

1 things that you were being investigated for; is that
2 right?

3 A. That's what I was told.

4 Q. And this was a paid suspension, correct?

5 A. Yes.

6 Q. You talked about the interview that you
7 participated in with your counsel yesterday.

8 A. Yes.

9 Q. That's the interview with Ms. Trask and
10 Mr. Nienberg, correct?

11 A. Correct.

12 Q. The date of that interview was October 6,
13 2014?

14 A. That's correct.

15 Q. So that was about a month between the time
16 that you were told that you were being suspended and
17 what you were being suspended for and when you had to
18 go in and answer questions about it, right?

19 A. Yes.

20 Q. So you had a month to think about the
21 issues that were eventually discussed at your
22 interview, right?

23 A. So I had a month to think about what I
24 was --

25 Q. Yeah.

26 If you were suspended on September 5th and the
27 interview wasn't until October 6th, that's
28 approximately a month when you had to think about the

1 issues that you were being investigated for, right?

2 A. Okay. Yes.

3 Q. Right?

4 Did you think about, "Gosh, why am I being
5 suspended?"

6 A. Of course.

7 Q. "Why am being investigated?"

8 A. Yes.

9 Q. You knew one of them was improper access.

10 A. They had reason to believe.

11 Q. Right.

12 A. That was one of them, yes.

13 Q. So you understood when you walked into
14 that interview on October 6th that one of the things
15 you might be asked about is improper access.

16 A. Yes, because that's what I was being
17 accused of. Yes.

18 Q. Right.

19 You're not disputing that you accessed your
20 son's electronic medical record repeatedly while you
21 were employed at Kaiser, right?

22 A. Of course not.

23 Q. Ms. Trask is not making that up.

24 A. No. There's forensics that say I accessed
25 his chart.

26 Q. And it's a huge HIPAA violation to be in
27 someone's chart without a work reason, right?

28 A. That is correct.

1 Q. You understood that you could lose your
2 job if you're in someone's chart without a work
3 reason.

4 A. That is correct.

5 Q. Okay. So you were asked at first -- one
6 of the first questions you were asked was to give
7 Ms. Trask and Mr. Nienberg the reasons to be in a
8 patient's chart.

9 A. That is correct.

10 Q. That wasn't an unfair question for you.

11 A. No.

12 Q. Right?

13 You were not asked at first about any specific
14 date in that interview.

15 A. No.

16 Q. They said, "Tell us the reasons why you
17 would be in a patient's chart," right?

18 A. Correct.

19 Q. You could of given any reason for which
20 you'd accessed a patient's chart at that time.

21 A. Correct.

22 Q. And you would be in the best position to
23 know why you would access a patient's chart, right?

24 A. Correct.

25 Q. You did not need your son's medical record
26 to answer that question.

27 A. No, I didn't need my son's medical record.

28 Q. Why you would access -- sorry. Why you

1 would access a patient's chart, you would not need to
2 look in medical records to give them a response to
3 that, right?

4 A. That's correct.

5 Q. You did not need the forensics to answer
6 that question either, correct?

7 A. Correct.

8 Q. The answer you gave was if the patient was
9 there, if there was a message, or if a doctor asked
10 you to contact a patient, right?

11 A. Correct.

12 Q. There's nothing in that response about
13 checking weight, is there?

14 A. I want to say no.

15 Q. You did not mention anything about
16 checking your son's blood pressure or weight the
17 first time you were asked about the reasons why you
18 would be in a patient's chart.

19 A. That's correct.

20 Q. It's your testimony now that your son had
21 called you quite frequently and asked you to go into
22 his chart to check his weight.

23 A. Correct.

24 MR. DERUBERTIS: She hasn't testified to that,
25 Your Honor.

26 Sorry.

27 THE COURT: I don't know what you're
28 publishing.

1 BY MR. AMMONS:

2 Q. So the question is, is it your testimony
3 today that one of the reasons why your son would call
4 you was to check his weight?

5 A. There was many reasons why my son would
6 call me. And yes, one of those was the reason.

7 Q. Weight was one of the reasons, right?

8 A. Yes.

9 Q. That was one of the frequent reasons why
10 he called you.

11 A. Yes.

12 Q. Yes?

13 A. He always had concerns about his weight,
14 and he was told he needed to lose weight.

15 Q. So if your son had called you frequently
16 and asked you to check his weight, you didn't tell
17 that to Ms. Nienberg -- I'm sorry -- Mr. Nienberg and
18 Ms. Trask when they asked you about the reasons for
19 going into his chart, right?

20 MR. DERUBERTIS: Objection; misstates the
21 document, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: Correct.

24 BY MR. AMMONS:

25 Q. Correct?

26 A. Uh-huh.

27 Q. One of most common reasons he would call
28 you was "Mom, what was my weight on this particular

1 date?" right?

2 A. Yes.

3 Q. So when they asked you on October 6th
4 "Tell us the reasons" the first time, you didn't
5 mention that.

6 A. No.

7 Q. So it was after that point that you were
8 then asked about specific dates, right?

9 A. Yes.

10 Q. Ms. Trask asked you about working at
11 Rancho San Diego on February 4th, 2014 and why you
12 would be in his chart.

13 A. That's correct.

14 Q. Your son did not treat at Rancho
15 San Diego, right?

16 A. That's correct.

17 Q. There would not have been a message in the
18 MA basket for you to respond to while you were at
19 Rancho San Diego.

20 A. Can you repeat the question.

21 Q. Yeah.

22 There would not have been a message in the MA
23 basket for you to respond to while you were at Rancho
24 San Diego for your son.

25 A. That's correct.

26 Q. And you would not have needed to contact
27 Garfield patients when you were working at Rancho
28 San Diego; is that right?

1 must be for some other reason --

2 MR. DERUBERTIS: Vague and ambiguous, Your
3 Honor.

4 BY MR. AMMONS:

5 Q. -- that you were in the chart.

6 THE REPORTER: Hold on.

7 THE COURT: Hold on. Slow down. Let your
8 counsel make an objection if there's an objection to
9 be made.

10 MR. DERUBERTIS: Vague and ambiguous as
11 phrased.

12 THE COURT: Sustained.

13 BY MR. AMMONS:

14 Q. So the first time you were asked about --
15 given a specific date why you would be in his
16 electronic record from Rancho San Diego, do you
17 recall what you said?

18 A. Yes. I would have said while I was in
19 Rancho San Diego, there was no reason for me to be in
20 his chart.

21 Q. Right.

22 Did you say "I never log into my son's chart at
23 all unless he is a patient. On February 4th, if it
24 was Rancho, I would not -- I would have no reason to
25 access his chart"? Do you recall saying that?

26 A. I'm sorry. I don't recall. But yes, I
27 did say if he wasn't a patient, then I would have no
28 reason.

1 Q. Right.

2 You agree that when you said you never log into
3 your son's chart unless he's a patient, that's not
4 true?

5 A. That's correct, because there could be
6 other reasons.

7 Q. The first date that you were given, you
8 gave them an incorrect response, right?

9 A. That's correct.

10 Q. Then Ms. Trask showed -- told you the
11 records show that you had logged into his chart on
12 that day.

13 A. Yes.

14 Q. And as of that time, you had not mentioned
15 checking his weight or his blood pressure, right?

16 A. That's correct.

17 Q. Then you were given another date regarding
18 accessing your son's record. You were asked about
19 February 5, 2014.

20 Do you remember that?

21 A. Oh, yes, I was asked several dates.

22 Q. Again, you were told that there was no
23 message, no physician order, no patient visit, and
24 you had no explanation for that, right?

25 A. That's correct.

26 Q. Again, you didn't mention the -- in
27 response to the February 5th, 2014 date, anything
28 about his weight or his blood pressure, right?

1 A. That's correct.

2 Q. You were given another date, February 7th,
3 with no visit, no message, no physician order, and
4 you had no explanation for that date, right?

5 A. That is correct.

6 Q. March 5th, 2014, again, you were working
7 at Rancho San Diego.

8 You had no explanation for why you would be in
9 his record on that date, right?

10 A. That's correct. I didn't remember those
11 dates. It was a long time.

12 Q. Right.

13 You were asked about April 23rd, 2014, correct?

14 A. That is correct.

15 Q. You couldn't think of any reason why you
16 would be in his chart if he was a patient.

17 There was no message, and the doctor had not
18 asked you to contact him, right?

19 A. That is correct.

20 Q. Again, to this point, nothing about
21 checking weight, blood pressure, any other reason,
22 right?

23 A. That's correct.

24 Q. June 13th, you were given -- by my count,
25 this was about the seventh date you were given. That
26 day, you were working at Kearny Mesa.

27 Is that where you worked?

28 A. Yes.

1 Q. Pedro treated at Garfield, right?

2 A. That is correct.

3 Q. You had no explanation for access on that
4 date.

5 A. That is correct.

6 Q. So the first seven times you were asked in
7 that interview, you never mentioned that you would go
8 into his chart to check his weight or his blood
9 pressure or prescription or anything like that,
10 right?

11 A. That is correct.

12 Q. But those were frequent occurrences, as I
13 understand your testimony, right?

14 A. Yes.

15 Q. You didn't think to mention that, right?

16 A. No. I was --

17 Q. And you had -- I'm sorry. Go ahead.

18 A. I was just blind-sided by the -- I didn't
19 even know -- I mean, she just kept throwing dates at
20 me, and I couldn't remember those dates. I didn't
21 remember. I didn't know.

22 Q. Right.

23 And we established that you had a month to
24 think about that very issue, right?

25 A. Sir, I had a month, but she didn't say,
26 "Look, these are all the times that you accessed your
27 son's chart. Can you go home and check these out and
28 come back to us? We'll meet in 30 days." That

1 didn't happen, sir.

2 Q. Right.

3 A. It was just giving dates. I didn't know.

4 Q. Right. She did not ask you dates at
5 first. She asked you to give her all of the reasons
6 for accessing his chart, and you didn't tell her
7 that.

8 A. That's true, yes.

9 Q. The first answers you gave her were that
10 you weren't in his chart at all unless he was a
11 patient, right?

12 A. That is correct, yes.

13 Q. And then the forensics showed you were in
14 his chart, right?

15 A. That is correct.

16 Q. You were asked about March 3rd. Ms. Trask
17 said you had been in his nephrology notes on that
18 day.

19 MR. AMMONS: Will you pull that up. This is
20 182. This is No. 13.

21 THE COURT: What page of 182, for the record?

22 MR. AMMONS: It's Page 4.

23 BY MR. AMMONS:

24 Q. Do you remember this exchange,
25 Ms. Gonzalez?

26 A. Yes.

27 Q. And so you said, "The only reason I would
28 be in the chart is at his request. For example, 'Can

1 you check to see what my weight was at the last
2 visit?' Other than that, there would be no reason."

3 Do you see that?

4 A. I see that, sir.

5 Q. You're not changing that testimony today,
6 are you? Or that statement.

7 A. No.

8 Q. By the way, did your son not have a scale
9 at home?

10 A. Sir, we don't.

11 Q. That was something that he was very
12 concerned, about his weight, right?

13 A. That's correct.

14 Q. But you never went and bought a scale.

15 A. That's correct.

16 Q. You would -- in other words, he would call
17 you, ask you to log in to HealthConnect, go back
18 through his records, and tell him what his weight was
19 on a particular day.

20 That's your testimony?

21 A. That is my testimony, sir.

22 Q. You agree with me that in the interview,
23 that's the first time that you mentioned checking
24 your son's weight.

25 A. Yes.

26 Q. Would you agree with me that you don't
27 need to go into nephrology notes to check your son's
28 weight?

1 A. I'd have to disagree with you.

2 Q. Okay. Why do you disagree with me?

3 A. Because if it was a nephrology appointment
4 and they took his weight there, he could call and ask
5 what was his weight at his visit at nephrology.

6 Q. So you'd had to go through the nephrology
7 notes to check the weight, right?

8 A. Yeah. You'd have to -- I'm sorry. Yes.

9 Q. Okay. And you were asked about July 7,
10 2014?

11 A. Yes.

12 Q. That was the date that Dr. Watson
13 discharged your son to primary care?

14 A. That is correct.

15 Q. You went with him into his appointment
16 with Dr. Watson?

17 A. That is correct.

18 Q. And it was your testimony yesterday that
19 you did check him in that day?

20 A. The forensics show that I checked him in.

21 Q. Right.

22 In the interview, you said someone else checked
23 him in, right?

24 A. That is correct.

25 Q. That's not what you told Ms. Trask and
26 Ms. Nienberg, right?

27 A. Could you repeat that.

28 Q. What you testified to yesterday is not

1 what you told Ms. Trask and Mr. Nienberg in the
2 interview.

3 A. Correct.

4 Q. And then you were shown at your deposition
5 in this case, which was sometime after the interview
6 you gave in October 2014 -- your deposition was taken
7 last year -- and you were asked to go through and
8 look at Exhibit 182, the interview, right?

9 A. That is correct.

10 Q. And you were asked to confirm the
11 statements that you had made in that interview,
12 correct?

13 A. Correct.

14 Q. And you didn't change that portion or any
15 portion of the interview notes when you were shown it
16 at your deposition, correct?

17 A. That is correct.

18 Q. So yesterday is the first time that we're
19 hearing from you that, in fact, you checked your son
20 in that day, right?

21 A. That is correct.

22 Q. You told them that Nadine Manzano checked
23 your son in?

24 A. That is correct.

25 Q. Do you know if Nadine Manzano denied that?

26 MR. DERUBERTIS: Speculation, hearsay.

27 THE COURT: Sustained.

28 BY MR. AMMONS: