Q All right. Let's go to the November 5th, '96
18 visit. Did you see him that day?

19 A I did.

20 Q Let me go back to the March 17th of '95 visit. As
21 I recall your earlier testimony, a weight of 201 pounds
22 would have been overweight for this fellow, and was that no
23 longer a concern because his blood sugar was under control?

24 A No, sir. Weight's always an issue.

25 Q Is there any reason why you didn't address it with
Old Dominion Reporting

1 him on March 17th?

2 A Not that I know of.

3 Q Okay. November 5th, 1996, temperature was taken,
4 blood pressure was taken, and did you see him that day?

5 A I did.

6 Q Read for us what you wrote.

7 A Infected finger, right middle finger, pus from
8 right. Physical exam, right middle finger distally swollen,
9 red, tender, pus.

10 Q Diagnosis?

11 A Cellulitis and abscess right middle finger,
12 impotence.

13 Q I think I know what impotence means, but why don't
14 you tell me why you made that entry in this fellow's chart?

15 A With me making this entry I would think that
16 Mr. Mini discussed with me the issue of being able to get
17 erections.

18 Q I'm going to assume, Dr. Harris, and you tell me
19 if I'm wrong, that you don't have a current recollection of
20 this visit?

21 A That is correct.

22 Q If a guy comes to see you in 1996 with an infected
23 finger, am I safe in assuming that he's the one who brought
24 up sexual function and not you?

25 A That is correct.

1 Q Okay. Under diagnosis what did you write? I'm
2 sorry. Under prescriptions what did you write?

3 A I&D, which is incision and draining right middle
4 finger, little pus, tolerated well, no complications.

5 Q Let me stop you right there, Doctor. I take it
6 that means you performed a procedure yourself on this
7 fellow's infected finger in the office?

8 A That is correct.

9 Q Okay. Continue on.

10 A Keflex 500 milligrams twice a day, hot soaks,
11 elevate, testosterone level, SMA-18, discussed impotence,
12 return to office three weeks.

13 Q The testosterone test was ordered because of his
14 complaints of erectile dysfunction?

15 A Yes, sir.

16 Q And why did you order an SMA-18?

17 A Again, looking at the profile to see if there
18 might have been some other cause for it.

19 Q Other cause for his sexual dysfunction?

20 A That's correct.

21 Q All right. Such as?

22 A Liver failure.

23 Q Anything else?

24 A No, sir.

25 Q SMA-18 does a lot more than measure liver
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1 function; doesn't it?

2 A It does.

3 Q Okay. And he came back to see you on December the
4 3rd?

5 A That is correct.

6 Q And his blood pressure was taken, his weight was
7 measured, his height was measured and his temperature was
8 taken; correct?

9 A That is correct.

10 Q And you saw him on that day?

11 A I did.

12 Q And what did you write?

13 A Unable to maintain erection for intercourse,
14 cellulitis resolved, testosterone level 242, which is low.
15 Will start testosterone 200 milligrams intramuscularly.

16 Q And is that an injection you gave him in the
17 office?

18 A That is correct.

19 Q And is it a one-time treatment, Doctor? Is that
20 something you do -- would do for Mr. Mini periodically?

21 A It should be an ongoing injection or an ongoing
22 treatment like any other medication.

23 Q Okay. Was he instructed on how often he had to
24 come back in to get an injection?

25 A Yes, sir.

1 Q And how long would that have been?

2 A Each month.

3 Q Okay. From -- from looking at this chart it
4 doesn't look like he -- he followed up with that?

5 A That is correct.

6 Q And do you know why?

7 A No, sir.

8 Q Okay. And from what I'm looking at, Doctor, you
9 didn't see him for almost two years, October 23rd, 1998; am
10 I reading the chart right?

11 A Yes, sir.

12 Q Okay. When he came in on October 23rd, 1998 his
13 temperature was taken, his pulse was measured and his blood
14 pressure was measured; correct?

15 A Yes, sir.

16 Q And he was weighed; correct?

17 A Yes, sir.

18 Q All right. And did you see him that day?

19 A I did.

20 Q During that visit did you ask him where he had
21 been for two years?

22 A I don't remember.

23 Q And there isn't -- you didn't document it if you
24 did?

25 A That is correct.

1 Q Can you tell me as you sit here today -- a long
2 time later, 12 years later, whether the fact that he hadn't
3 been around for a couple of years was concerning to you?

4 A I'm unable to answer that.

5 Q Fair enough. Read for us what you wrote on his
6 chart that day.

7 A Cold for two months, feeling bad.

8 Q Before you get to the cold part it looks like
9 runny nose, non-productive cough, stopped up head?

10 A That would have been the nurse's entry.

11 Q Nurse's entry. Thank you very much. So you put
12 cold for two months, feeling bad. Continue.

13 A I'm unable to know the next word. It looks like
14 it was put for two months.

15 Q Uh-huh.

16 A But run down, cough non-productive, no fever,
17 nocturia times two, no unusual thirst.

18 Q Physical exam?

19 A Ears were clear; nose, membranes were red;
20 mouth/throat, pharynx.

21 Q What's that entry again? What's MT mean?

22 A Mouth/throat.

23 Q Mouth/throat, and you wrote the word "pharynx"?

24 A Pharynx.

25 Q What's that mean?

1 A That's the general area of the throat. I didn't
2 write what it was, so I -- I would suspect it was clear, but
3 I don't know. I can't answer that.

4 Q Okay.

5 A Because it's not written.

6 Q Okay.

7 A And I don't remember. Neck, no nodes. Lungs were
8 clear.

9 Q Okay. Diagnosis?

10 A Tobacco cessation.

11 Q That -- I didn't understand that when I read it,
12 Doctor. Here's a fellow who appears to be presenting to you
13 for a cold and your diagnosis is tobacco cessation. Can you
14 explain that for me?

15 A I can't.

16 Q Okay. You prescribed what for him?

17 A I gave him Viagra and Hycomine syrup, which would
18 have been for cold-like symptoms.

19 Q Was Viagra available on that earlier visit we
20 talked about where you gave him a testosterone shot or was
21 it -- had it become available between those two visits?

22 A I'm unable to say.

23 Q Okay.

24 A I don't -- I don't know when the drug was made
25 available.

1 Q All right. Did you ask him to return at the
2 conclusion of his October 23rd, 1998 visit?

3 A I did not. I don't remember. It's not documented
4 in the chart.

5 Q All right. As I read the chart, the next time he
6 showed up in your office was January 26th of '99. Have I
7 got that right?

8 A Yes, sir.

9 Q And his temperature was taken, his pulse was
10 taken, his blood pressure was taken?

11 A That's correct.

12 Q And the word "weight" is written there or "WT" is
13 written there, but I don't see any numbers next to it?

14 A The word beside that is "declined," so he refused.

15 Q So he said you can't weigh me?

16 A That's what it means I think.

17 Q Do you have any explanation for why John declined
18 to be weighed that day?

19 A I'm unable to say why he refused to be weighed.

20 Q Okay. Did you see him that day?

21 A I did.

22 Q And what did you write down?

23 A Spasms and tenderness low back.

24 Q So before you got in there the nurse wrote
25 exercising yesterday M -- yesterday a.m., low back injury?

1 A That's correct.

2 Q Okay. And your diagnosis was what, sir?

3 A Low back strain with spasms.

4 Q And what did you prescribe for him?

5 A Tylox one every four hours, Flexeril one twice a
6 day and two at bedtime, ice and exercise.

7 Q Asked him to return?

8 A I did not.

9 Q Do you know how old Mr. Mini was on January 26th
10 of 1999?

11 A I'll need to look at the birthdate to -- he was 49
12 years old.

13 Q And it looks like he called in on
14 September 20th of 1999 and again on December 30th of 1999
15 for refills, and that was Viagra refills?

16 A Yes, sir.

17 Q And you gave him those refills?

18 A I did.

19 Q Okay. When's the next time you saw this patient,
20 Doctor?

21 A July 27th, 2001.

22 Q It looks like on May 21st of 2001 you had a
23 telephone conversation or somebody in your office did with
24 Dr. Miller?

25 A That is correct.

1 Q And the entry that I see written in your chart is
2 patient -- I can't read that next word. Can you?

3 A With blocked vessels.

4 Q Keep going.

5 A To Sentara Norfolk General Hospital for
6 angioplasty.

7 Q Now, did you order or were you involved in that
8 evaluation or procedure being called for this fellow?

9 A No, sir.

10 Q Do you know how he ended up in Dr. Miller's
11 office?

12 A I don't know if this was Dr. Miller's office or if
13 this -- I don't know where this phone call originated from.

14 Q Okay. Was it brought to your attention when it
15 came in?

16 A I don't understand your question.

17 Q When this -- did you take this call yourself?

18 A I may have because I wrote -- this is my entry, so
19 I would think that I did that.

20 Q It is your handwriting?

21 A Yes, sir.

22 Q And at the time the call was received can you
23 explain for me why whoever it was that called you called you
24 when you're not the person who was addressing this medical
25 problem?

1 A Usually T. Miller is one of the cardiologists who
2 I work with.

3 Q Yes, sir.

4 A Meaning my referral pattern, and evidently
5 Mr. Mini had given him me as primary care physician, and so
6 Dr. Miller was calling me to inform me about what he had
7 found with John.

8 Q Okay. As far as you were concerned, Dr. Harris,
9 in May of 2009 were you -- strike that. May of 2001 were
10 you Mr. Mini's primary care physician?

11 A Yes, sir.

12 Q Okay. The next time you actually saw him --
13 strike that. There's also a consult note in your chart,
14 Doctor, from a Charles Ashby, who saw Mr. Mini for chest
15 pain. Looks like he saw him in May of 2001, performed a
16 cardiac catheterization. Do you have those records?

17 A I do.

18 Q And were those sent to you because you were
19 Mr. Mini's primary care physician?

20 A That is correct.

21 Q Okay. Now, the next time you actually saw
22 Mr. Mini was July 27th of '01?

23 A That is correct.

24 Q And his weight was measured. He's down to 194.
25 So this time he let -- he let them do it; right?

1 A That's correct.

2 Q And his blood pressure was measured and his pulse
3 was measured, and the nurse appears to have written the
4 phrase "follow-up visit." Is that -- am I reading that
5 correctly?

6 A Yes, sir.

7 Q Do you know what she was referring to, following
8 up from what?

9 A I would think given my comment that was from his
10 placement of stints in his heart.

11 Q Okay. And you saw him and you made an entry
12 there. Would you read it for us?

13 A Stint placed 5/22, no chest pain, feels depressed
14 after MI, trouble with staying away from cigarettes.
15 Physical exam, lungs are clear. Coronary, there's a regular
16 rate.

17 Q Now, this time you did not look in his mouth or
18 perform an abdominal exam. Was there any rhyme or reason to
19 that?

20 A Specifically he was there for his visit concerning
21 his discharge from the hospital after having stints placed.

22 Q Okay. You wrote MI here. Were those his words or
23 yours? I mean, did John have a heart attack?

24 A It appears that he did not have a heart attack.

25 Q Okay. But can I take it from your entry that he
 Old Dominion Reporting

1 thought he had had one?

2 A I would think so.

3 Q Okay. And your diagnosis was what, sir?

4 A CAD is abbreviation for coronary artery disease
5 and hyperlipidemia.

6 Q The coronary artery disease diagnosis I take it,
7 Dr. Harris, you appreciate from the information that was
8 passed on to you by your cardiologist associate?

9 A That's correct.

10 Q And the hyperlipidemia, how did you come up with
11 that diagnosis on July 27th?

12 A Well, if we go back to the laboratory studies
13 previously --

14 Q What date? Dated when?

15 A Some in 1996, I think some 1994. I'm recalling
16 that from memory.

17 Q Yes, sir.

18 A And then I'm certain that they did -- and I don't
19 have those records from the hospital, but I'm sure that they
20 did studies in the hospital also.

21 Q Okay.

22 A That would have confirmed that.

23 Q All right. And so you add Zocor as I read here to
24 his regimen of medications?

25 A That is correct.

1 Q And that's to address his hyperlipidemia?

2 A Yes, sir.

3 Q And hyperlipidemia back then in your view was also
4 certainly a contributing factor to coronary artery disease?

5 A Yes, sir.

6 Q Okay. What else did you prescribe for him on
7 July 27th, Dr. Harris?

8 A Plavix, which he would have been prescribed when
9 he left the hospital because of the stint placement, and I
10 had him come back to check his lipids. That's what RTO
11 means, return to office. FLP is fasting lipid profile. LFT
12 is liver function test, and FBS, which is fasting blood
13 sugar. I gave him Wellbutrin XR 150 milligrams, which is a
14 medication for depression, and have him come back in one
15 month. We want to check his heart, check the Wellbutrin use
16 and Wellbutrin along with the cigarettes, Wellbutrin will
17 also help him with smoking cessation.

18 Q Some impulse control is associated with Wellbutrin
19 use?

20 A Well, probably Wellbutrin is more used for
21 cigarette use here.

22 Q Okay. And he came back on August the 3rd?

23 A He had a cholesterol profile done in the office on
24 August 3rd. That is correct.

25 Q And he was weighed and his blood pressure was

1 taken?

2 A That is correct.

3 Q And explain to me back in 2001 how this worked in
4 your office. John showed up. Did he show up on your
5 instruction? This looks like about five days after his
6 earlier visit?

7 A It was in response to my plan, the note that I
8 just read where it said return to office for fasting lipid
9 profile.

10 Q Got it.

11 A And liver function test and FBS.

12 Q And he -- he did that?

13 A He did that, yes, sir.

14 Q Okay. And so he would have come back to the
15 office prepared to undergo those tests and those -- those --
16 that blood work was done?

17 A That's correct.

18 Q And -- and back then, Dr. Harris, was that blood
19 analyzed in your office or did you send it offsite?

20 A This was done in office.

21 Q Okay. And were those -- were those numbers
22 available while he's sitting there or does this take some
23 period of time?

24 A These numbers were available while he was in the
25 office.

1 Q Did you -- did you talk to him that day?

2 A I'm unable to say if I talked with him. Well, I'm
3 unable to say.

4 Q Fair enough.

5 A Because I think the blood pressure below that goes
6 to the next visit.

7 Q Right. Those numbers -- explain each one of them
8 for me starting at the top. It looks like a TR.

9 A That's triglycerides. That's 141.

10 Q Is that elevated?

11 A No, sir. It's normal.

12 Q Next one?

13 A Total cholesterol 202.

14 Q And that is elevated or normal?

15 A By criteria it's elevated.

16 Q Next one?

17 A HDL cholesterol is 32. That is low. LDL
18 cholesterol is 147. That is elevated.

19 Q So you want the HDL to be high and the LDL to be
20 low?

21 A That's correct.

22 Q And he was upside down?

23 A Well, his HDL was low and his LDL was high.

24 Q Okay. What's your next entry there? I -- I
25 understand you didn't make it. What's it say?

1 A Blood drawn also for liver function test.

2 Q How about below the LDL, test, started on Zocor,
3 just started on Zocor?

4 A Yeah. Just started on Zocor, that is correct.

5 Q Okay. And he came back on August the 28th of
6 2001?

7 A Yes, sir.

8 Q And would that have been in follow-up to his
9 July 27th visit?

10 A Yes, sir.

11 Q And he was weighed, his blood pressure was taken,
12 his pulse was measured; correct?

13 A Yes, sir.

14 Q And your nurse wrote in "follow-up visit"?

15 A That is correct.

16 Q And you saw the patient. Read for us your entry,
17 please.

18 A It says no chest pain, shortness of breath or
19 edema. Physical exam, lungs are clear. Coronary, there's a
20 regular rate. Abdomen soft. Bowel sounds was positive.
21 Extremities, there's no edema. Vascular, pedal pulses are
22 plus two.

23 Q Now, on this visit it's the first time I -- that
24 edema and pedals are documented as having been checked by
25 you. Is there any particular reason that you chose to add

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1 that to your physical exam documentation on August 28th?

2 A Has to do with coronary artery disease.

3 Q Okay. And your diagnosis remained the same,
4 coronary artery disease and hyperlipidemia?

5 A That is correct.

6 Q And you wanted him back in the office -- just read
7 it for me rather than me trying to interpret it, Doc.

8 A Return to office for a fasting lipid profile and
9 LFT in one month, Zocor 40 milligrams, return to office in
10 three months, check blood pressure, check coronary artery
11 disease, discuss lipids.

12 MR. LEWIS: Off the record.

13 THE VIDEOGRAPHER: We are off record at
14 11:28 a.m.

15
16 (There was a short break, after which, testimony
17 continues as follows:)

18
19 THE VIDEOGRAPHER: We are back on record at
20 11:43 a.m. This is Tape Number Two in the
21 deposition of Dr. Harris.

22

23 BY MR. LEWIS:

24 Q Dr. Harris, before we broke you had finished
25 reading me your RX for the August 28th, 2001 visit, and the
Old Dominion Reporting

1 last entry there is discussed lipids?

2 A That's correct.

3 Q And that would have been intended to document the
4 fact that you talked to John about the fact that his
5 cholesterol was not where you wanted it to be?

6 A Yes, sir.

7 Q Other than taking Zocor can you tell me what if
8 any recommendations you made to him in that regard?

9 A I'm unable to remember details, but I would
10 imagine it would have been along the lines of reducing his
11 cholesterol intake and exercise, and to be mindful of his
12 calories.

13 Q Down at the bottom of that page there's an
14 11/27/01 entry that says "no show" with someone's initials.
15 Back then, back then being in 2001, would John have made his
16 follow-up appointment while he was still there on
17 August 28th?

18 A That's correct.

19 Q Okay. So the fact that he didn't show up on
20 November 27th was because he had a scheduled appointment in
21 your office's records and didn't appear for it?

22 A That is correct.

23 Q Had he called or offered some prediction to your
24 office that he wasn't going to make it, would that have been
25 documented as well?

1 A It would have.

2 Q So we can take it from this entry it was just a
3 you got up that day thinking you were going to see John and
4 John didn't show up in your door?

5 A That's correct.

6 Q All right. And was it your practice back then to
7 follow up with no shows by maybe having someone call him or
8 some other action being taken by your office to figure out
9 why he hadn't come back?

10 A I'm unable to say at this time what policy we had
11 in place.

12 Q Okay. The next entry I see for Mr. Mini is
13 January 15th of 2002; is that right?

14 A Yes, sir.

15 Q And again, Doctor, the copy I've got has this mark
16 drawn through it and all these slashes down on the bottom
17 half.

18 A The slashes are marks that I put to indicate that
19 the page should receive no more entries on.

20 Q And why would you have done that in this case?

21 A Because the page was not correct setup -- wasn't
22 correctly set up to receive entries.

23 Q Okay.

24 A And the other mark I -- again, I'm unable to
25 explain the other mark.

1 Q That -- that diagonal mark was not placed by you
2 or on this chart while it was in your office?

3 A That is correct.

4 Q Okay. And on January the 15th of 2002 it looks
5 like blood work was drawn or blood was drawn?

6 A That is correct.

7 Q Can you explain how that happened? And by -- I
8 don't mean that to be a dangling question. He's seen on the
9 28th of August and asked to return to check his blood
10 pressure and his coronary artery disease. He doesn't do so
11 timely, but when he does return blood's drawn, and it
12 doesn't look like he was seen by you, but you can correct me
13 there if you -- if you'd like?

14 A No. That is correct. He was in the office to
15 have his blood checked for cholesterol.

16 Q And was that something you told him to do back in
17 August?

18 A I'm unable to say at that time. He missed his
19 last appointment.

20 Q Right.

21 A So I'm unable to say how he was informed to come
22 back to the office.

23 Q Okay.

24 A But he would have been some way notified to do
25 this.

1 Q So his showing up on January the 15th you believe
2 to have been the result of some effort to communicate with
3 him by your office?

4 A That is correct.

5 Q Okay. And he showed up and blood was drawn, and
6 the numbers are recorded there. TC is what, Doctor?

7 A Total cholesterol.

8 Q 155 that's within normal; isn't it?

9 A It is.

10 Q Is that triglycerides?

11 A That's the next entry, yes, sir.

12 Q Is that number normal, elevated or low?

13 A It's normal.

14 Q How about his LDL and his HDL?

15 A LDL is below 100, which is considered normal. HDL
16 is 34, which is still considered low.

17 Q So his LDL has improved since you saw him last,
18 but his HDL has not?

19 A That is correct.

20 Q Okay. Is that your writing there to the right
21 that says "good results"?

22 A It is not.

23 Q Whose is it?

24 A I would think it would be -- I'm unable to say.

25 Q Fair enough.

1 A I don't recognize the handwriting.

2 Q And how about immediately below it where it says
3 "HDL still low," is that your hand?

4 A It is not.

5 Q It looks like it was initialed by somebody named
6 RB?

7 A Yes.

8 Q Who would that have been?

9 A That would have been Rosemary Balderston. She
10 would have been a physician who was working part time for me
11 at the time.

12 Q Okay. And HDL still low, q cal 40. What does
13 that mean. She wants his HDL up to 40?

14 A That is correct. That would be goal would be 40.

15 Q Got it. And then increase exercise?

16 A Yes.

17 Q All right. On November 17th of 2002 an entry was
18 made that says, "Mailed out card, normal blood work per
19 Dr. B." What card are they referring to that would have
20 been mailed if you know back in 2002? Let's see. Thank
21 you. It's a preprinted form with some of his -- with his
22 total cholesterol HDL, LDL and triglyceride numbers noted;
23 is that correct?

24 A Yes, sir.

25 Q And then the box is checked. It's kind of a
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1 multiple choice. The box is checked that says "Please call
2 to discuss abnormal results"?

3 A Yes, sir.

4 Q And when he called who was -- back in 2002 who
5 would he have talked to?

6 A The office nurse.

7 Q And -- and she was the person that was designated
8 by you to let patients know when they had abnormal
9 cholesterol results?

10 A That would have been correct, yes, sir.

11 Q Okay. And he showed up in your office on
12 January 28th of 2002?

13 A Yes, sir.

14 Q And was that per instructions from your nurse?

15 A I would think so.

16 Q Okay. He was weighed. His blood pressure was
17 taken, his pulse was taken, and his temperature was taken,
18 and the nurse wrote down that he was following up on
19 coronary artery disease?

20 A That's correct.

21 Q Were you treating his coronary artery disease in
22 any other way other than cholesterol management?

23 A Well, that's pretty much what it was, trying to
24 get him to quit smoking, exercise, weight loss. Those would
25 have been other factors in trying to improve coronary.

1 Q Okay. And you saw him that day. Would you read
2 for us what you wrote? Now, this form doesn't have the DX,
3 RX on it and that -- that would be why you slash marked it
4 out and said no more entries on this page?

5 A Well, it does, but it's upside down.

6 Q Got it. Okay. Read for us what you wrote,
7 Dr. Harris.

8 A Stop tobacco use. It says no, but the next thing
9 is reviewed medications, no chest pain.

10 Q Well, what -- hold on. Tobacco use. Let's see.
11 Stop tobacco use no, does that mean that he hadn't stopped
12 smoking?

13 A That's correct.

14 Q All right. Continue. I interrupted you.

15 A Reviewed meds. No leg pain, unable to take ASA,
16 which is abbreviation for aspirin.

17 Q Right.

18 A Physical exam, lungs are clear. Coronary, there's
19 a regular rate. There were no murmurs. Abdomen was soft.
20 Bowel sounds were present. Extremities, there's no edema.
21 Vascular system there's no carotid bruits. Radial and pedal
22 pluses were plus two. Plus two is normal.

23 Q Right. And over to the right of your -- the word
24 "stopped" we see CAD and hyperlipidemia. That's intended to
25 be your diagnoses?

1 A That is correct.

2 Q Okay. And your RX, if you will, was return to the
3 office in three months to check blood pressure and fasting
4 lipid profile.

5 A Right, and above that had reviewed labs.

6 Q That meant you went over his labs with him?

7 A That's correct.

8 Q Okay. And you next see him in May?

9 A Yes, sir.

10 Q Vitals were taken again, and did you see him that
11 day?

12 A I did.

13 Q Read us what you wrote.

14 A Doing well, no chest pain, taking Plavix, unable
15 to take ASA, which is aspirin again.

16 Q Yes, sir.

17 A Exercises at the gym. Physical exam, lungs are
18 clear. Coronary, there's a regular rate, grade 2/6 systolic
19 murmur present. Abdomen was soft. Bowel sounds were
20 present, non-tender. Extremities, no edema. Vascular is no
21 carotid bruits. Pedal pluses are plus two.

22 Q Diagnosis?

23 A Coronary artery disease, hyperlipidemia, stopped
24 tobacco use.

25 Q And when it says "stopped tobacco" what does that
Old Dominion Reporting

1 mean?

2 A That he stopped.

3 Q That he has quit smoking as of this day?

4 A He's quit smoking, that's correct.

5 Q And TX is fasting lipid profile?

6 A Yes, sir.

7 Q Return to the office three months to check heart.

8 What does check heart mean?

9 A To listen to his heart and basically to check the
10 medications and see how he's doing as far as his coronary
11 artery disease.

12 Q Okay. And repeat fasting lipid profile in six
13 months?

14 A That's correct.

15 Q The next entry is 5/20, and it says, "Card mailed
16 per Dr. Balderston. Labs good results, recheck 6/12,
17 continue Zocor 40 milligrams." Do I take it from this,
18 Dr. Harris, that at some point after 5/3 he came in and had
19 blood work done?

20 A That is correct, sir.

21 Q And he came back on August 2nd of '02?

22 A That is correct.

23 Q Vitals taken, follow-up for coronary artery
24 disease, and you wrote what, sir?

25 A Doing well, no chest pain. Lungs were clear.
Old Dominion Reporting

1 Coronary is a regular rate, grade 2/6 systolic murmur.
2 Abdomen soft. Bowel sounds was present.

3 Q Diagnosis remained the same as in May?

4 A That is correct.

5 Q And under TX what did you write there?

6 A Aceon four milligrams, which is a blood pressure
7 medication.

8 Q Aceon, A-C-E --

9 A -- O-N.

10 Q -- O-N. Okay.

11 A Yes, sir. Return to office in six months, check
12 blood pressure, check BMP, check lipids.

13 Q What had changed about his blood pressure,
14 Dr. Harris, that led you to add blood pressure medicine to
15 his medication regimen?

16 A When I checked it was 160/90, which is clearly
17 indicating for further treatment.

18 Q And at the time you were taking care of this
19 fellow in August of '02 did you formulate an opinion as to
20 why when you took his blood pressure it was significantly
21 elevated over when your nurse did it?

22 A I'm unable to tell why there's a discrepancy.

23 Q Think you made him nervous? Withdraw that
24 question. Just kidding. What's the entry on 8/26?

25 A Faxed RX to Revco, authorize to -- that must have
Old Dominion Reporting

1 been an insurance plan.

2 Q Okay. And over to the right we see what
3 medications were called in?

4 A That is correct.

5 Q And Dr. Vera was a doctor -- Dr. H and Dr. Vera
6 were both people who worked with you at the time?

7 A Yes, sir.

8 Q Why would there have been two doctors noted on
9 that entry instead of just one?

10 A Well, I'm the only physician that's -- well,
11 Dr. Vera is the only physician on that -- well, per Dr. H
12 was from me.

13 Q Oh, okay. Okay. I'm with you.

14 A That's by my --

15 Q Well, why would Zocor be per you and Plavix be per
16 Dr. Vera?

17 A I'm unable to answer that question. There was no
18 reason. Dr. Vera could have authorized Zocor as well as I
19 did. I would -- just guessing from the sequence of the
20 events that it was done as I was asked one question, then I
21 left and then they needed some more information and they
22 couldn't -- I wasn't available.

23 Q Okay. The next entry I see here, Doctor, is
24 January 22nd of '03. Is that correct?

25 A That is correct.

1 Q And it says Plavix. Is that -- is that your
2 handwriting?

3 A No, it's not.

4 Q Did the patient show up in your office that day?

5 A I'm unable to tell.

6 Q Okay. But a Plavix prescription was either
7 written or refilled?

8 A That is correct.

9 Q And immediately below that it was faxed to the
10 Revco?

11 A I'm unable to tell if that was the Plavix or some
12 other -- well, it was because it says out to the right it
13 was a Plavix prescription.

14 Q Yes, sir. And Mr. Mini showed up in your office
15 again on February 7th of '03?

16 A That is correct.

17 Q Vitals taken?

18 A That is correct.

19 Q And complained to your nurse of being -- of
20 fatigue?

21 A Yes, sir.

22 Q And you saw him and wrote what, sir?

23 A No chest pain, shortness of breath.

24 Q Does that mean no shortness of breath as well?

25 A Yes, sir.

1 Q All right. Go ahead.

2 A Physical exam, the lungs were clear. Coronary is
3 a regular rate, grade 2/6 systolic murmur. Abdomen was
4 soft. Bowel sounds was present. Extremities, there's no
5 edema. Vascular is no carotid bruits.

6 Q And you just brought forward your diagnoses from
7 your May 3rd, 2002 visit?

8 A That is -- that is correct, sir.

9 Q And continued his Plavix but it says per Dr. Vera.
10 What does that mean? Is that something -- is that a
11 carryover from above?

12 A I think that's a carryover from above.

13 Q Okay. And so you wrote what under -- under
14 treatment?

15 A BMP, which is basic metabolic profile, FLP, ALT.
16 FLP being the fasting lipid profile.

17 Q What's an ALT?

18 A It's a liver test.

19 Q And the AS what?

20 A T, that's also a liver test.

21 Q Okay. And keep reading.

22 A Increase protein, decrease carbohydrates.

23 Q So that's intended to document the fact that you
24 talked to John about his diet?

25 A That's correct.

1 Q Okay. Keep reading.

2 A Return to office in three months, check blood
3 pressure, check BMP, check lipids, check fatigue.

4 Q What did you -- can you tell from reading this
5 entry, Dr. Harris, what you made of his complaints of
6 fatigue after your evaluation of the patient?

7 A Well, sometimes diet can be an issue, lifestyle,
8 not sleeping enough, stresses of life.

9 Q Okay. The next entry is February 10th. What is
10 that?

11 A Those are lab values.

12 Q So he came back on the 10th and had more lab work
13 done?

14 A It appears that to be the case.

15 Q Okay. And the last entry, mine is partially cut
16 off, but it looks like it says, "Mailed card as above." I
17 can't read the rest of it?

18 A You're talking about 2/10?

19 Q Ten, yes, sir.

20 A It says, "Mail card as above. Patient to call
21 office to discuss results."

22 Q Got it. This would have been -- have been much
23 like we talked about for his May interaction with your
24 office, the same process? You mail him something?

25 A That's correct.

1 Q Asking him to call in?

2 A Yes, sir.

3 Q Okay. And the next entry is March 3rd, refill for
4 Plavix?

5 A That is correct.

6 Q And March 14th a prescription was faxed to the
7 Rite Aid?

8 A That is correct.

9 Q And what's the date on the next entry? Is that
10 May 5th?

11 A Yes, sir.

12 Q And it says, "No show for appointment." Is that
13 going to be the same deal as the last time. This was an
14 appointment that had been scheduled for him when he was in
15 your office earlier?

16 A Yes, sir.

17 Q Okay. And he just didn't show up; correct?

18 A That's correct.

19 Q And what's the date on the next entry there;
20 Dr. Harris?

21 A 9/8/03.

22 Q Okay. You may have already answered this for me,
23 but back in 2003 would any effort have been made to contact
24 Mr. Mini to see why he hadn't come in as -- as planned?

25 A I'm unable to say that.

1 Q Okay. But on September the 8th of '03 some
2 medications were refilled?

3 A That is correct.

4 Q Can you tell me if that's a result of John calling
5 your office, the pharmacy calling your office, either or
6 both?

7 A I'm unable to say.

8 Q Next entry is November 25th. A Viagra
9 prescription was written or authorized; correct?

10 A That's correct.

11 Q And, again, you can't tell me if that's because
12 John called or the pharmacy called?

13 A That is correct.

14 Q But the next day it was called in to Larry at ECU.
15 ECU is what, an insurance plan?

16 A I'm unable to say.

17 Q Okay. Be that as it may, when did John next show
18 up?

19 A December 15th, 2003.

20 Q Vitals were taken; correct?

21 A Yes, sir.

22 Q And you saw the patient?

23 A That's correct.

24 Q Read me what you wrote, please, sir.

25 A Saw cardiologist. I'm unable to make out the next
Old Dominion Reporting

1 word. Stress test without ischemia. Saw Dr. Nichols, MRI.
2 Dr. Nichols is an orthopedist.

3 Q Yes, sir.

4 A MRI right shoulder, rotator cuff tear, no chest
5 pain, no edema or shortness of breath, activity none,
6 working, smoking, four to five hours of sleep a night.
7 Physical exam, mouth/throat, pharynx is red. Neck, there's
8 no nodules. Lungs are clear. Coronary, there's a regular
9 rate, grade 2/6 systolic murmur. Extremities, there's no
10 edema. Vascular, pedal pulses are plus two.

11 Q Okay.

12 A Not sleeping through the night, four to five hours
13 sleep per night, tired by -- let's see. To bed by ten, up
14 at seven.

15 Q Diagnosis?

16 A Coronary artery disease, right shoulder pain,
17 tobacco use, hyperlipidemia, fatigue.

18 Q And what did you -- what did you -- what did you
19 do for him?

20 A We checked his lipids again. To see Dr. G.
21 Nichols, rotator cuff repair, return to office in four
22 months, fasting lipid profile, chest pain, tobacco use, gave
23 him Remeron 30 milligrams.

24 Q What's that?

25 A It's a drug to help with sleep, but its
Old Dominion Reporting

1 classification is an antidepressant.

2 Q Okay.

3 A Return to office in one month.

4 Q And when did he return?

5 A July 12th, 2004.

6 MR. PENNER: January sheet.

7

8 BY MR. LEWIS:

9 Q My index is showing that he showed up again on
10 January the 12th of 2004, Doctor, but I haven't found the
11 chart entry that corresponds to that.

12 A It is. I have that, sir.

13 Q Okay.

14 A That was my error.

15 Q So he comes back in December of '04 -- I'm
16 sorry -- January of '04, January 12th, specifically?

17 A Yes, sir.

18 Q And his vitals were taken. It's noted he's there
19 for a one month follow-up. Read me what you note.

20 A Not taking Remeron.

21 Q What was Remeron?

22 A It was an antidepressant.

23 Q That you gave him to help him sleep?

24 A Yes, sir.

25 Q Go ahead.

1 A Joint pains keeping up, stop tobacco, no surgery
2 to shoulder, fatigue resolved, sleeping okay, no chest pain,
3 taking HCTZ, which is abbreviation for hydrochlorothiazide
4 and Aceon.

5 Q Had you prescribed the HCTZ for him?

6 A I don't remember having done that in the notes
7 anywhere.

8 Q I don't either. I'm curious as to whether or not
9 you knew where he got that prescription from.

10 A I would think the cardiologist may have added,
11 because he had seen the cardiologist I think just prior to
12 this visit or to my last visit.

13 Q Okay. And your diagnosis, tobacco use one cigar a
14 day since January of '04, coronary artery disease,
15 hypertension, hyperlipidemia with a low HDL?

16 A Yes, sir.

17 Q Okay. And read me your treatment plan for him.

18 A BMP.

19 Q Which is?

20 A Basic metabolic profile.

21 Q Okay.

22 A Fasting lipid profile, protein shakes four hours
23 previous. Basically he's letting me -- I'm letting the lab
24 know that that may be altered somewhat. It being the
25 cholesterol profile.

1 Q Because?

2 A Of the proteins. Increase Aceon eight milligrams,
3 return to office in three months, check blood pressure,
4 check BMP, check FLP.

5 Q And the next entry I see is the next day, Doctor.

6 A That is correct.

7 Q And what -- that is what, a documentation of
8 what his --

9 A Cholesterol.

10 Q -- his cholesterol was determined to be?

11 A Yes, sir.

12 Q And was -- he was started on Zocor. Is that your
13 entry?

14 A Yes, sir.

15 Q Okay. So you saw him the next day; do I -- do I
16 read that correctly?

17 A I may not have seen him. Those are the numbers.
18 I wrote the numbers in the chart. I could have looked at
19 the lab work and written in the chart, and the nurses would
20 have taken that off.

21 Q Got it. The next entry I see is January 29th of
22 '04. Read that for me.

23 A Patient with Crestor and Zocor RXs, prescriptions
24 to take. Crestor 40 at bedtime. This is prescription which
25 should be followed. In other words, he had two

1 prescriptions and I was saying that he should start the
2 Crestor prescription versus the Zocor prescription. He's to
3 come back in one month, check a lipid profile and ALT.

4 Q And so he was in the office on the 29th?

5 A That is correct.

6 Q All right. And there's another January -- January
7 29th entry immediately below that. Patient advised continue
8 taking Crestor 40 milligrams?

9 A Let me -- I'm unable to really tell if he was in
10 the office that -- that day or not on the 29th.

11 Q Okay.

12 A It is my entry, but I'm unable to tell if he was
13 there or if I saw him or not.

14 Q Okay. And on March the 1st of '04, what's that
15 entry?

16 A FLP, ALT drawn.

17 Q And March 5th the numbers are documented?

18 A Yes, sir.

19 Q Was he in the office that day or can you tell?

20 A I'm unable to tell.

21 Q Okay. March 10th it's noted that the patient was
22 informed. Would that be he was informed of the results of
23 the test?

24 A Yes, sir.

25 Q April 12th he comes back in and his vitals are
Old Dominion Reporting

1 taken again; correct?

2 A Yes, sir.

3 Q And read me your entry.

4 A Continue to smoke, no chest pain, fasting, feet
5 okay.

6 Q What does fasting mean, Doctor?

7 A He hasn't eaten in the last eight to twelve hours.

8 Q And was that in anticipation of having his blood
9 glucose tested?

10 A Or his lipids.

11 Q Or his lipids, all right. Feet okay, what does
12 that mean?

13 A He's not having any pain with his feet.

14 Q Had he --

15 A Or swelling.

16 Q Did he have a history of foot or -- pain or edema?

17 A Yes, sir.

18 Q Okay. Keep reading. I'm sorry I interrupted you.

19 A Lung, no wheezing, rales or rhonchi. Coronary is
20 a regular rate, grade 2/6 systolic murmur. Extremities,
21 there's no edema. Vascular, the pedal pulses are plus two.
22 Discussed Prozac and looks like quality.

23 Q What does that mean?

24 A I would think quality of life.

25 Q Do you have any recollection or can you tell from
Old Dominion Reporting

1 this chart entry what the sum and substance of that
2 conversation would have been?

3 A No, sir.

4 Q Diagnosis, tobacco use, CAD, hypertension,
5 hyperlipidemia, low HDL, also -- what's -- what's that last
6 entry under diagnosis?

7 A Abnormal LFT.

8 Q And treatment plan, read that for me.

9 A Fasting lipid profile, ALT, Prozac 20 milligram
10 samples.

11 Q So you -- had he been off of Prozac for a while
12 and now you're putting him back on?

13 A Yes, sir. He stopped Prozac a good while back.

14 Q The next entry is two days later and it's
15 documenting the lipid profile?

16 A Yes, sir.

17 Q And on the 27th it's charted that the patient was
18 contacted and told about his numbers.

19 A That is correct.

20 Q Do you know whether John was sophisticated enough
21 for your office to call him and actually give him the raw
22 numbers or were they just calling to say, "John, your --
23 your lipids are still out of whack. You've got to continue
24 doing what Dr. Harris has asked you to do"?

25 A Generally the nurses were instructed to tell them
 Old Dominion Reporting

1 whether the numbers were elevated or decreased.

2 Q Okay.

3 A And to either take the medications or not take
4 medications or follow a low cholesterol diet.

5 Q Okay. Next time you saw this fellow is July 12th,
6 '04?

7 A Yes, sir.

8 Q Vitals taken, and read me what you wrote.

9 A Fasting, no meds for one-and-a-half months.

10 Q Let me stop you right there, Dr. Harris. Can you
11 tell me what that meant?

12 A Yes, sir. He was fasting. He hadn't eaten for
13 eight to twelve hours. He hadn't taken his medications for
14 one-and-a-half months because he had none.

15 Q He had let the prescriptions lapse?

16 A I would think so.

17 Q Okay.

18 A I'm unable to say that. He just hadn't had his
19 medications for one-and-a-half months.

20 Q Okay.

21 A That's what I can --

22 Q That's what you can tell me?

23 A Yes, sir.

24 Q And continue reading, please.

25 A Out of Plavix, stopped Zocor and Crestor, tobacco
 Old Dominion Reporting

1 use continues, taking no Prozac. Physical exam, lungs are
2 clear, no wheezing, rales or rhonchi. Coronary, there's a
3 regular rate, grade 2/6 systolic murmur. Extremities,
4 there's no edema. Vascular, pedal pulses I didn't put a
5 number, but I would suspect they would have been normal, but
6 I didn't put that in the chart.

7 Q Yes, sir.

8 A Viagra gives headaches.

9 Q Your practice back in 2004 had been to note it had
10 his pedal pulses been abnormal?

11 A That would have been correct, yes, sir.

12 Q Okay. Diagnosis, pretty much the same stuff we've
13 seen along. Under TX would you read for me what you wrote?

14 A Fasting lipid profile, BMP, Tenormin 50
15 milligrams.

16 Q What's that?

17 A It's a drug we use to treat blood pressure. Also
18 we treat coronary artery disease with it sometimes.

19 Q So do you know why you gave it to him? Was it for
20 both? His pressure doesn't look too bad that day.

21 A No. His blood pressure is bad. It's 140/95.

22 Q Okay. So his diastolic is elevated?

23 A Yes, sir.

24 Q Keep reading. I'm sorry.

25 A Zocor 80 milligrams, Plavix 75 milligrams, Levitra
Old Dominion Reporting

1 10 milligrams, return to office in three months, check blood
2 pressure, check the fasting lipid profile.

3 Q Okay. And on the 14th his lipid profile numbers
4 are documented?

5 A Yes, sir.

6 Q And on the 19th he's called and told about it?

7 A Yes, sir.

8 Q And what's -- they punched a hole through my date
9 there. What's the next time he showed up in your office?

10 A 8/16/2004.

11 Q And, again, his vitals were taken?

12 A Yes, sir.

13 Q And it was noted that he was there for a one month
14 follow-up?

15 A That is correct.

16 Q Can you explain for us why he was there for a one
17 month follow-up when you had told him he didn't need to come
18 back for three?

19 A I'm unable to tell that.

20 Q And when you saw him that day would you tell us
21 what you wrote?

22 A Wife and employer would like for patient to
23 restart Prozac. Fasting. Levitra doesn't give headache.
24 So I would suspect given what you've just said the patient
25 was there because of the employer and wife wanting him to

1 restart Prozac.

2 Q Can you tell me what his symptoms were that they
3 were taking stock of that led them to make that request?

4 A No, sir, I'm not.

5 Q You had previously prescribed Prozac for anxiety
6 as I recall?

7 A And depression, yes, sir.

8 Q Both?

9 A That is correct.

10 Q Okay. Let's see. The last two lines there are?

11 A Uses occasional cigarettes daily, losing weight.

12 Q Under diagnosis your last two entries are what,
13 abnormal LFT?

14 A Yes, sir.

15 Q And what's LFT again?

16 A Liver function test.

17 Q Do you recall -- is this the first time you have
18 documented an LFT?

19 A No, sir.

20 Q It's something he's had before?

21 A Yes, sir.

22 Q Okay. And you've added anxiety to the list of
23 diagnoses?

24 A Here, yes, sir.

25 Q Which relates over to what we were talking about
Old Dominion Reporting

1 about Prozac?

2 A That's correct.

3 Q Okay. And read for me TX, please.

4 A Prozac 20 milligrams, fasting lipid profile,

5 patient left without -- I guess this is blood draw.

6 Couldn't wait. Return to office in three months, check

7 lipids, check blood pressure, check tobacco use, check

8 weight.

9 Q Did the wife show up with him at this visit?

10 A I'm unable to tell from my note.

11 Q And what was the date of that visit again, Doctor?

12 A 8/16/2004.

13 Q And he was asked to come back in three months, and

14 his November 16th, 2004 visit he didn't show up; correct?

15 A Yes, sir.

16 Q Again, apparently with no explanation from him?

17 A That's correct.

18 Q But on February 23rd of '05 his Plavix was

19 refilled?

20 A Yes, sir.

21 Q And March 28th of '05 it's noted that the Zocor

22 prescription was faxed to Walgreen's; correct?

23 A Yes, sir.

24 Q And on 5/9 of '05 Walgreen's called and Prozac and

25 Zocor were prescribed. Does that mean your office called

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1 Walgreen's or Walgreen's called you?

2 A Walgreen's called us.

3 Q And that would have been, if you know, because
4 Mr. Mini needed his prescriptions refilled?

5 A Yes, sir.

6 Q Okay. It also says made him an appointment 6/6 of
7 '05 with somebody's initials. Does that tell us that this
8 action generated a call from your office to him going, "We'd
9 like to see you"?

10 A Yes, sir.

11 Q Okay. And he showed up on 6/6 of '05?

12 A Yes, sir.

13 Q And his vitals were taken yet again?

14 A That is correct.

15 Q Chief complaint, fatigue, sore throat, head and
16 chest congestion -- congestion; correct?

17 A I'm unable to find the 6/6/05.

18 Q Here's mine.

19 MR. PENNER: It's going to look like this,
20 Doctor. It's right here.

21 THE WITNESS: Is it? Okay. Thank you.

22 Sorry. Okay.

23

24 BY MR. LEWIS:

25 Q Chief complaint was fatigue, sore throat, head and
Old Dominion Reporting

1 chest congestion?

2 A Yes, sir. That's correct.

3 Q And read us what you wrote, Doctor.

4 A For three months exhausted each night, felt like
5 getting a cold but never developed.

6 Q Keep going. Chest gurgles?

7 A Yes, when lying, nocturia, zero to one.

8 Q I didn't understand that last line. Chest gurgles
9 when what?

10 A Lying.

11 Q Lying, okay. And then what's the next entry,
12 nocturia?

13 A Zero to one.

14 Q Okay. And under diagnosis, read that for us.

15 A URI versus allergy, allergic rhinitis.

16 Q What's URI?

17 A Upper respiratory infection.

18 Q Okay. And the last entry under DX, check what?

19 A Versus both.

20 Q Okay. Plan was what?

21 A Three-hour postprandial 107. That was the lab
22 test in the office.

23 Q And what does that tell you?

24 A His glucose is a little elevated.

25 Q Okay.

1 A Nasonex is a medicine we use to treat allergy.
2 Return to office in one week, check fasting blood sugar,
3 check fasting lipid profile, ALT, BMP and check his meds.

4 Q And he came back on the 13th?

5 A That is correct.

6 Q Read us what you wrote under note.

7 A Smokes occasionally daily cigar, continue to feel
8 fatigued, not using Nasonex. Lungs clear, no wheezing or
9 rales. Coronary, there's a regular rate, grade 2/6 systolic
10 murmur. Extremities there's no edema. Vascular, pedal
11 pluses are plus two.

12 Q What's down there three lines down over to the
13 right?

14 A Continue weight loss.

15 Q And diagnoses appear to be about -- all about the
16 same except you've added -- what's that last entry, hyper
17 what?

18 A Glycemia.

19 Q Hyperglycemia, is that elevated blood sugar?

20 A That is correct.

21 Q Okay. And under plan, what's FBS 109 mean? These
22 are -- these are -- is that a value you drew when he was in
23 the office?

24 A Yes, sir.

25 Q Okay.

1 A It means fasting blood sugar.

2 Q Got it. So he's still a little above where you
3 want him?

4 A Yes, sir.

5 Q Plavix, Zocor, Tenormin, Prozac, what's that
6 last -- it looks like exercise?

7 A Yes, sir.

8 Q And you wanted him back in three months to check
9 those things you've noted?

10 A Yes, sir.

11 Q And when did he come back. Looks like July 27th
12 to me.

13 A That's -- he was in the office to have his
14 cholesterol checked.

15 Q That was on what, June 17th?

16 A July 27th.

17 Q How about June 17th, he -- is that just where they
18 noted the values from the blood they drew on the 13th?

19 A Yes, sir.

20 Q Okay. They came back in on the 27th for lab work?

21 A That's correct.

22 Q But he didn't come back in three months as
23 instructed on June 13th?

24 A That is correct.

25 Q The next chart entry is February 22nd of '06.
Old Dominion Reporting

1 Something was called in to Walgreen's. I can't read it
2 though; can you?

3 A TriCor.

4 Q What's that?

5 A Medication to help treat cholesterol,
6 triglycerides specifically.

7 Q Is that the first time you prescribed this
8 medicine for this fellow?

9 A Yes, sir.

10 Q And how is it that that comes to pass without an
11 office visit? Are you just relying on the lab values that
12 are noted earlier?

13 A That would have been the case. Now -- okay. The
14 last entry on this page before this one was July 2005.

15 Q Yes, sir.

16 A And this entry is February 2006, and it could have
17 just been out of order by the nurses.

18 Q Was he in the office on July 27th?

19 A Let me check.

20 Q Or -- or actually he was there on the 25th and
21 gave blood?

22 A Yes. That's correct.

23 Q All right. And the next time he comes back to
24 your office is when, Doctor?

25 A It looks like March of 2006.

1 Q March 27th he comes in and gives blood?

2 A That's correct.

3 Q Comes back in to go over it all on the 31st?

4 A That is correct.

5 Q All right. And on the 31st, as is your practice,
6 his vitals were taken again?

7 A Yes, sir.

8 Q And the nurse wrote mole check plus skin tag
9 removal. Do I read that correctly?

10 A That is correct.

11 Q And what did you write?

12 A Stopped tobacco use, lesion irritated by clothes,
13 requesting Cialis, needs refill on medications, reviewed
14 labs.

15 Q Where was the lesion that was irritated by clothes
16 if you remember?

17 A I don't remember from this note. Well, it says
18 right axilla. It's in physical exam.

19 Q It says -- is that -- physical exam, what's that
20 first word?

21 A Left.

22 Q And keep reading.

23 A Anterior shoulder .3 centimeters dome-shaped,
24 flesh-colored lesion right axilla, pedunculated lesion.

25 Q Okay. And what did you do in response to either
Old Dominion Reporting

1 of those, the mole and the skin tag, anything?

2 A He was sent to a plastic surgeon for removal.

3 Q Dr. Billet?

4 A Yes, sir.

5 Q Okay. Dr. Billet was the plastic surgeon in your
6 referral network?

7 A Yes, sir.

8 Q Read me your TX entry there, Doc.

9 A Cialis 20 milligram samples, discussed
10 cholesterol, Vytorin 80 milligrams, TriCor 145 milligrams,
11 return to office one month, check fasting lipid profile,
12 check ALT, three months check blood pressure, check chest
13 pain, chest BMP, check FLP, check ALT, check scar left
14 shoulder.

15 Q Why did you make the entry check chest pain in
16 three months?

17 A Just to check on his coronary disease. It's just,
18 again, another way of saying check the heart.

19 Q With you. And looks like on May the 8th he came
20 in and gave blood work?

21 A Yes, sir.

22 Q And again in July? I can't read that very well.

23 A July it looks like he had medications refilled.

24 Q Got it. How about the entry right above January
25 the 28th, what's the date on that entry?

1 A 6/29.

2 Q And what is that entry?

3 A TSH, which is a thyroid study.

4 Q So lab work earlier drawn was simply being
5 documented in his chart?

6 A That's correct.

7 Q Okay. When's the next time he showed up in your
8 office physically, Doc?

9 A I think it was June 2006.

10 Q June 26th?

11 A Yes, sir.

12 Q I got it. This entry is made on a different type
13 of form. Can you explain for me how that came to be?

14 A Yes, sir. I changed my way of doing my progress
15 notes.

16 Q Why?

17 A My practice evolved over a period of years, and I
18 try to make it better.

19 Q And so this preprinted form was intended by you to
20 replace the preprinted forms that we have been reading this
21 morning?

22 A That is correct.

23 Q Okay. He comes in on June 26th. All the way up
24 at the top it says three month checkup. Do I read that
25 correctly?

1 A Yes, sir.

2 Q Prescription Levitra; correct?

3 A That's correct.

4 Q Hands hurt, maybe golf; correct?

5 A Correct.

6 Q Is that your handwriting?

7 A It is not.

8 Q Vitals taken yet again and then you come in and
9 make your entry. Would you read it for me?

10 A Unable to lose weight, fasting, doesn't know if
11 med refills needed or not. Two weeks ago developed two to
12 three second pain in left chest. Playing golf and going to
13 the gym three times a week, aerobic and anaerobic, fingers
14 hurt, i.e., swelling and couple of months for edema of legs.

15 Q Read that last entry again.

16 A No edema of legs, couple of months. That's for
17 swelling.

18 Q Does that mean it has been swelling for a couple
19 of months or they haven't swollen for a couple --

20 A They have. He's talking about his fingers.

21 Q Got it.

22 A And no edema of the legs.

23 Q But no edema of the legs?

24 A That's correct.

25 Q All right. Physical exam?
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1 A Lungs are clear. There's no wheezing, rales or
2 rhonchi. Coronary there's a regular rate, grade 2/6
3 systolic murmur. Abdomen is soft. Bowel sounds were
4 present. Extremities, there's no edema of feet, hands. I'm
5 unable to say what that is.

6 MR. PENNER: Is it puffy?

7 A Puffy, right. Hands -- all right. It's no edema
8 of the feet. Hands are puffy, pedal plus two.

9

10 BY MR. LEWIS:

11 Q And under plan what did you write?

12 A Levitra, CBC, which is a complete blood count,
13 CMP, sed rate, RF, which is rheumatoid factor. ANA is a
14 test that we use to screen for lupus, TSH, UA urinalysis,
15 which is what the UA, return to office in three months,
16 check blood pressure, check BMP, check FLP, check ALT, check
17 hands, return to office one week, check UA.

18 Q What's UA?

19 A Urinalysis.

20 Q What were you looking for there if you can tell me
21 from looking at this chart or from memory?

22 A Protein.

23 Q And why were you looking for protein in his urine?
24 What were you --

25 A If you have low protein that can cause swelling
 Old Dominion Reporting

1 and if you're depleting protein from the body because the
2 kidneys are not doing what they should then it would show up
3 in the urine.

4 Q And down in the lower right-hand corner it looks
5 like you've listed his diagnoses, although there's no
6 heading. Am I correct there?

7 A It's on the left side, and you just see a little A
8 on the side of the paper. It says assessment.

9 Q It got cut off on mine. Read me what you wrote
10 there.

11 A Coronary artery disease, hyperlipidemia with low
12 HDL, edema of the hands, abnormal LFT, HTN, which is
13 abbreviation for hypertension, hematuria, which is blood in
14 the urine.

15 Q And what was your response to hematuria? How did
16 you address that in your plan for this fellow?

17 A I had him come back in a week to check it and see
18 if it was real. A lot of times if he's weight lifting,
19 weight lifters can have blood in the urine.

20 Q This says return in three months. Where do you
21 get the fact that you had him come back in a week?

22 A If you would read the last line on your left side.

23 Q Return to office one week to check UA.

24 A Yes, sir.

25 Q Got it. And he came back when, sir?

Old Dominion Reporting

1 A December.

2 Q So he didn't come back in a week?

3 A Let me check. Did not come back in a week. That
4 is correct.

5 Q Okay. When he came back, let's see, it was
6 December 7th?

7 A December 1st.

8 Q I'm sorry. I don't see that chart entry in
9 my copy -- yeah, I do. There it is. It's on your new form?

10 A Yes, sir.

11 Q Under chief complaint it says follow-up no
12 complaints?

13 A That's correct.

14 Q Vitals taken, and is that your handwriting under
15 MPI or whatever that word is?

16 A HPI.

17 Q HPI, is that you?

18 A It is.

19 Q Read it for me.

20 A Did not follow-up with hematuria, stopped Prozac
21 six weeks ago, stopped due to not caring about anything.
22 Hands continue to hurt, no edema, no light-headedness or
23 dizziness. Physical exam, lungs clear. There was no
24 wheezing, rales or rhonchi. Coronary, there's a regular
25 rate. There was no murmurs, gallops. Abdomen was soft.

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1 Bowel sounds was present. Extremities, there's no edema.
2 Pedal pulses are plus two.

3 Q Do you remember this visit?

4 A No, sir, other than the note.

5 Q Not caring about anything is, from what you and I
6 have been talking about this morning, uncharacteristic for
7 this fellow; isn't it?

8 A I think it's in line with depression or anxiety.

9 Q Okay. So from reading this note you would have
10 found that to be consistent with some of the earlier issues
11 he had presented you with?

12 A Yes, sir.

13 Q Okay. Your assessment, read that for me.

14 A Coronary artery disease, hyperlipidemia with low
15 HDL, hypertension and hand pain.

16 Q And your plan?

17 A Fasting lipid profile, BMP, ALT, glucosamine,
18 Altace, return to office in one month, BMP, blood pressure
19 and check hands.

20 Q And when did he come back?

21 A January 8th, 2007.

22 Q And the entry up there on the top of the page
23 right below his name, can you read that for me? It doesn't
24 appear to be in your hand.

25 A That is correct. It says one month blood
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1 pressure, blood work, hands.

2 Q So that is intended to tell me that he's back
3 there to have his blood pressure checked, his blood work
4 done and his hands followed up on?

5 A That is correct.

6 Q Okay. And go ahead and read your, what is it,
7 HPI?

8 A Yes, sir.

9 Q Read that for me.

10 A Doing well, hands now feeling better since doing
11 glucosamine, no edema.

12 Q Did you put him on glucosamine?

13 A Yes, sir.

14 Q During his last visit?

15 A That is correct.

16 Q Okay. And keep reading. Is that -- what is that,
17 physical exam?

18 A Yes, sir.

19 Q What does it say?

20 A Lungs clear, no wheezing, rales or rhonchi.
21 Coronary, there's a regular rate, grade 2/6 systolic murmur.
22 Abdomen is soft. Bowel sounds was present. Extremities,
23 there's edema. Pedal pulses are plus two. There are no
24 carotid bruits.

25 Q And on your assessment?

1 A Hand pain improved, hyperlipidemia with low HDL,
2 and the values for his cholesterol profile is beside that.

3 Q Yes, sir.

4 A Coronary artery disease, hypertension.

5 Q And your plan?

6 A Vytorin.

7 Q What's that?

8 A That's a combination drug of TriCor and Zocor,
9 continue Altace, Tenormin and Plavix.

10 Q What were you giving him Altace for?

11 A Blood pressure and for his heart.

12 Q Okay.

13 A But Altace has an indication for protection of the
14 heart.

15 Q Okay. Go ahead.

16 A Fasting lipid profile, ALT, continue glucosamine,
17 reduce once pain totally, I would think, gone, use --

18 Q But the word "gone" doesn't appear there?

19 A Is -- doesn't exist, that is correct.

20 Q All right.

21 A Use Ibuprofen for golf day, return to office in
22 three months, check blood pressure, check BMP, check FLP,
23 check ALT and check his hands.

24 Q And he came back when, Doc?

25 A Looks like June 2007.

1 Q June the 4th?

2 A That is correct.

3 Q You had asked him to come back in three months,
4 and it was actually six months before he came back?

5 A Yes, sir.

6 Q Did you inquire of him as to why he had delayed
7 coming back?

8 A No, sir, not from my chart notes.

9 Q And do your chart notes indicate a no show in
10 three months? I'm sorry. Three months from January the 8th
11 of '07?

12 A Yes, sir, it does.

13 Q And can you show me where because I didn't notice
14 that?

15 A Yes, sir.

16 MR. PENNER: I'll hand you mine.

17 MR. LEWIS: That's fine. I don't care who
18 shows me. Let me see. I've got that somewhere.
19 I've seen it. Got it.

20

21 BY MR. LEWIS:

22 Q That's April 23rd of '07?

23 A Yes, sir.

24 Q He was a no show, okay. Thank you, sir.

25 MR. PENNER: Thank you, sir.

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BY MR. LEWIS:

Q And when he came back on June the 4th, it was noted that this was his three month follow-up?

A Yes, sir.

Q Even though it had been six months?

A That's correct.

Q And it was noted that he hadn't taken any medicine for four days?

A That is correct.

Q And you came in and under HPI wrote what, sir?

A No complaints.

Q Physical exam?

A Lungs were clear, no wheezing, rales or rhonchi. Coronary is a regular rate, grade 2/6 systolic murmur. Abdomen was soft. Bowel sounds was present. Extremities, there's no edema. Vascular, pedal pulses are plus two.

Q Assessment?

A Hyperlipidemia with the following values. Coronary artery disease, hypertension, erectile dysfunction.

Q And plan -- let's see. Above plan it says what, reviewed FLP, ALT, BMP?

A That is correct.

Q Does that mean you went over those numbers with John?

1 A Yes, sir.

2 Q Okay. And under plan, read that for me. Why is
3 his name stricken? Stricken is a bad word. Interlineated?

4 A It wasn't -- it shouldn't have been there.

5 Q The name shouldn't have been there?

6 A That's correct.

7 Q That didn't belong in that spot on the form?

8 A That is correct.

9 Q Okay. And did you write it in there?

10 A It looks like my writing.

11 Q And did you interlineate it?

12 A I would have.

13 Q When?

14 A I would think at the time I wrote the note.

15 Q Okay.

16 A Let me put it this way, I didn't do it after the
17 suit was filed.

18 Q Okay. I didn't intend to imply that you did, but
19 thank you for adding that to your answer. Read me the rest
20 of what you wrote under plan, Dr. Harris.

21 A Atenolol 50 milligrams, Zocor 80 milligrams,
22 Altace 10 milligrams, ASA 81 milligrams, Levitra 20
23 milligrams, return to office in one month, check blood
24 pressure, check fasting lipid profile, check ALT, check BMP.

25 Q And when did he come back?

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1 A Looks like January 2007.

2 MR. PENNER: Is it January or October?

3 A Let's see. This was the previous one. So it
4 would have been in October. I'm sorry. October 15th, 2007.

5

6 BY MR. LEWIS:

7 Q And he had -- he no showed a July appointment for
8 his one month follow-up?

9 A That is correct.

10 Q And on October -- the next visit was when, sir?

11 A October 15th, 2007.

12 Q And when he came in on October 15th as I read his
13 chief complaint it was abdominal pain, left flank pain and
14 right back?

15 A That is correct.

16 Q And what did you write?

17 A Pain around umbilicus which is constant. Above
18 that was written fasting, which means hadn't eaten for the
19 last eight to twelve hours.

20 Q Yes, sir.

21 A Now has tenderness in left lower quadrant. Five
22 days ago right low back started hurting, taking Advil which
23 improves but stomach is causing problems. Goes away in
24 three days but returns. Bowel movement's okay when pain not
25 present. With pain very little and is hard. Abdominal pain

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1 awakens. Physical exam, lungs clear, no wheezing, rales or
2 rhonchi. Coronary is a regular rate, grade 2/6 systolic
3 murmur. Abdomen soft. Bowel sounds was present.
4 Tenderness, transverse and sigmoid colon area. "Area" is
5 not in the note.

6 Q What -- tenderness? What does the note say?

7 A Tenderness transverse and sigmoid colon.

8 Q Okay.

9 A No rebound or guarding. Pedal pulses plus two.
10 Extremities, no edema.

11 Q Okay. And under your assessment what did you
12 write, sir?

13 A Abdominal pain, hyperlipidemia with low HDL,
14 hypertension, coronary artery disease and low back pain.

15 Q And under plan?

16 A Fasting lipid profile, basic metabolic profile,
17 ALT, abdominal x-ray, flat and upright. That's what the
18 arrows mean.

19 Q Yes, sir.

20 A CT scan of abdomen with and without contrast.
21 Abnormal gas pattern is the reason for doing the CT scan of
22 the abdomen.

23 Q What do you mean by that? What abnormal gas
24 pattern had you noted?

25 A You see abdominal x-ray that was done in the
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1 office. I looked at the x-ray and noticed an abnormality.

2 Q Okay. Is that the first time you had ever x-rayed
3 this fellow's abdomen that you can remember?

4 A Yes, sir.

5 Q And the next entry, Doctor, as I read is the
6 following day, the 16th?

7 A That is correct.

8 Q And was Mr. Mini back -- he was back in your
9 office the following day?

10 A That is correct.

11 Q How come?

12 A For the follow-up to the CT scan done the previous
13 day.

14 Q And you sent him out for the CT scan because that
15 equipment's not on site back then?

16 A That is correct.

17 Q Where did you send him?

18 A I think he went to Chesapeake General Hospital.

19 Q And how did you receive the results of that CT
20 scan? Would they have faxed you a report or called you?

21 A I received a copy of the report. How it came to
22 me I'm not quite clear.

23 Q Okay. That's fine. Read me your HPI entry.

24 A For follow-up to CT scan 15 October, discussed
25 with radiologist. So I talked with the radiologist about
Old Dominion Reporting

1 that.

2 Q Yes, sir.

3 A CT scan abdomen most consistent with colon cancer,
4 also has diverticulitis superimposed, requesting something
5 for pain, abdominal pain continues.

6 Q And under assessment?

7 A Diverticulitis colon cancer, adenocarcinoma,
8 coronary artery disease, hypertension, hyperlipidemia with
9 low HDL.

10 Q And plan?

11 A Discussed results of CT scan and colon cancer.
12 Discussed colon cancer, needle biopsy, colon mass. Lipitor
13 80 milligrams, Flagyl 250 milligrams, Cipro 500 milligrams,
14 Percocet 5/325, to hematologist/oncologist and radiation
15 oncologist, biopsy results available.

16 Q Dr. Harris, as I read all of these medical records
17 it appears to me, but correct me if I'm wrong, that from
18 this point forward your involvement with Mr. Mini was
19 monitoring his colon cancer and the various and sundry
20 treatments that were brought to bear for his benefit as a
21 result of that disease?

22 A My -- most of my approach with Mr. Mini at this
23 point was little with cancer because the radiation
24 oncologist, the hematologist/oncologist would have been
25 involved with that.

1 Q Okay.

2 A I would have very little to do with the treatment
3 of the cancer at that point.

4 Q Right. You're just kind of monitoring him?

5 A Yes.

6 Q Okay. Dr. Harris, at any time during your care
7 and treatment of this fellow did you perform any tests that
8 were intended to screen his colorectal condition?

9 A His colorectal condition was something that was
10 not known until the time of presentation on October 15th.

11 Q So at no time during your care and treatment of
12 this fellow did you do an occult blood exam digitally?

13 A I don't remember doing an occult blood exam.

14 Q Is there a reason why you never did?

15 A Other than he did not present for a wellness exam.

16 Q What does that mean?

17 A A wellness exam is an exam that I perform in my
18 office that requires a bit more time than the usual
19 presentation because of the amount of time that's involved
20 with those exams, and that's when we usually do cancer
21 screenings or screenings that -- beyond the usual practice.

22 Q Such as if I'm in your office for a wellness exam
23 in the time frame of let's say 1999 through 2005 what's that
24 wellness exam going to consist of?

25 A Review of systems, which basically we go over the
Old Dominion Reporting

1 various organ systems and see if there's any type of
2 abnormalities or if you're experiencing any type of
3 difficulties with those areas, then I discuss basically your
4 health from that point after an exam, which would include
5 examination of the prostate if you're in my office in 1999,
6 you're greater than 50 years old, and recommendations for a
7 colorectal exam by a gastroenterologist, and then we would
8 discuss your health as relating to exercise and to weight,
9 nutrition, sleep habits, those type things.

10 Q During the time you were taking care of Mr. Mini
11 did you recommend to him that he allow you to perform a
12 wellness exam?

13 A Please state that again.

14 Q Okay. As I understood your earlier answer, and if
15 I misunderstood it please tell me, you didn't do any
16 colorectal screening on this patient nor did you order any
17 colorectal screening on this patient because he never
18 presented for a wellness exam?

19 A I don't remember ever advising Mr. Mini of having
20 a colorectal exam while he was seeing me as a patient.

21 Q And -- and that was because of what?

22 A Mr. Mini presented me with acute events or chronic
23 events and not during the time of wellness exam.

24 Q Okay. In 1999 if you had a patient, a male, white
25 male who was 50 years old or older and he was in your office

1 for a wellness exam, did you recommend colonoscopy?

2 A Yes, sir.

3 Q Why?

4 A It was part of my practice, and it was part of the
5 coming changes in medicine at that time to do that.

6 Q And you did it in your practice for people who
7 were in for a wellness exam?

8 A That is correct.

9 Q I'm still -- and maybe I'm just not hearing you,
10 Doctor. I can't understand why you didn't tell John Mini
11 when he turned 50 that you thought it would be a good idea
12 to get a colonoscopy?

13 MR. PENNER: Objection. Asked and answered.

14 You can answer the question again, Doctor.

15 A I did cancer screenings and recommendations during
16 the time of wellness exams because they were much more
17 involved. Mr. Mini never presented for a wellness exam, and
18 I saw Mr. Mini when he presented to the office for acute
19 events or for evaluation of his chronic condition.

20

21 BY MR. LEWIS:

22 Q Did you ever ask him to come in for a wellness
23 exam?

24 A I don't remember asking him come to the office for
25 a wellness exam.

1 Q If you didn't ask him to come in for one how would
2 he know that that's the only way that he was going to get a
3 thorough examination from you?

4 MR. PENNER: Object to the form. It calls
5 for speculation.

6 MR. LEWIS: If -- if you're instructing him
7 not to answer that's fine.

8 MR. PENNER: I'm just objecting to the form.

9 MR. LEWIS: Okay.

10 MR. PENNER: And at a later time we'll move
11 to strike it and its answer.

12

13 BY MR. LEWIS:

14 Q You can answer, Doc.

15 A Our encounter forms for which Mr. Mini received
16 each time that he was in the office has a part of that --

17 Q This thing right here?

18 A Yes, sir.

19 MR. LEWIS: Mark that as two for me, please.

20 A It has a place on that --

21 MR. LEWIS: Hold on. Hold on. She's only
22 got two hands.

23

24 (Encounter Form was marked as Harris Deposition
25 Exhibit Number Two.)

1 BY MR. LEWIS:

2 Q Okay. Take a look at two and tell me what that
3 is.

4 A It's an encounter form that we use for the office.

5 Q And what's an encounter form do?

6 A Encounter form basically marks the charges that we
7 bill the patient, why the patient was there and the
8 diagnosis and any lab work that may be ordered for the
9 patient.

10 Q Okay. How is that encounter form going to tell
11 Mr. Mini that he should come to see you for a wellness exam?

12 A It just has the various services that are
13 available at our office.

14 Q Is it used as a menu for your patients to pick
15 what they want you to do?

16 A No. It's given to them as a record of their visit
17 to our office.

18 Q It's given to them as they're leaving; isn't it?

19 A Yes, sir.

20 Q After you have done whatever it is in your medical
21 judgment you deem appropriate to have done?

22 A At the time of his visit.

23 Q At the time of that visit?

24 A Yes, sir.

25 Q It also tells him how much money he owes?

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1 A That's correct.

2 Q Okay. Doctor, I think I asked you this, and if I
3 have I'm sure Mr. Penner will point that out to me. In 1999
4 and after if a white male age 50 or older came to you for
5 wellness exam, colorectal screening was one of the things
6 that you ordered?

7 MR. PENNER: You did ask and he has
8 answered, but he can answer it again.

9 MR. LEWIS: Thank you.

10 A Yes. That is correct.

11

12 BY MR. LEWIS:

13 Q And you didn't do that for Mr. Mini because he
14 never came to see you for a wellness exam?

15 A That is correct.

16 Q In 1999 and thereafter did you perform
17 sigmoidoscopies in your office?

18 A I did not.

19 Q If you wanted a patient scoped with a sigmoid,
20 whatever they call it, you sent him out?

21 A That is correct.

22 Q To a gastroenterologist?

23 A Yes, sir.

24 Q In 1999 and after if you wanted a patient screened
25 for colorectal cancer what was your first recommendation,

1 colonoscopy, sigmoid?

2 A I think at that time colonoscopy was being
3 recommended.

4 Q Okay. I'm almost done. From 1999 until Mr. Mini
5 stopped coming to see you to your knowledge did he have any
6 other primary care providers other than you?

7 A I'm unaware of any.

8 MR. LEWIS: Let's go off for a minute. I
9 might be finished.

10 THE VIDEOGRAPHER: We're off record at
11 12:59 p.m.

12
13 (There was a short break, after which, testimony
14 continues as follows:)

15
16 THE VIDEOGRAPHER: We are back on record at
17 one -- 1:00 p.m.

18

19 BY MR. LEWIS:

20 Q Doctor, during your care and treatment of Mr. Mini
21 did you find him to be a compliant patient?

22 A Mr. Mini usually presented to the office at times
23 of acute events or when we requested him to return to the
24 office.

25 Q Is that a yes or a no?

1 MR. PENNER: Object to the form.

2

3 BY MR. LEWIS:

4 Q Can you answer the question yes or no?

5 A It's hard for me to say whether Mr. Mini was
6 compliant or not. When we asked him to come to the office
7 specifically to get his medications he would come, but many
8 times -- I shouldn't say many, but sometimes -- a number of
9 times Mr. Mini would not show up for appointments that were
10 scheduled for him.

11 Q Okay. Other than being addicted to tobacco, did
12 Mr. Mini take your medical advice when you gave it to him?

13 MR. PENNER: Object to the form.

14 A I would think Mr. Mini took the medications but
15 beyond that I think there was not much conformity to what I
16 was trying to achieve.

17

18 BY MR. LEWIS:

19 Q In what respect?

20 A As far as trying to improve his health through
21 weight loss, through smoking cessation, through routine
22 visits to address issues. He'd take periods of time without
23 taking medications, and so it was important that those
24 medications be continued on a regular basis.

25 Q During your care and treatment of Mr. Mini to your
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1 way of thinking did any of his failings -- and that's my
2 word not yours -- contribute to his developing colon cancer?

3 A I'm unable to say that.

4 MR. LEWIS: Okay. Doctor, I think that's
5 all the questions I have for you. Thank you for
6 taking the time today to come here and answer
7 them.

8 THE WITNESS: Thank you.

9 MR. PENNER: No questions at this time.

10 THE VIDEOGRAPHER: This concludes the
11 deposition. We're off record at 12 -- at
12 1:02 p.m.

13 MR. PENNER: He'll read.

14

15 (The witness was excused.)

16

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1 COMMONWEALTH OF VIRGINIA AT LARGE, To-Wit:
2
3
4

5 I, Shannon A. Crittenden-Mann, a Notary
6 Public in and for the Commonwealth of Virginia at
7 Large, whose commission expires May 31, 2012, certify
8 that the foregoing videotaped deposition of CHARLES L.
9 HARRIS, MD, Defendant, was duly taken and sworn to before me
10 at the time and place for the purpose in the caption
11 mentioned, and that the foregoing is a true and
12 correct transcript to the best of my ability of the
13 testimony given by the witness.

14 I further certify that I am not a relative or
15 employee of attorney or counsel of any of the parties
16 or financially interested in the action.

17 Given under my hand this _____ day of
18 _____, _____.

19
20
21
22
23
24
25

Notary Public

Registration No. 217036