

CID EXAMINATION

IN RE: LORRIE MERCER

MAY 29, 2014

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1 in the top right corner.

2 A "Resident Management Functions?"

3 Q Yes. And you see about two-thirds of the
4 way down the page, there's a section called "The
5 Auto Planner?"

6 A Uh-huh.

7 Q Are you familiar with what the auto
8 planner is in SMART?

9 A Vaguely. Okay.

10 Q Do you know if program directors at Rehab
11 Care used the auto planning function in SMART?

12 A I don't know.

13 Q Okay. Do you see in the second bullet
14 under the auto planner section in Exhibit 9, it
15 says, "If treatment minutes were missed for the day,
16 the Auto Planner will add the missed minutes to the
17 next day --

18 A Oops. Where are you looking at?

19 Q The second solid bullet.

20 A Okay. Okay.

21 Q Do you see that?

22 A Yes, I do.

23 Q Do you see that right under that it says,
24 this only, underscore, applies to only Med A
25 residents in an assessment reference period?

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1 A Okay.

2 Q Are you aware of any clinical reason that
3 the auto planner would adjust for missed minutes
4 only for residents who were in an assessment
5 reference period?

6 MR. HENDRIX: Objection. Lack of
7 foundation.

8 A I can't think of one off the top of my
9 head. I'm not that familiar with the auto planning
10 tool or who uses it.

11 Q (By Mr. Shapiro) If you could turn to the
12 second to last page of the document. It says 714 in
13 the bottom right corner. Have you seen that page
14 before?

15 A Not specifically this page, no.

16 Q Have you seen parts of that page before?

17 A I have seen parts of this page.

18 Q Which parts?

19 A The bottom part for statistics. I don't
20 know if it's the exact format that I've seen before,
21 but I've seen something similar to this before.

22 Q Do you see in that section and there's --
23 on the left side it says, "Utilization Factor - Part
24 A?"

25 A Yes.

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1 MR. HENDRIX: No objection.

2 Q (By Mr. Shapiro) If you could turn a few
3 pages forward, it's called page 35, although I think
4 it's more than four pages ahead, and there's a slide
5 104 on utilization.

6 A "Utilization - Medicare Part A."

7 Q Take a moment to look at that, please.

8 MR. HENDRIX: And any of the slides you
9 need to keep in context.

10 A Did you want me to look at anything else
11 besides that one?

12 Q (By Mr. Shapiro) Not right now. So do
13 you see there's a definition of utilization and is
14 that the same as what we saw in the SMART manual
15 before?

16 A Yes.

17 Q And in both of those definitions, the
18 numerator for utilization is called "Capped RUG
19 Minutes." Do you see?

20 A I do.

21 Q Why was the term "capped" used there?

22 MR. HENDRIX: Objection. Lack of
23 foundation.

24 A I've heard that term before, but I -- I --
25 that's not a term that I would use.

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1 Q (By Mr. Shapiro) Why not?

2 A Well, capped means you kind of cap it
3 right at that number. Maybe the threshold for that
4 RUG would be better, but that's -- I think capped
5 can imply some negative things to it.

6 Q Such as?

7 A That we want to focus on just the specific
8 minutes and maybe not what's clinically appropriate,
9 but I don't believe that that's the intention of
10 this.

11 Q Do you see in the next bullet it says,
12 "Plan your minutes as close to the planned RUG level
13 as possible?"

14 A I see that.

15 Q Do you know where the planned RUG level
16 would be indicated for a program director? Is it
17 written down somewhere?

18 A I would say it must be. I'm not sure
19 where.

20 Q Do you know why that instruction was
21 given?

22 MR. HENDRIX: Objection.

23 A To plan the minutes as close to the RUG?

24 Q (By Mr. Shapiro) Right.

25 A I don't know what -- who -- who wrote that

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1 A Peggy Kleffner, Sandra Nettleton and
2 Shelley Johnson.

3 Q Did you have a supervisor review it?

4 A I worked with Carol Knutson on this and
5 then I would have submitted it to Debbie Miller, but
6 I know that Carol Knutson reviewed it.

7 Q Do you know if Debbie Miller reviewed it?

8 A I don't know for sure.

9 Q Okay. Did Carol Knutson approve it --
10 approve of it?

11 A The ultimate -- I don't know if this is
12 the final piece.

13 Q Do you have a final piece?

14 A This is no longer the -- a working
15 document. It was never -- and I'm trying to
16 remember, but I believe this was right at the time
17 of the acquisition, I remember sitting down with
18 Carol Knutson. We reviewed it, she made some
19 changes and at most, it would have been distributed
20 to Peggy Kleffner, Sandra Nettleton and Shelley
21 Johnson for review, but it was never implemented
22 beyond that. We never did anything with it.

23 Q Did you use it to provide training to your
24 colleagues?

25 A That was the ultimate intention, but it

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1 got canned because of the acquisition.

2 Q Did someone can it?

3 A It just -- it got dropped because there
4 were more urgent issues. The basic concept I
5 continued into Kindred and totally reform --
6 revamped it, which is a current document.

7 Q Do you still have access to the old
8 document?

9 A It would be on the Rehab Care share drive,
10 which I would need to contact IT to figure out how
11 to get on to it.

12 Q So according to the table of contents,
13 there's a section called "Red Flag Practices" that
14 starts on page 70; is that correct?

15 A Yes.

16 Q And if you turn to page 70, there is, in
17 fact, a section that starts red flag practices. Do
18 you see that?

19 A I do.

20 Q And then on the next page, do you see that
21 among the red flag practices is rounding?

22 A I see that.

23 Q And then did you write this?

24 A Yes, I did.

25 Q And you put an example below of what might

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1 planner that Rehab Care used?

2 A I believe that's the planner.

3 Q Have you used that had before or --

4 A No.

5 Q Have you looked at it?

6 A No.

7 Q Do you see it's got a section called
8 "Color Codes?"

9 A I see that.

10 Q It says blue is Medicare A today. Do you
11 see that?

12 A Yeah.

13 Q And then it says pink Med A and
14 assessment. Do you see that?

15 A Uh-huh.

16 Q And then down below, the third little
17 paragraph, it says, "In the morning, first plan
18 minutes for the Pink Patients. Then, plan minutes
19 for the Blue and other patients." Do you see that?

20 A I do.

21 Q And the pink patients, again, are those
22 who are Medicare patients during an assessment
23 period; correct?

24 A From this key, yes.

25 Q And there's an assessment period at 30

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1 days; correct?

2 A Yes.

3 Q Are you aware of any clinical reason why,
4 for example, someone in a 30-day assessment's
5 minutes should be planned before another Medicare

6 A -- before the minutes of another Medicare A
7 patient who is somewhere in between the 14 and
8 30-day assessment periods?

9 A I can't think of any. I don't know who
10 created this or if it was used either.

11 Q But you can't think of a reason why that
12 should be done?

13 A Why a person in -- that's in a 30-day
14 assessment should be planned ahead of somebody that
15 is not in an assessment period?

16 Q Correct.

17 A Off the top of my head, I can't think of
18 anything.

19 MR. SHAPIRO: Off the record.

20 (Whereupon, a brief break was taken.)

21 MR. SHAPIRO: I'm done.

22 MR. HENDRIX: She's reserving signature.

23 (Whereupon, the CID EXAMINATION of LORRIE MERCER
24 was concluded at 4:15 p.m.)

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