

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
DOAH CASE NO. 17-005769

STATE OF FLORIDA, AGENCY FOR HEALTH
CARE ADMINISTRATION,

Petitioner,

v.

REHABILITATION CENTER AT
HOLLYWOOD HILLS, LLC

Respondent.

DEPOSITION OF ARLENE MAYO-DAVIS

Friday, December 1, 2017
9:21 - 11:30 a.m.

5150 Linton Boulevard
Suite 500
Delray Beach, Florida 33484

Reported By:
Rachel W. Bridge, RMR, CRR
Signature Court Reporting, Inc.
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West Palm Beach, Florida 33401
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Job #20428

1 APPEARANCES:
 2 On behalf of the Petitioner:
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 12 On behalf of the Respondent:
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 21
 22 Also Present, via telephone:
 23 Carlton Enfinger
 24 Agency for Health Care Administration
 25

1 PROCEEDINGS
 2 ---
 3 Deposition taken before Rachel W. Bridge,
 4 Certified Realtime Reporter and Notary Public in and for
 5 the State of Florida at Large, in the above cause.
 6 ---
 7 Thereupon,
 8 ARLENE MAYO-DAVIS
 9 having been first duly sworn or affirmed, was examined
 10 and testified as follows:
 11 THE WITNESS: Yes.
 12 DIRECT EXAMINATION
 13 BY MR. SMITH:
 14 Q. Would you please state your name.
 15 A. Arlene Mayo-Davis.
 16 Q. Ms. Mayo-Davis, my name is Geoff Smith. We've
 17 just met. I'm an attorney. I represent Rehabilitation
 18 Center at Hollywood Hills, and we're here today on a
 19 deposition regarding a license revocation proceeding.
 20 Have you had your deposition taken before?
 21 A. Yes.
 22 Q. So just a couple of quick reminders at the
 23 outset of the process.
 24 Today's proceeding is a statement that's being
 25 given under oath to our court reporter. We simply ask

1 ---
 2 I N D E X
 3 ---
 4 WITNESS: DIRECT CROSS REDIRECT RECROSS
 5 Arlene Mayo-Davis
 6 By Mr. Smith 4
 7
 8 ---
 9 E X H I B I T S
 10 ---
 11 EXHIBIT DESCRIPTION PAGE
 12 Exhibit 15 Timeline of Events 78
 13 Exhibit 16 Notes of Arlene Mayo-Davis 79
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1 that you provide full, complete and honest answers.
 2 Is that fair to you?
 3 A. Yes, it is.
 4 Q. Okay. As the court reporter is taking this
 5 down, you and I need to do something that is sometimes
 6 not natural, and that is to let each other finish
 7 sentences before we answer or before I ask the next
 8 question.
 9 Normal conversation, people tend to cut each
 10 other off, anticipate. You've got to let me finish,
 11 I've got to let you finish, because she can only write
 12 down one at a time. Fair?
 13 A. Fair.
 14 Q. Okay. You always need to answer verbally
 15 rather than shaking your head, nodding your head, or
 16 using an expression like uh-huh or uh-uh, because those
 17 don't translate well onto a record. Is that fair?
 18 A. Fair.
 19 Q. Okay. And if at any time you need a break,
 20 please tell me and we will take a break, and I'd like to
 21 finish my line of questioning. Unless it's a very
 22 urgent matter that we need to break for, I'll just kind
 23 of finish whatever I am and we'll break and we'll come
 24 back. Fair?
 25 A. Okay.

1 Q. And last thing is if at any time you don't
 2 understand a question that I ask you, if you think it's
 3 unclear, please let me know. I'll try to rephrase it.
 4 I do want to end up with a record of questions that were
 5 understood at the time they were answered.

6 Is that fair?

7 A. Okay, yes.

8 Q. Okay. Can you tell me a little bit about
 9 yourself? How are you currently employed?

10 A. I'm employed with the State of Florida Agency
 11 For Health Care Administration.

12 Q. And in what position?

13 A. Field Office Manager.

14 Q. And how long have you been the Field Office
 15 Manager?

16 A. Approximately eight years.

17 Q. And what is the geographic territory called
 18 over which you are the Field Office Manager?

19 A. From Indian River to Miami-Dade.

20 Q. And which division or field office number is
 21 it called?

22 A. It's Health Quality Assurance. That's the
 23 division, the Bureau of Field Operations, and it is
 24 Field Office 9.

25 Q. Field Office 9.

1 A. No, she did not do the investigation. She
 2 reviewed some of the Statement of Deficiencies.

3 Q. And then the survey team that was involved in
 4 the survey of Hollywood Hills, I think I interviewed two
 5 of them. I talked to Anne Sosiak.

6 A. Yes, she's a registered nurse specialist.

7 Q. And the other one that I talked to was Kathy
 8 Allen. What is her position?

9 A. She is a registered nurse specialist.

10 Q. And then there was a facilities or physical
 11 plant person. Who is that?

12 A. Dominic Grasso. And he's a fire protection
 13 specialist.

14 Q. Was there any information provided by Dominic
 15 Grasso that served as a basis or foundation for the
 16 decision to seek license revocation, or was it based
 17 on the findings of Ms. Sosiak and Ms. Allen and their
 18 survey?

19 MR. MENTON: Object to the form. You can
 20 answer if you understand the question.

21 BY MR. SMITH:

22 Q. He's going to object from time to time and
 23 he'll say object to form. And that's just preserving
 24 our record so he can address that with the judge later.

25 If my question was in any way improper in

1 And can you tell me to whom do you report
 2 within the agency chain of command?

3 A. Kim Smoak.

4 Q. And her position is?

5 A. The Chief of Field Operations.

6 Q. And Ms. Smoak reports to Deputy Secretary
 7 Molly McKinstry?

8 A. Yes, correct.

9 Q. And within the chain of command going the
 10 other direction, who are direct reports to you?

11 A. Surveyors and supervisors.

12 Q. How many supervisors are there?

13 A. Seven.

14 Q. And how many surveyors?

15 A. Approximately 40.

16 Q. And for purposes of our proceeding today
 17 involving Hollywood Hills and the events surrounding the
 18 decision to seek license revocation, who would be the
 19 supervisor?

20 A. Over that particular area, we have a
 21 registered nurse consultant and she's, her name is
 22 Evelyn Macpherson, and I give oversight.

23 Q. And did Ms. Macpherson have any involvement in
 24 the survey or investigation that served as the basis or
 25 foundation for the decision to seek license revocation?

1 form, then the judge will figure that out.

2 A. Okay. The information was based on, mainly on
 3 Kathy Allen and Anne Sosiak's findings.

4 Q. Okay. And I'm just trying to -- the reason
 5 I'm asking is Dominic Grasso is somebody I need to
 6 depose is what I'm trying to figure out.

7 So was there anything that in his involvement
 8 that you found to be important in the overall decision
 9 to seek license revocation?

10 A. No.

11 Q. How many times have you been involved in
 12 proceedings to revoke the license of a skilled nursing
 13 facility?

14 A. I'm thinking. Less than five.

15 Q. And prior to Hollywood Hills, can you tell me
 16 what was the last time you recall being involved in a
 17 license revocation for a skilled nursing facility?

18 A. Approximately a year ago. I was involved with
 19 the closing of a nursing home called Oceanside Extended
 20 Care.

21 Q. And that was a licensed skilled nursing
 22 facility?

23 A. Yes, in Miami, Florida.

24 Q. And what were the circumstances in general
 25 that led to the closure or revocation of license for

1 Oceanside Extended Care?

2 A. If I recall correctly, it was related to
3 residents' altercations, resident injuries.

4 Q. Just not to tell you what it was, but was it
5 residents' altercations between each other, that
6 somebody had been injured or harmed and failure of the
7 facility to properly supervise and manage the facility?

8 A. It was related to resident-to-resident
9 altercations and the facility's ability to supervise and
10 manage those situations.

11 Q. And you said that was a year ago?

12 A. Approximately a year.

13 Q. It was a matter that went to hearing?

14 A. I don't recall a hearing for it.

15 Q. Okay. And do you recall before that what
16 would have been the next prior license revocation of a
17 nursing home that you can recall?

18 A. I don't recall another one.

19 Q. Okay.

20 A. Recently. That's just the most recent one
21 that I can remember. And before that, it would have
22 been years ago.

23 Q. It would be fair to say a license revocation
24 is a fairly uncommon occurrence within your job as field
25 office manager?

1 A. Correct.

2 Q. It would be something that's infrequent?

3 A. Yes, it is very infrequent and unusual.

4 Q. Have you testified before in any license
5 suspension or revocation cases outside of nursing home?
6 In other words, ALFs, hospices, other facilities that
7 you may regulate?

8 A. Yes.

9 Q. And tell me to the best of your recollection
10 what prior testimony you've given in those types of
11 proceedings.

12 A. Related to assisted living facilities, I think
13 I've done approximately five, and it was related to
14 resident elopements.

15 Q. To the best of your recollection, what
16 facilities or -- I'm only now wanting to know about
17 where you may have given prior testimony like this, like
18 a deposition or in a hearing.

19 A. Okay.

20 Q. So do you recall anywhere you've actually been
21 deposed or provided final hearing testimony?

22 A. I don't recall the names of those facilities,
23 but I would say within the last five years I think I've
24 been involved in approximately less than five assisted
25 living facility cases.

1 Q. Would you have testified in all of them or
2 only some of them or do you recall?

3 A. I gave depositions for them, and at least two
4 of them I think went to a hearing.

5 Q. And did you testify in a final hearing?

6 A. Yes.

7 Q. Okay. Do you recall which facilities you
8 testified in the final hearing?

9 A. I don't remember the names of them.

10 Q. Okay.

11 A. But they were in Miami, Florida.

12 Q. Do you recall any of the attorneys that were
13 involved in the cases in which you gave testimony at the
14 final hearing?

15 Do you recall the attorney that represented
16 the facility?

17 A. I don't remember their names.

18 Q. Do you recall the attorney that represented
19 the agency?

20 A. Yes.

21 Q. And who was that?

22 A. Nelson Rodney.

23 Q. And do you recall what the outcome was, the
24 final hearing result in the closure or revocation of
25 license?

1 A. I don't recall.

2 Q. What was your first involvement with -- let me
3 back up.

4 Prior to the incident that we're going to
5 discuss today at Hollywood Hills that involved resident
6 deaths, had you had any prior involvement with the
7 Hollywood Hills facility?

8 A. Yes. I've inspected the facility before.

9 Q. And have you -- tell me about that. When was
10 the first time you recall being involved with Hollywood
11 Hills?

12 A. Approximately 15 years ago.

13 Q. And so that would have been at a time, to your
14 knowledge, it was the -- has there been a change in the
15 ownership or more than one change in the ownership of
16 that facility since 15 years ago?

17 A. Yes. There has been some type of change of
18 ownership with the facility since that time.

19 Q. Do you recall at that time who was the owners?

20 A. I don't recall the name of the person. It's
21 been a long time. If I were to read it or see it again,
22 I probably would remember it, but I don't recall the
23 name right now.

24 Q. Okay. And what do you recall about -- you
25 said you actually inspected the facility. Were you, at

1 the time were you a surveyor?

2 A. Yes.

3 Q. And what do you recall from 15 years ago when
4 you inspected? Was it a complaint survey in which you
5 found that there were founded or unfounded deficiencies,
6 or what was the nature of the inspection?

7 A. The last time that I recall inspecting them, I
8 was a registered nurse specialist surveyor, and I did a
9 recertification and relicensure survey or inspection at
10 the facility.

11 Q. And eventually, were there deficiencies
12 originally when you inspected that were corrected and
13 eventually they were recertified and relicensed?

14 A. There were deficiencies. I don't recall what
15 those deficiencies were. And they were recertified and
16 relicensed.

17 Q. And I don't know, did you happen to bring a CV
18 or a resume with you today?

19 A. No, I didn't.

20 Q. Did you bring any documents with you today?

21 A. Yes, I did bring some documents with me.

22 Q. And can you tell me what you brought?

23 A. Okay. I brought my timeline for
24 Rehabilitation Center at Hollywood Hills. I brought
25 some notes that I made on September 13th after speaking

1 to 1990. And in 1990 I worked -- I moved to South
2 Florida and worked on a med/surg unit, medical/surgical
3 unit for oncology and medical at Holy Cross Hospital in
4 Fort Lauderdale. I ended my employment there in 1994,
5 December of 1994.

6 And I started with the agency January 3, 1995
7 as a registered nurse specialist. I became a registered
8 nurse supervisor in approximately 1998, and I became a
9 field office manager in -- I'm sorry, I should have
10 brought my resume -- field office manager in --

11 Q. '08, '09? You said about eight years.

12 A. Yeah, 2008, 2009.

13 Q. Okay.

14 A. And six years later I became field office
15 manager in the Miami office also.

16 Q. So you hold both field office manager
17 positions?

18 A. Yes.

19 Q. And those are two different --

20 A. Yes.

21 Q. What's the field office Miami?

22 A. Eleven.

23 Q. Okay.

24 A. Sorry, I forgot to add that.

25 Q. And you said that started in?

1 to Kathy Allen and Anne Sosiak.

2 I have the Immediate Moratorium on Admissions
3 at Rehab Center at Hollywood Hills, the Emergency
4 Suspension Order for the facility, and the Statement of
5 Deficiencies.

6 Q. Okay. We'll come back to those.

7 I probably have gone a little bit out of
8 order. You're a registered nurse?

9 A. Yes, I am.

10 Q. How long have you been a registered nurse?

11 A. For 29 years, since 1988.

12 Q. And can you tell me what degrees do you hold?

13 A. I have a bachelor of science in nursing.

14 Q. And from what university or college?

15 A. Florida A&M University.

16 Q. Go Rattlers, okay.

17 Can you give me kind of a thumbnail sketch of
18 your professional career from obtaining your RN license
19 through your position today?

20 A. Okay. I basically trained at Tallahassee
21 Memorial Hospital in nursing school. And I worked as a
22 graduate nurse on a med/surg unit at Tallahassee
23 Memorial Hospital, and then I obtained my licensure in
24 1988.

25 And I worked at Tallahassee Memorial from 1988

1 A. Six years ago, 2011.

2 Q. Was there a reason that they don't have a
3 separate field office manager for Miami-Dade versus
4 Field Office 9?

5 A. I was selected for the position. They needed
6 an experienced manager for the office and I was selected
7 for the Miami office.

8 Q. And I'm just curious, does that exist anywhere
9 else where they have the same person serving multiple
10 field offices?

11 A. No, not at this time, but it has happened in
12 the past.

13 Q. And it's not a temporary -- I mean it's been
14 six years, so it's not a temporary thing. It's worked
15 and you're able to cover both offices?

16 A. Yes, it's worked. It isn't temporary.

17 Q. Okay. What led you to leave the practice of
18 clinical nursing and go into the regulatory side of
19 nursing?

20 A. I wanted to change, a change in my career, and
21 I had a child and I wanted to participate, be around my
22 child. That's the main thing.

23 Q. Okay. As the field office manager for Miami,
24 have you had any interaction with what I'll call the
25 Larkin Health System?

1 A. Yes.
 2 Q. And tell me about that. Do you know Larkin
 3 Health System to own and operate hospital facilities?
 4 A. Yes.
 5 Q. They operate two hospitals in Miami-Dade?
 6 A. I think so. I know they operate at least one.
 7 Q. You're thinking of Larkin Community Hospital
 8 down south of Miami-Dade?
 9 A. Yes. I don't know exactly where it's located.
 10 I just know it's in Miami-Dade, but I am familiar with
 11 that particular hospital.
 12 Q. And have you had any interaction with any of
 13 the management team of Larkin directly?
 14 I mean do you have any direct relationships
 15 with or professional relationship with any of the Larkin
 16 management or leadership?
 17 A. I don't have any type of professional
 18 relationship with them. I'm sure that I've spoken to
 19 someone at the facility before, but I don't have any
 20 type of relationship to be able to tell you the name of
 21 the person.
 22 Q. That's what I was going to ask you.
 23 A. No.
 24 Q. Nothing where you say oh, yeah, I know this
 25 person, I've worked with them before on this, that or

1 Hills.
 2 Has there been any other regulatory actions
 3 where you've been involved in looking at surveys or
 4 Statements of Deficiencies for Hollywood Hills, to your
 5 recollection?
 6 A. I'm sure in the past that I've probably
 7 reviewed some of their Statement of Deficiencies. I
 8 don't recall doing that recently as far as like related
 9 to another case not related to the September 13 case,
 10 but prior to that, I'm sure that I've reviewed a report
 11 before.
 12 Q. But again, I'm trying to get a sense of was
 13 Hollywood Hills on your radar as they are a problem
 14 facility, that they have lots of deficiencies and
 15 complaints and problems?
 16 A. No.
 17 Q. And do you get facilities where you tend to
 18 get repeat complaints and problems?
 19 A. Yes, we do.
 20 Q. Did you know any of the administration at
 21 Hollywood Hills prior to the closure of the facility?
 22 Were you familiar with any of the senior
 23 management team? And I'll name them. Whether you've
 24 had any interaction is all I'm trying to find out.
 25 Mr. Jorge Carballo was the administrator. Do

1 the other issue?
 2 A. No.
 3 Q. Okay.
 4 A. I don't recall anyone's name.
 5 Q. Do you have any opinion of the quality of care
 6 that's offered by Larkin Health System generally?
 7 MR. MENTON: Object to form.
 8 THE WITNESS: Not really.
 9 BY MR. SMITH:
 10 Q. And when I say that, not negatively or
 11 positively, you just don't recall whether they -- I
 12 guess what I'm getting at, as a regulator, they haven't
 13 been on your radar as this is a problem facility for me?
 14 A. No, they have not.
 15 Q. Do you know if Larkin Community Hospital has
 16 been designated as a teaching hospital?
 17 A. No, I don't.
 18 Q. Do you know if the system includes various
 19 training programs for health professionals?
 20 A. No, I don't know.
 21 Q. Fair to say your knowledge of Larkin Health
 22 Systems is fairly limited?
 23 A. Correct.
 24 Q. Okay. You talked about 15 years ago you --
 25 that was sort of your first interaction with Hollywood

1 you know him?
 2 A. I met him on September 13th and I have
 3 possibly spoken to him in the past. Over the years we
 4 speak to -- I have spoken to many administrators, and
 5 his name was familiar to me, but I did not remember his
 6 face until I saw him again on September 13th.
 7 Q. Any impression prior to September 13th, good
 8 or bad, about Mr. Carballo or just you recognized that
 9 he had been a nursing home administrator?
 10 A. That's all. I just recognized his name.
 11 Q. And you wouldn't be able to say where, what
 12 facility? You just kind of recognized yeah, I probably
 13 have met him before?
 14 A. Correct. I just recognized his name. I don't
 15 know the name of a facility that he had worked with.
 16 Q. How about Maria Colon Castro, who was the
 17 director of nursing, did you know her or have you ever
 18 met her?
 19 A. I probably have spoken to her also in the
 20 past. I recognize her name.
 21 Q. Okay. And again, same question. Any
 22 impression, good or bad, about Ms. Colon Castro as a
 23 director of nursing or a nurse supervisor in the
 24 long-term care world?
 25 A. I thought, and I'm not for sure, but I thought

1 that her name, I recognized her name from a facility
 2 that we possibly had some negative action at, but I
 3 don't remember the name of the facility and I don't
 4 remember what the situation was.
 5 Q. Anything else you remember about
 6 Ms. Colon-Castro?
 7 A. No.
 8 Q. Do you have any role in review of
 9 Comprehensive Emergency Management Plans for licensed
 10 healthcare facilities?
 11 A. No.
 12 Q. Do you know if the county Division of
 13 Emergency Management ever send to you for review copies
 14 of, I'll call them CEMPs?
 15 A. They don't send any of those to me, but they
 16 do send letters to us notifying us if a facility has
 17 submitted a CEMP.
 18 Q. Okay. And do the letters inform you that you
 19 can review and comment on it if you choose to?
 20 A. I don't recall everything that's in the
 21 letter. I just know that they tell us that a facility
 22 has submitted one, and they sometimes will list
 23 something that might be missing, and then they may
 24 document in that letter that it's approved.
 25 Q. But to your knowledge, at least at the field

1 BY MR. SMITH:
 2 Q. And if that occurs, the facility could then
 3 amend information in their CEMP if there was a concern
 4 raised?
 5 For example, how are you going to arrange
 6 transportation if maybe somebody looks, the surveyor
 7 looks at it and says, well, you have this one company,
 8 but what if they are not available? Then the facility
 9 could say let me offer a solution.
 10 MR. MENTON: Object to form.
 11 THE WITNESS: I think the facility would be
 12 able to provide additional information.
 13 BY MR. SMITH:
 14 Q. As far as Hollywood Hills, to your knowledge,
 15 did they have in place prior to Hurricane Irma an
 16 approved CEMP?
 17 A. It's my understanding that they did have an
 18 approved CEMP.
 19 Q. And to your knowledge, prior to Hurricane
 20 Irma, had AHCA indicated in any survey of the facility
 21 that the CEMP was not adequate?
 22 A. I don't recall a deficiency related to their
 23 CEMP.
 24 Q. Tell me about your life in advance of
 25 Hurricane Irma.

1 office level, AHCA does not review the CEMPs?
 2 A. We don't review them in the field office.
 3 Q. Okay. And you're unsure whether or not the
 4 local Division of Emergency Management provides you a
 5 notice that says you have the opportunity to review it
 6 if you elect to do so?
 7 A. I don't recall that information.
 8 Q. As part of your licensing of healthcare
 9 facilities, is there a requirement that when you survey
 10 for licensure, you verify that the facility has an
 11 approved CEMP?
 12 A. Yes. That's part of our surveyor
 13 responsibilities is to verify.
 14 Q. And is there any review of the adequacy of the
 15 CEMP or does the agency simply rely on approval by the
 16 local Division of Emergency Management, and if it's
 17 approved, it's deemed to be adequate?
 18 A. We may ask questions about it when our
 19 surveyors go out and verify. We may ask questions about
 20 it.
 21 Q. Okay. So if a surveyor had some particular
 22 concern after looking at a CEMP, they could say what
 23 about this or that, and raise questions?
 24 A. Yes.
 25 MR. MENTON: Object to form.

1 What was the activation at the field office
 2 level to prepare for a potential landfall of a
 3 hurricane? What occurs at the field office level?
 4 A. Okay. We start to have conference calls to
 5 make sure that we are prepared for the storm, to make
 6 sure that our staff are prepared for the storm, and we
 7 try to, some of our equipment is moved to a safe
 8 location if it's near windows.
 9 We start to make sure that emergency phone
 10 numbers are available.
 11 Q. Do you have any interaction with the licensed
 12 facilities that are part of your oversight in your field
 13 office region?
 14 Do you interact directly with the facilities
 15 or is that something that occurs out of a different
 16 office?
 17 A. Sometimes they might call us and ask for
 18 information. It really just depends on whether or not
 19 they need anything.
 20 Usually they are communicating with their
 21 associations, their nursing home associations.
 22 Q. And I guess what I'm getting at, is there any
 23 particular role that's filled by the field office?
 24 In other words, does the field office set up
 25 a, this is our local emergency command center and all

1 the local facilities know to call the command center if
2 you're having problems?

3 You know, that's just an example. I'm saying
4 do you have a specific defined role under the emergency
5 management system in AHCA in the state generally?

6 Is there a specific defined role, this is your
7 responsibility as the field office?

8 A. Not with the providers. Based on what I
9 understand you saying is we don't have anything that we
10 would like send to all of our providers on the field
11 office level to say that you should call this phone
12 number if you need help.

13 We do participate in the Emergency Operations
14 Center, but that's not something that a facility would
15 definitely call us for.

16 Q. And when you say you participate in the
17 Emergency Operations Center, that would be at the local
18 levels?

19 A. We have staff in Tallahassee at headquarters
20 and then we also have a staff that go to the local
21 Emergency Operations Center.

22 Q. Okay. And for our purposes, there would have
23 been a Broward Emergency Operations Center?

24 A. Yes, there is one.

25 Q. And in that Broward EOC there would have been

1 Florida Healthcare Association, and they had I think
2 daily conference calls.

3 Q. And were those conference calls statewide
4 calls?

5 A. Yes.

6 Q. And were those for members of FHCA?

7 A. I think they were for members and they were
8 statewide.

9 Q. And who, what individuals hosted those calls,
10 if you remember?

11 A. I don't remember their names. I just know
12 that it was for the Florida Healthcare Association.

13 Q. And what was your role and participation?

14 A. Just listening in.

15 Q. Were you on any of the calls where Governor
16 Scott provided his cellphone number as a point of
17 contact to members of the nursing home or ALF industry?

18 A. No.

19 Q. Were you aware that the governor had provided
20 his personal cellphone number as a point of contact?

21 A. I heard that he had provided that information.

22 Q. And how did you hear it, from these calls with
23 the FHCA?

24 A. I don't recall. We were getting, we get press
25 releases, and I possibly read it somewhere or heard --

1 staff from your office that helped staff that facility,
2 the EOC in Broward, or do you know?

3 A. We had one staff person -- well, two staff
4 persons that went to the Emergency Operations Center I
5 think approximately September 14th.

6 Q. Okay.

7 A. Or September 15th. I'm not sure about the
8 date.

9 Q. So it would have been after the evacuation of
10 Hollywood Hills?

11 A. Yes.

12 Q. Putting those staff people there, was it in
13 any way related to the evacuation of Hollywood Hills?

14 A. No.

15 Q. And you said you had people that actually went
16 to Tallahassee to help with the EOC?

17 A. No, our staff didn't go. Those are staff
18 members that actually work at our headquarters in
19 Tallahassee.

20 Q. Okay. You said you participated in conference
21 calls. Did you participate in any of the conference
22 calls that were held that involved Governor Scott and
23 the members of the nursing home and ALF industry
24 statewide?

25 A. I participated in conference calls with the

1 Q. Might have seen it on TV?

2 A. I might have seen it on television. I don't
3 recall.

4 Q. Was it widely known that the governor had
5 distributed his cellphone number as a contact point?

6 A. I don't think so.

7 Q. During Hurricane Irma, did you receive -- and
8 I want to set Hollywood Hills aside.

9 We're going to talk a lot about Hollywood
10 Hills today, but other than the Hollywood Hills
11 situation, did you receive complaints -- let's start
12 with complaints -- about any facilities, the conditions
13 that existed at any of your licensed facilities?

14 A. Yes.

15 Q. Okay. And can you tell me generally what
16 facilities did you have complaints?

17 MR. MENTON: I mean to the extent there is
18 ongoing investigations, I don't think we are going
19 to get into that.

20 MR. SMITH: Unless there is a statutory
21 privilege, you can just tell me what it is and
22 we'll deal with it, but unless there is a
23 privilege, I think I'm entitled to find out what
24 complaints there were, what types of complaints.

25 MR. MENTON: And I'll be honest with you, I

1 don't know sitting here right now. I think if
 2 there's an ongoing investigation, my recollection
 3 is there is a privilege, but I can't swear to that.
 4 I don't think it's really relevant and I think
 5 it's -- you know, I mean she can answer generally
 6 but I don't think it's appropriate to get into
 7 specifics of ongoing investigations of other
 8 facilities.
 9 BY MR. SMITH:
 10 Q. Do you have any ongoing investigations still?
 11 A. Yes.
 12 Q. From Hurricane Irma?
 13 A. Yes.
 14 Q. And do you believe there to be any privilege
 15 that you can't tell me who is, what facilities there is
 16 ongoing investigation?
 17 A. I don't know about privilege.
 18 MR. MENTON: And, Carlton, are you still on
 19 the line?
 20 Maybe he can tell you. He is probably more
 21 familiar with it off the top of his head.
 22 MR. ENFINGER: Yeah, I'm on the line.
 23 MR. MENTON: I don't want to put you on the
 24 spot. I mean we can look it up, but until we have
 25 a chance to look at it, I don't want her talking

1 seemed to be, that facilities without AC were
 2 experiencing increasing temperatures.
 3 A. Approximately 50.
 4 Q. And do you know if any of those -- and this
 5 would be something that is in the public realm.
 6 Have any of them risen to the level yet where
 7 there has been an official action taken; in other words,
 8 an order, moratorium on admissions, a suspension order,
 9 or administrative complaint?
 10 A. I think there has possibly been some, but I
 11 don't recall the names of those facilities.
 12 Q. Are you aware of any facilities where the
 13 residents during Hurricane Irma were sent to a hospital
 14 under a 911 call due to lack of AC or rising temperature
 15 in the building?
 16 A. Yes.
 17 Q. And again, outside of Hollywood Hills.
 18 A. Yes.
 19 Q. Okay. And are those situations where you have
 20 active investigations or are you thinking of ones where
 21 there is not an active investigation, you're just aware
 22 that that occurred, or both?
 23 A. I think there is possibly an active
 24 investigation going on. I don't know the status of it,
 25 but we probably have some actual, a report that's

1 about ongoing investigations.
 2 MR. ENFINGER: Any complaints are confidential
 3 while they are open.
 4 MR. MENTON: That's what my recollection is.
 5 MR. ENFINGER: We don't disclose those -- when
 6 we're doing an investigation of that type, we don't
 7 disclose anything until an investigation is
 8 complete. We don't even respond in public records.
 9 BY MR. SMITH:
 10 Q. Let me ask this. Don't tell me about
 11 facilities. What are the types of incidents that are
 12 being looked at as a result, or were looked at?
 13 What types of situations, deficient operations
 14 were you looking at?
 15 A. People not having water, food, staff not
 16 showing up to work, the facility being without air
 17 conditioning, and high temperatures.
 18 Q. And can you tell me how many situations are
 19 you aware of where there were complaints regarding
 20 facilities being without AC and/or high temperatures?
 21 A. I don't know the specific numbers. I never
 22 tried to count them.
 23 Q. I'm just trying to get a sense, are we talking
 24 about more than ten? Less than ten? I'm just trying to
 25 get a general sense for how widespread of an issue that

1 already been written, and we're in the process of
 2 investigating it or in the process of waiting to do a
 3 follow-up visit.
 4 Q. So you are aware that there were 911 calls
 5 where residents of either nursing homes or ALFs were
 6 sent to hospitals as a result of temperature within a
 7 building?
 8 A. Yes.
 9 Q. Do you know, again, the frequency or magnitude
 10 of that occurring during the time period from the storm
 11 through the weeks after the storm?
 12 A. I know that people were sent to the hospital
 13 because the facility was without AC, and there were
 14 potential changes to the residents' status.
 15 So I know there were a few facilities that did
 16 have to send residents to the hospital to be evaluated.
 17 Q. And do you know if there had been any resident
 18 deaths that appear to be associated with rising --
 19 again, setting aside Hollywood Hills -- resident deaths
 20 that appear to have been associated with rising
 21 temperatures in a building?
 22 A. I'm not aware of any deaths.
 23 Q. Are you aware, any knowledge at all of
 24 facilities that may -- there may be no investigation
 25 ongoing, but facilities that simply had lack of AC power

1 and ended up having to send people to the hospital?
 2 MR. MENTON: Object to form.
 3 THE WITNESS: Can you rephrase that?
 4 BY MR. GORDON:
 5 Q. Sure. I'm just saying aside from any
 6 investigations that may be ongoing in your office, are
 7 you aware of any nursing homes, ALFs, that ended up
 8 calling 911 because of patients in distress related to
 9 lack of AC power or rising temperature?
 10 A. I think that would go along with what I was
 11 saying, that I was aware that some people were sent to
 12 the hospital, you know, related to them not having air
 13 conditioning, and they sent their residents to the
 14 hospital to be evaluated.
 15 Q. The distinction I was trying to make was I
 16 thought you were telling me about some where you have
 17 ongoing complaints.
 18 Are there some that you're aware of where you
 19 don't have any ongoing investigation or complaint,
 20 you're just aware that it occurred?
 21 A. Usually for most of those facilities, we
 22 actually opened up investigations on those facilities.
 23 Q. All right. Have you undertaken any kind of
 24 analysis to see -- and I'll preface by saying I wouldn't
 25 expect that you would, but I'm -- shot in the dark

1 in the Statement of Deficiencies.
 2 So there would be like our surveyor notes that
 3 we take that the surveyors would have documented
 4 related to any investigation. So we don't document
 5 word for word everything inside of the Statement of
 6 Deficiencies.
 7 So there would be additional information that
 8 would not be on the Statement of Deficiency.
 9 BY MR. GORDON:
 10 Q. And what I want to do is I'm going to kind of
 11 walk through chronologically, and I'm going to ask you
 12 about time periods of the storm and post storm, and what
 13 I want to do is if you have information beyond what's in
 14 the survey deficiency, I'll ask you can you tell me what
 15 additional information you may have and what's the
 16 source, and does that -- do you understand what I'm
 17 asking?
 18 A. Yes, I do.
 19 Q. Okay. So the first time period I kind of want
 20 to look at is the, let's call it the preparation for the
 21 landfall of the hurricane.
 22 Are you aware of some acts or omissions by
 23 Hollywood Hills, either through any of its employees,
 24 administration, that was deficient in the preparation
 25 for the hurricane coming?

1 maybe.
 2 Have you tried to obtain data to say I'd like
 3 to see residents of nursing homes and ALFs who are
 4 reported to have died during the time frame of Hurricane
 5 Irma in my field office regions and just try to work
 6 backwards and say do any of these look like they're tied
 7 in to facilities that don't have -- that lost power,
 8 lost AC?
 9 A. No, I have not done any type of analysis for
 10 that.
 11 Q. As far as any direct knowledge of what
 12 occurred at Hollywood Hills with relation to Hurricane
 13 Irma and the deaths that occurred in the building or
 14 subsequently at the hospitals, do you have any
 15 information other than what's stated in the Statement of
 16 Deficiencies?
 17 A. No.
 18 Q. So as far as your personal knowledge, you
 19 wouldn't have any other information than -- I'm trying
 20 to short-circuit.
 21 Is everything that you would know contained in
 22 black and white on the pages of the survey of
 23 deficiencies, Statement of Deficiencies?
 24 MR. MENTON: Object to the form.
 25 THE WITNESS: We aren't able to put everything

1 A. No.
 2 Q. And I'm thinking of things like did they
 3 stockpile water or did they do the things that you would
 4 do to get ready for a hurricane?
 5 You're not aware of anything that they did
 6 deficient?
 7 A. I'm not aware of anything.
 8 Q. Okay. Do you know during the storm, in other
 9 words, while there were hurricane or tropical storm
 10 force winds in the area, are you aware during that time
 11 period where they were sheltering in place with the
 12 residents at the facility, before they lost AC power,
 13 are you aware of anything that the facility did that you
 14 would consider to be a deficient practice, that they did
 15 something improper?
 16 MR. MENTON: Object to the form.
 17 THE WITNESS: I'm not aware of anything.
 18 BY MR. SMITH:
 19 Q. Then are you aware from the surveyors, their
 20 investigation of when power to the air conditioner was
 21 lost at Hollywood Hills?
 22 A. Yes.
 23 Q. And that would have been September 10th, I
 24 believe?
 25 A. Yes. Yes, that is what we have,

1 September 10th.
 2 Q. So the hurricane itself was making landfall on
 3 the 9th; is that correct?
 4 A. Probably somewhere in the state it was making
 5 landfall.
 6 Q. Okay.
 7 A. I'm just thinking about the dates that I can
 8 remember. It was on a Sunday, and I think that was on
 9 September 10th, I think.
 10 I just know that it was -- I can't remember
 11 the specific date.
 12 Q. I think the date, just to help you out -- and
 13 if I'm wrong, the record will reflect that I'm wrong,
 14 but I think I've got it right.
 15 I think Saturday was September 9th. Sunday
 16 was September 10th. We can pull a calendar and look at
 17 this, September 10th. Monday was September 11th.
 18 Tuesday was September 12th, and Wednesday was
 19 September 13th.
 20 A. Okay.
 21 Q. So my understanding is that in South Florida
 22 the hurricane was felt primarily during the time period
 23 starting on the 9th and then starting to subside on the
 24 10th.
 25 Does that seem right?

1 there any time period where, that you're aware that the
 2 Hollywood Hills failed to follow its Comprehensive
 3 Emergency Management Plan in some way?
 4 MR. MENTON: Object to the form.
 5 THE WITNESS: Can you rephrase that?
 6 BY MR. SMITH:
 7 Q. Yes. Is there any specific deficiency -- I
 8 found none in the Statement of Deficiencies and in the
 9 Administrative Complaint where it said the facility
 10 failed to follow its Comprehensive Emergency Management
 11 Plan.
 12 Are you aware of any failure of the facility
 13 to follow its Comprehensive Emergency Management Plan?
 14 MR. MENTON: Object to form.
 15 THE WITNESS: The way that we interpreted is
 16 that the facility did not implement the evacuation
 17 of the facility when it became a situation where
 18 the residents' health and safety became endangered.
 19 BY MR. SMITH:
 20 Q. And at what point was that where they failed
 21 to evacuate?
 22 A. Whenever the temperatures became extreme in
 23 the facility, above 81, they needed to act to make sure
 24 that the residents were safe.
 25 Q. So whenever temperature exceeded 81 degrees.

1 A. Based on what I dealt with, it started on
 2 September 9th, that Saturday, Saturday night, and then
 3 ended on Monday morning.
 4 Q. Okay.
 5 A. Which was September 11th.
 6 Q. Based on that, are you aware of when the AC
 7 power was lost?
 8 A. I just know that based on what we have
 9 documented, it was on September 10th that they lost air
 10 conditioning.
 11 Q. And I believe it was around 3:50, 4:00 in the
 12 afternoon; is that correct?
 13 A. I don't have the actual time, but I just know
 14 it was on September 10th.
 15 Q. Okay. And once the AC power went out, is
 16 there an established regulation, rule, policy that would
 17 be followed to say what to do if you lose your AC for a
 18 nursing home?
 19 Is there a set of regulations you must do, A,
 20 B and C, when you lose your AC power?
 21 A. Well, they are supposed to keep the
 22 temperature between 71 to 81 degrees Fahrenheit.
 23 And they are supposed to follow their
 24 Comprehensive Emergency Management Plan.
 25 Q. Do you recall the time period -- well, is

1 Do you know whether that would have -- what
 2 date that would have been?
 3 Would it have been Monday or Tuesday or
 4 Wednesday when the temperatures were in excess of
 5 81 degrees?
 6 A. I don't know the specific date that the
 7 temperatures went up above 81.
 8 Q. Do you have any direct evidence, documentation
 9 of temperature ever exceeding 81 degrees in the
 10 facility?
 11 A. I don't have any documentation that was above
 12 81. I only have information based on what we have from
 13 the resident medical records.
 14 Q. And there were high core body temperatures
 15 taken at Memorial Regional on September 13th when
 16 residents were taken to the hospital; is that --
 17 A. Yes, those are the temperatures that we have.
 18 Q. And that's what's set forth in the Statement
 19 of Deficiencies and the Administrative Complaint?
 20 A. Yes, this was in the Statement of
 21 Deficiencies.
 22 Q. And based on your RN background, do you have
 23 any clinical knowledge or opinion as to whether an
 24 elderly resident that may have certain conditions,
 25 comorbidities, on certain medications can develop

1 hyperthermia at temperatures below 81 degrees?
 2 MR. MENTON: Object to form.
 3 THE WITNESS: I'm not aware of any, if I
 4 understand your question correctly.
 5 BY MR. SMITH:
 6 Q. Do you know one way or the other, are you able
 7 to say whether elderly residents who may have
 8 predisposition because of various comorbidities or
 9 medications that they are taking, that they codevelop
 10 hyperthermia at temperatures below 81 degrees?
 11 MR. MENTON: Object to the form.
 12 THE WITNESS: I'm not aware.
 13 BY MR. SMITH:
 14 Q. Is there any point in time that you would be
 15 rendering any opinion -- let me rephrase it.
 16 Do you have any opinion as to a point in time
 17 after loss of AC that a facility, if they are acting
 18 reasonably, should evacuate? In other words, if they
 19 lose their air conditioning after 24 hours, 48 hours or
 20 78 hours, that they should evacuate?
 21 Is there some time period, temporal time
 22 period after loss of AC in which there is sort of a
 23 recognized standard of care that you say after this
 24 amount of time, you must evacuate, or does it vary
 25 depending on what's occurring in the facility?

1 law to report that, don't they?
 2 A. Yes, they would have that responsibility.
 3 Q. And in the investigation, are you aware that
 4 on September 12, there was -- I'll start with
 5 Dr. Evancho, and I think he was a doctor with Vitas
 6 Healthcare who visited the facility, observed the
 7 conditions in the facility, made a statement that it
 8 wasn't that hot and made a decision as to his patient,
 9 who was there, that there was no need to transfer that
 10 patient.
 11 Are you aware of that?
 12 MR. MENTON: Object to form.
 13 THE WITNESS: I don't recall that.
 14 BY MR. SMITH:
 15 Q. Do you know if there was Dr. Cadogan who also
 16 visited the facility on September 12th and rounded on
 17 patients and found again that the facility wasn't so hot
 18 that they should, her patients should be relocated from
 19 the facility?
 20 A. I don't recall that name and I don't recall
 21 that information.
 22 Q. But would you agree with me that's something
 23 you would look at as what actions did the licensed
 24 medical professionals and clinical professionals take,
 25 what were their observations as to the safety of the

1 A. I'm not aware of any type of specific
 2 timeframe.
 3 I would just say that whenever they identify
 4 that they can't safely provide services to the
 5 residents, and if the residents are starting to have
 6 some type of difficulty breathing or being able to
 7 handle the temperatures in the facility, they are
 8 uncomfortable and just having difficulty being cool in
 9 the facility, that's when I would think that they would
 10 consider evacuating the building and moving people to a
 11 cooler place.
 12 Q. So it would be based on the observations of
 13 the licensed medical professionals that are in charge of
 14 those patients to determine these patients are showing
 15 symptoms, having difficulty, it's time to evacuate the
 16 patients?
 17 A. Yes. That's what I would think, that they
 18 would be able to identify that.
 19 Q. And those licensed professionals, are you
 20 aware they have a duty to not only say let's move people
 21 because they need to be kept safe, but they actually
 22 would have a duty to report to the state if they felt
 23 that there was neglect in the care of elder residents?
 24 Even if they suspected there was neglect in
 25 the care of elderly residents, they have a duty under

1 patients, that would be something that you would want to
 2 consider?
 3 MR. MENTON: Object to form.
 4 THE WITNESS: I would want to know the medical
 5 professionals that were in the facility and their
 6 roles in the facility and what they thought about
 7 the conditions.
 8 BY MR. SMITH:
 9 Q. Right. And if you were trying to figure out
 10 did the facility act reasonably, you would want to see
 11 what did these other people do, particularly third
 12 parties that aren't employed by the facility; would that
 13 be fair?
 14 A. I would want to interview them.
 15 Q. And you'd want to take that into account in
 16 determining whether the facility was acting reasonably?
 17 MR. MENTON: Object to form.
 18 THE WITNESS: I would want to receive their
 19 information and see what their thoughts were and
 20 what their -- to interview them. That's what we
 21 would normally do with them.
 22 MR. MENTON: Are you okay? Do you want to
 23 take a break?
 24 THE WITNESS: No, I'm fine.
 25

1 BY MR. SMITH:

2 Q. Do you know from your review of surveyors, do
3 you know if Mr. Carballo had any relatives that were
4 residents of that nursing home?

5 A. I'm not aware of that.

6 Q. Would that be something that you would want to
7 consider, again, in trying to determine if somebody was
8 acting in a reasonable manner and looking after the
9 safety of the residents, would that be a factor where
10 you would look at and say well, if their own
11 father-in-law -- I guess you would need to know does he
12 like his father-in-law, but if they had their own family
13 in the building, would that be something that you would
14 consider as, well, you know, I would want to at least
15 know that fact, to determine were they acting
16 reasonably?

17 MR. MENTON: Object to form.

18 THE WITNESS: I wouldn't necessarily look to
19 see whether there is a relative in the facility. I
20 would just want to know, you know, the status of
21 all of the residents, not necessarily a relative of
22 the administrator.

23 BY MR. SMITH:

24 Q. And would you want to know, for example, if
25 residents were being provided hydration?

1 information, if the facility is saying that the
2 residents were in a certain condition, if the
3 temperature was at 81 and below, I would want to
4 know that information.

5 And I would want to know everything. I would
6 want to know the who, what, when, where of
7 everything that was happening in that facility.

8 BY MR. SMITH:

9 Q. But if that was the case, if there wasn't any
10 visible signs both by -- again, I'm telling you by third
11 parties who are not employees who are saying I've
12 checked on my -- I'm a doctor, I've checked on my
13 patients and made the determination they're okay, this
14 is September 12, and a nurse that's overseeing the care
15 of a hospice patient in the building says I don't think
16 I have to move my patient, and then the facility people
17 are saying I rounded on my patients, I continually
18 rounded on my patients, I haven't seen any signs of
19 distress, then they wouldn't need to just declare an
20 evacuation because, well, we still don't have the AC
21 back on?

22 MR. MENTON: Object to form.

23 BY MR. SMITH:

24 Q. I mean I'm just trying to understand. We may
25 disagree, that may not be what happened, but if that is

1 Would that be a relevant fact to say was the
2 facility taking reasonable actions?

3 A. Yes.

4 Q. And would you want to know if residents were
5 being monitored, whether people were rounding on the
6 residents to check on them?

7 A. Yes.

8 Q. And I just want you to assume that these facts
9 are true. If they are not true, then my hypothetical to
10 you would have no meaning, but if the facts were that on
11 September 12, late in the afternoon or early into the
12 evening there were third-party medical professionals
13 that visited the facility and determined their patients
14 did not appear to be in any jeopardy, that they were not
15 showing signs of distress, that the facility staff
16 rounded on patients and did not find that anybody was in
17 distress, that the plant operations manager was
18 monitoring temperatures and found that the temperatures
19 were still within the 81 degrees that we use as a
20 benchmark, if all those things were true, then would you
21 agree that there wouldn't be a reason to implement an
22 evacuation of the facility if there was no evidence of
23 any residents having difficulties or distress?

24 MR. MENTON: Object to form.

25 THE WITNESS: I would want to know that

1 what happened, would you agree that as of September 12,
2 then they wouldn't be necessarily having to evacuate the
3 building if there was nobody showing signs of distress?

4 MR. MENTON: Object to form.

5 THE WITNESS: Well, what I would be looking
6 for is what are the facts? And if their
7 residents -- what were the issues or conditions of
8 their residents? I would want to know everything.

9 Like I said, the who, what, when, where. What
10 was going on with their residents? What were their
11 diagnoses? What did they think about the
12 temperature in the facility?

13 And then to look at, you know, what the
14 information that we have available on the status of
15 the residents. That's what I would be looking at
16 is to determine what was the status of the
17 residents, if the residents were not having any
18 difficulty or were the residents having difficulty?

19 BY MR. SMITH:

20 Q. Okay. And before the -- I want to just kind
21 of cut us off at the, let's say by nine p.m. on Tuesday
22 evening at Hollywood Hills.

23 Do you have any information or documentation
24 anywhere that you've seen, interviews, information
25 outside of the Statement of Deficiencies or within the

1 Statement of Deficiency, somewhere where you have
2 documentation that residents were experiencing
3 difficulty or distress as of that evening?

4 MR. MENTON: Object to form.

5 BY MR. SMITH:

6 Q. Tuesday evening, September 12.

7 A. I think that our surveyors obtained
8 information about residents having some type of
9 difficulty within the facility on the 12th, meaning like
10 they were having some type of, if they had a high
11 temperature or they were having difficulty breathing.

12 I think we received some information from I
13 think emergency personnel about residents that might
14 have had some type of difficulty, a decline in their
15 health. And so that's all that I'm aware of on the
16 12th.

17 Q. And would that information be reflected in the
18 notes of the surveyors that you're relying on to say
19 that there is some evidence out there that you think
20 that shows that there were residents that were having
21 difficulty on September 12th?

22 A. We would depend on, normally we would depend
23 on information that would be in the surveyor notes, or
24 if we were able to get records from other facilities,
25 that may be something, that would be something that we

1 here in your offices and I'd ask you if you want to go
2 consult other information, let's do that, because this
3 is my only chance to hear from you what information you
4 have.

5 So I'm just trying to determine, as of sitting
6 here right now, what other information you may have that
7 residents were experiencing difficulty as of the evening
8 of September 12, 2017, at the Hollywood Hills facility.

9 A. All that I'm aware of are, like I said, the
10 surveyor notes, the medical records that we obtained
11 from Memorial Regional Hospital, and included in that
12 information, the surveyor notes would be interviews with
13 the doctors, interviews with staff at the nursing home
14 that they were able to interview, and that's the only
15 information that I have.

16 Q. Okay. So you would only have the information
17 that Ms. Allen or Ms. Sosiak passed on to you in the
18 form of their surveyor notes and the Statement of
19 Deficiencies, and then the medical records that you were
20 able to obtain from Memorial Regional?

21 Those would be the documents that I would look
22 at to see what information you have?

23 A. And then we also have press releases that came
24 out in the media. So those are other information that
25 we had access to if there's a press release.

1 would definitely look at.

2 Q. But what I'm asking you is -- let me ask it
3 this way. To the best of your ability and consulting
4 whatever records or documentation you have -- and if you
5 want to take a break, we're here in your offices and you
6 can look at whatever other documentation that you may
7 have outside of what you brought into the room with you,
8 but what I'm trying to get at is I'd like to just know
9 what evidence or documentation you have that residents
10 were having distress or difficulties as of the evening
11 of September 12th and so that I understand what the
12 specific details are.

13 Do you understand my question?

14 MR. MENTON: Object to form.

15 THE WITNESS: I think I understand your
16 question, and I would say that basically what I'm
17 familiar with at this moment is just the
18 information that the surveyors would have gathered
19 during their investigation with the medical records
20 or staff that they may have interviewed. That
21 would be the only information that I am aware of.

22 BY MR. SMITH:

23 Q. Okay. And so other than the surveyor notes
24 and the Statement of Deficiencies, is there any other
25 documentation that you would look at? Because we are

1 Q. Is there any that you can tell me as we sit
2 here today that give you some indication that residents,
3 as of September, evening of September 12th were having
4 difficulty in any press release or information outside
5 the surveyor notes and the Statement of Deficiencies?

6 A. I don't recall any of it, but I just knew that
7 we had access to several press releases that came out
8 related to the case, and it might have included
9 information about September 12th.

10 Q. Okay. On September 13th in the early morning
11 hours, it's my understanding that that was when 911 was
12 called because certain residents were having
13 difficulties.

14 Do you have different information than that,
15 or is that the first time that you're aware that 911 was
16 called because patients were having difficulties?

17 A. I'm basically aware of on September 13th at
18 approximately 1:30 a.m. was when 911 was first called to
19 the facility.

20 Q. And do you have the information as to that
21 first call, the patient, the medical condition of the
22 patient and what was going on?

23 A. The information that I received from the
24 surveyors is that the resident was having respiratory
25 distress at approximately 1:38 and 911 was called.

1 Q. Do you know if the resident was a 99-year-old
 2 patient that was on Hospice Crisis Care?
 3 A. No, I don't have the age of the resident and I
 4 don't have their -- I don't have that person's
 5 diagnosis.
 6 Q. Okay. And after that, and did that patient
 7 expire in the facility, to your knowledge?
 8 A. I have documentation in my notes that the
 9 person died at the hospital. Now these are just my
 10 notes from September 13th, but there may be, there's
 11 additional information I think about that particular
 12 resident inside of the Statement of Deficiencies.
 13 Q. And then there were several other patients
 14 where 911 was called where the patient was having
 15 distress; is that right?
 16 A. Yes.
 17 Q. Are you aware of any patients that were in
 18 distress that 911 was not called?
 19 A. No, I'm not aware of that.
 20 Q. Are you aware of at what time the mass
 21 casualty evacuation was determined?
 22 Do you know when that occurred?
 23 A. I don't know that specific time.
 24 Q. Do you know who made the determination that
 25 there should be an evacuation and that there was a mass

1 those types of facts?
 2 A. I think basically the information, I would
 3 have to depend on the surveyor notes for where the
 4 residents were taken, the different -- it's my
 5 understanding that several of the residents went to
 6 Memorial Regional Hospital and then others went to
 7 another hospital in the area.
 8 And I basically know how they were evacuated
 9 just from really seeing pictures and seeing it on the
 10 news.
 11 Q. And tell me what your impression was from
 12 seeing the pictures and the media and seeing it on the
 13 news. How would you describe what you saw?
 14 A. Well, it was people being transferred in
 15 wheelchairs. I think I saw a few people that were on
 16 stretchers.
 17 Q. And where were they in relation to the
 18 building? Were they in the parking lot? Were they on
 19 the sidewalk? Were they still inside the building?
 20 A. I really couldn't tell you. I just know that
 21 there were pictures of them, so I couldn't specifically
 22 tell you where they were located when I saw them on
 23 television. I'm just not able to identify specifically
 24 where they were located.
 25 They were outside of the facility. I can say

1 casualty situation?
 2 A. It's my understanding that EMS staff
 3 identified that there was some problems, medical
 4 problems with and emergencies that were happening within
 5 the facility, and it's my understanding that staff from
 6 the hospital evacuated, were a part of that process
 7 also.
 8 Q. Okay. And do you have an understanding of --
 9 I understand that the staff from Memorial Regional came
 10 to Hollywood Hills; is that your understanding?
 11 A. Yes.
 12 Q. Okay. And do you have an understanding of
 13 who -- under whose authority was it that there was a
 14 declaration that an evacuation of the facility should
 15 occur?
 16 Was it Memorial? Was it the Hollywood Police
 17 Department? Was it Broward County Fire Rescue?
 18 A. I don't know specifically who declared the
 19 emergency and the evacuation and under whose authority.
 20 I can't specifically tell you that.
 21 Q. Do you know any of the details other than
 22 again what's already stated in the Statement of
 23 Deficiencies or the surveyor notes which I have, are you
 24 aware, do you have any additional information of how the
 25 evacuation was conducted and where patients were taken,

1 that. They were on the outside of the nursing home.
 2 Q. And I'll just ask you to assume that the
 3 evacuation started somewhere between 5:30 a.m. and
 4 6:30 a.m.
 5 And do you know as residents were awoken how
 6 that occurred? Do you know who woke them up or was it
 7 sort of a gentle, you know, "Get up, Mrs. Jones, we're
 8 going to have to leave," or was it, you know, kind of a
 9 sound the alarms and lots of yelling and "Let's get up
 10 and get -- you got to get out of here, you got to get
 11 out of here now"?
 12 Do you know what the conduct was in getting
 13 the people out of the building?
 14 A. No, I don't.
 15 Q. Do you know if the residents were provided any
 16 nourishment, any food or breakfast in getting up and
 17 getting out of the building?
 18 A. I don't know.
 19 Q. Do you know if they were provided with their
 20 medications?
 21 A. I don't know.
 22 Q. Do you know if their ability to ambulate was
 23 considered in determining how to evacuate the residents?
 24 A. I don't know.
 25 Q. So in other words, do you know if any

1 residents that may have been unable to ambulate on their
2 own were being asked to stand up or being assisted to
3 get up out of the wheelchair and stand up?

4 A. I don't know.

5 Q. Okay. And would you agree all those things
6 you would think in an evacuation situation, you would
7 want to take all of that into account and make sure that
8 people were properly nourished, you'd want to make sure
9 that they were put somewhere that wasn't in the direct
10 sunlight, you would want to do this in an orderly
11 fashion so that you don't cause harm to anybody in the
12 process?

13 MR. MENTON: Object to form.

14 BY MR. SMITH:

15 Q. Would you agree?

16 A. I would expect that it would be done orderly,
17 as orderly as possible.

18 Q. Do you know if the actions of the evacuation
19 contributed in any way to harm or death of any resident?

20 MR. MENTON: Object to form.

21 THE WITNESS: I'm not aware of that.

22 MR. SMITH: Do you want to take a break?

23 THE WITNESS: Yes. Can we take a break?

24 MR. SMITH: Yes, let's take a break.

25 And just for our record, and what I'd like to

1 and Maria Castro, the DON.

2 Q. Had you made arrangements to meet them there
3 or did you just go there and they happened to be there?

4 A. I just went there and they just happened to be
5 there.

6 Q. Okay. And from the time of the evacuation on
7 the morning of the 13th, tell me -- I know the surveyors
8 went there and I've already spoken to them.

9 What I'm trying to piece together is your
10 involvement from the time the surveyors went to the
11 facility.

12 How were you involved, if at all, in the
13 events?

14 A. The surveyors called me after they had
15 gathered their information and gave me an update.

16 Q. Were they still at the facility?

17 A. Yes.

18 Q. Okay. And do you know how long you spoke to
19 them?

20 A. I don't know exactly how long it was.

21 Q. Were you on speaker phone with both of them or
22 were you talking to Ms. Allen or Ms. Sosiak?

23 A. On speaker phone.

24 Q. So you had a conversation, they updated you on
25 what they had learned, and had a decision been made at

1 do when we come back is you've brought some
2 documents, and maybe I can look at those while you
3 are out so that I can just ask you if there's any
4 questions I have on them.

5 MR. MENTON: These are probably the only two
6 you haven't seen. Everything else is the ESO and
7 Statement of Deficiencies and Emergency Suspension.

8 MR. SMITH: I have a copy of the ESO, but do
9 you mind if I just look at yours? I think it will
10 expedite things. Thank you very much.

11 Yes, let's just take a short break and come
12 back and I think I can finish up pretty quickly.

13 THE WITNESS: Okay.

14 MR. SMITH: Thank you.

15 (A recess was taken.)

16 BY MR. SMITH:

17 Q. Ms. Mayo-Davis, the Immediate Moratorium on
18 Admissions was delivered by you to the facility on the
19 13th at about -- I think your timeline reflects that it
20 was at 9:30 p.m.

21 Where did you deliver the moratorium and to
22 whom?

23 A. I delivered it at the Larkin Behavioral Center
24 that's at the back of the nursing home, and I delivered
25 it to Jorge Carballo, the nursing home administrator,

1 that point, when you heard what they had learned, did
2 you make a decision at that point that there should be a
3 moratorium imposed on admissions?

4 A. No.

5 Q. Walk me through the process of how it was
6 determined to place that moratorium on admissions.

7 A. So we obtained information from the surveyors
8 and then we called Kim Smoak to --

9 Q. You are using we, so can you identify who is
10 we?

11 A. It would be me and the office supervisors,
12 such as Maryanne Salerni, she is our operations
13 consultant manager, and Evelyn Macpherson.

14 So we -- I'm not sure if Evelyn was there at
15 that particular time, but it would have been me and
16 Maryanne Salerni, and we listened by conference call on
17 speaker phone for the surveyors to give us an update on
18 the information.

19 Then we contacted Kim Smoak to tell her the
20 findings, what the preliminary findings were.

21 Q. Who was on that call, just yourself --

22 A. Maryanne Salerni and Kim Smoak.

23 Q. And at the conclusion of that call, was it
24 decided that you should issue an immediate moratorium?

25 A. No.

1 Q. So walk me forward on how -- just trace it
2 forward and tell me at what point and how you decided to
3 issue that moratorium.

4 A. Okay. And so I don't have all the pieces, but
5 this is what I'm aware of.

6 We have a process that we follow before we
7 would ever issue any type of action such as a
8 moratorium. So we would have to get information from
9 the surveyors. It would be given to management within
10 the field office and then it would go to Kim Smoak. And
11 then after we notified Kim Smoak, then we would bring in
12 other people into that process.

13 So we would bring in one of our attorneys.
14 May have been Tom Walsh or Tom Holder. Usually it's
15 going to be both of them.

16 Q. Was that done here?

17 A. I think that at least one of the -- I think
18 Tom Walsh was involved and was notified.

19 Q. I'll just tell you in all this, I'm not asking
20 you to tell me what your attorneys may have told you.

21 A. Okay.

22 Q. I just want to understand the process, and
23 you've kind of started talking about what would happen,
24 and I want to talk about what did happen.

25 So if you could just tell me in this specific

1 A. And then afterwards we got on a conference
2 call, the surveyors got on a conference call with Kim
3 Smoak and me and Maryanne Salerni, and they actually
4 gave the information to her verbally.

5 And at that particular time I think Tom Walsh
6 was on the phone listening in to what the findings were.

7 Q. Okay. And at that time was it determined to
8 issue the immediate moratorium?

9 A. I don't think that it was finalized at that
10 particular time, but we were discussing what type of
11 actions we should take.

12 Q. Okay. And let me ask you what time of day was
13 that conference call?

14 A. I don't know the specific time of that
15 conference call.

16 Q. Okay. And then what happened next?

17 A. The information, the surveyors spoke to Tom
18 Walsh to help him to understand exactly the findings
19 that they had.

20 And so as I said, prior to that, we were
21 already considering what actions that we would take
22 based on those findings.

23 And so after the surveyors and we had a
24 conference call with Kim Smoak and our attorney, and
25 then our attorney had called with the surveyors, and

1 instance what occurred. I got through the call with Kim
2 Smoak, and then what happened next?

3 A. Okay. There would have been notification of
4 Tom Walsh about the conditions in the facility, and
5 Molly McKinstry would have been updated.

6 Q. Okay, when you say she would have been, did
7 you update Molly McKinstry or did somebody else do that?

8 A. Kim Smoak.

9 Q. Kim Smoak updated Molly McKinstry?

10 A. Yes, and then we had the surveyors continue to
11 investigate, to pull their information together to make
12 sure that it was as clear as possible.

13 I e-mailed Kim Smoak the findings that the
14 surveyors had told me, because at the beginning it was
15 verbally. So I e-mailed her some of the findings on the
16 paper that I gave to you with some of my notes to try to
17 make it as clear as possible and to try to provide a
18 timeline for her related to the preliminary findings
19 that the surveyors gave us.

20 Q. So there's an e-mail from you to Kim Smoak
21 saying here's the findings?

22 A. Yes. There should be an e-mail that I
23 e-mailed to her to try to clarify what I had told her
24 verbally.

25 Q. Okay.

1 then afterwards the final decision was made to move
2 forward with the moratorium on admissions.

3 Q. And who made that decision to move forward?
4 How was it communicated to you?

5 A. I think on one of those calls we must have
6 made a final determination that we would go forward with
7 a moratorium, which would have been the least
8 restrictive action that we felt that we needed to take
9 at that particular time.

10 Q. All right.

11 A. So usually I would be on the call when we
12 would all, everybody that was on the call would agree
13 that this is the least restrictive action that we can
14 take at that time.

15 Q. And so you were part of the final decision?

16 A. Yes.

17 Q. And did anybody in the entire process inform
18 you that the governor had directed the agency to issue a
19 moratorium on admissions?

20 A. No.

21 Q. And so then the moratorium would have been
22 drafted in legal and then you -- it was finalized and
23 you delivered it?

24 A. Yes.

25 Q. Okay. Did you have, did you go alone or did

1 you have others with you when you delivered it?
 2 A. I was alone.
 3 Q. Okay. You didn't have anybody from Memorial
 4 or Hollywood Police Department or anyone with you?
 5 A. No.
 6 Q. Have you had any conversations with people
 7 outside of the surveyors about what transpired? I guess
 8 what I'm looking for is do you have any information -- I
 9 want to make sure I don't have, I'm not missing any
 10 facts.
 11 I've got the survey document, the September 22
 12 date on it, the Statement of Deficiencies. I've got the
 13 Administrative Complaint, and I have the surveyor notes
 14 and I have the Memorial Regional records that have been
 15 produced.
 16 Do you have any other facts that would be
 17 outside of that? Have you conducted other interviews
 18 with people and ongoing investigation that would not be
 19 contained within those documents?
 20 A. No, I don't have anything else.
 21 Q. And looking at the immediate moratorium, it
 22 states on page three, paragraph 10A through E, and
 23 essentially -- and I'm paraphrasing, and what I want to
 24 get from you is what you see as the facts that led to
 25 that moratorium.

1 that the agency doesn't have any direct information,
 2 meaning you don't have a -- I'll just ask, you don't
 3 have like a temperature reading that says it was this
 4 hot in the facility?
 5 A. I don't have a temperature reading of the
 6 facility, and based on the information that we used was
 7 the information that was in the hospital medical records
 8 for the temperature of the residents.
 9 Q. Okay. And you have the core body temperatures
 10 and you don't have any information as to residents being
 11 in distress at any time prior to when 911 was called on
 12 September 13th?
 13 MR. MENTON: Object to form.
 14 BY MR. SMITH:
 15 Q. Is that true?
 16 A. We have the information from, based on when I
 17 looked at, doing the moratorium was the information for
 18 September 13th, starting at 1:30.
 19 Q. Okay. So you don't have any information prior
 20 to September 13th at 1:30 that says what specifically
 21 the condition of the residents was, whether it was good,
 22 bad, deteriorating? You don't really know, correct?
 23 A. I only have what was, what the surveyors
 24 reported to us, which was some of the information that's
 25 documented here, and that's what we used.

1 Are they contained there in A through E? Is
 2 there any other facts that you're aware of that led to
 3 the issuance of the moratorium?
 4 MR. MENTON: Object to form.
 5 THE WITNESS: Well, yes, there are other
 6 facts. Based on like my documentation that I have
 7 on that yellow page there, I mean those are the
 8 other facts, the interviews that we have from the
 9 surveyors that I documented here.
 10 So those are the other facts that I was aware
 11 of that aren't specifically documented here.
 12 BY MR. SMITH:
 13 Q. Okay. And you are referring to some
 14 handwritten notes that you've brought with you today.
 15 Can we get a break, and we're going to wrap
 16 up, but can we get a copy of your notes and your
 17 timeline and we'll just attach those as exhibits?
 18 Rather than me go through them all and read
 19 them into the record, I'll just say -- I'll identify
 20 them, these are your notes, this is your timeline?
 21 A. Okay.
 22 Q. When I read the moratorium and when I read
 23 everything else, I come away with the sense that there
 24 is, the agency's action is based on the fact that there
 25 were multiple deaths that occurred at the facility and

1 Q. Okay. But just for time's sake, what you used
 2 is things that occurred after 1:30 in the morning
 3 September 13th, starting at 1:30 in the morning on
 4 September 13th, correct?
 5 A. That's the information, yes, that I used for
 6 the moratorium.
 7 Q. Okay. And the same thing for the license
 8 revocation. I guess what I'm getting at is you don't
 9 really have any direct information as to what was the
 10 condition of the residents in terms of showing that the
 11 residents were in distress or having problems at any
 12 time before 1:30 in the morning on the 13th?
 13 A. I don't have any information related to the
 14 residents before September 13th, but we used that
 15 information for the emergency suspension, the
 16 information from the medical records, the information
 17 that we have gotten on September 13th about the distress
 18 that the residents were demonstrating, and their signs
 19 and symptoms that they demonstrated. So that's what we
 20 used.
 21 Q. Right, and I understand.
 22 So basically you're saying that these deaths
 23 occurred and therefore, the facility did not keep the
 24 residents safe?
 25 MR. MENTON: Object to form.

1 THE WITNESS: That the facility did not
2 provide the care and services that the residents
3 needed to prevent them from having the temperatures
4 that were identified at the hospital.

5 BY MR. SMITH:

6 Q. And the overall context of this was the loss
7 of air conditioning due to Hurricane Irma?

8 That's what precipitated this chain of events,
9 would you agree with that, that Hurricane Irma came, the
10 facility lost its air conditioning power, and then
11 eventually residents expired from what you believe to be
12 increasing heat in the building?

13 MR. MENTON: Object to form.

14 THE WITNESS: I'll have to, you know, provide
15 you the answer the way that I feel like the
16 facility failed to provide some care, the care and
17 services that the residents needed to make sure
18 that their temperatures did not rise to the level
19 that they were identified in the hospital medical
20 records.

21 So that's the way that I look at it is they
22 did not provide some type of care and services that
23 those residents needed.

24 BY MR. SMITH:

25 Q. But can you be specific about it and say they

1 Emergency Management Plan is the best Comprehensive
2 Emergency Management Plan in the state of Florida and it
3 just -- where I'm going with this is to say if they did
4 all that and they said this was a tragedy, but what is
5 it that you see as an agency that says the facility,
6 that the people that were involved in the care of these
7 residents are incapable of caring for residents outside
8 the context of this emergency? Whatever happened as a
9 result of this natural disaster, what is it that you
10 see?

11 I mean isn't the idea that they are incapable
12 of continuing to care for people?

13 MR. MENTON: Object to form.

14 BY MR. SMITH:

15 Q. Do you understand my question?

16 A. I think I understand your question. And what
17 I would say is based on the outcome of what happened,
18 you know, from this entire event for me starting on
19 September 13th, you know, that the care and services and
20 the outcome of the deaths of these particular residents,
21 I have concerns with allowing other residents to, you
22 know, be taken care of in that facility.

23 Q. Is it because you think that the people that,
24 the caregivers are incompetent, or is it because you
25 think that it's more of a punitive measure that as a

1 didn't provide hydration, they didn't -- you know, can
2 you be specific about the care that they didn't provide?

3 A. No.

4 MR. MENTON: Object to form.

5 THE WITNESS: I can't be specific to say that,
6 you know, exactly because I wasn't there, but I
7 can't, you know, specifically say that.

8 BY MR. SMITH:

9 Q. Now that the hurricane is over, the state of
10 Florida, everybody has learned lessons.

11 Would you agree we've learned lessons from
12 Hurricane Irma?

13 A. Yes.

14 Q. Both as a, from the regulatory side, from the
15 industry side, from the caregiver side, would you agree
16 everybody learned from this storm?

17 There is a learning experience that goes on
18 when you're faced with a natural disaster; is that fair?

19 A. Yes.

20 Q. And if the facility was to say we are
21 100 percent on board with the need to have an emergency
22 generator backup, as now is becoming a rule for the
23 state, we're going to have that emergency generator
24 backup immediately, and we're going to revisit with all
25 the planning agencies to make sure our Comprehensive

1 regulatory agency, you have to say well, when something
2 this bad happens, then there needs to be a sanction,
3 there need to be a punitive measure taken?

4 MR. MENTON: Object to form.

5 BY MR. SMITH:

6 Q. I'm just trying to decide between the, is it
7 really that you feel like the people, that they're not
8 good people, they are, you know, either uncaring, you
9 know, professionally incompetent?

10 Outside the context of this hurricane and
11 whatever came out of it, the loss of power, the deaths
12 that occurred, is it that you're saying that they are
13 truly, these people are incapable of being caregivers?

14 MR. MENTON: Object to form.

15 THE WITNESS: I can't make like a blanket
16 statement, but what I'm saying is what I look at is
17 there is a concern about the care and services that
18 was provided in this facility by the staff members.
19 And so that's what causes me great concern for the
20 health and safety of residents that are going to be
21 admitted to that facility.

22 BY MR. SMITH:

23 Q. And should they all across the board, the
24 nurses, the CNAs, the doctors who were in the facility,
25 the nursing home administrators, should they all lose

1 their licenses to practice?

2 Because whether they practice at Hollywood
3 Hills or they practice at any number of other
4 facilities, are you saying that those people -- because
5 buildings don't provide care, would you agree? The
6 building doesn't provide care to people?

7 A. Correct.

8 Q. So are all those people incompetent to provide
9 care and they should all be, you know, lose their
10 professional license to practice any longer?

11 MR. MENTON: Object to form.

12 THE WITNESS: No. I have not made that
13 determination. Whether or not they are allowed to
14 keep their license would be determined by another
15 state agency, you know, to review the staff members
16 that were involved.

17 I just have a concern with the staff that were
18 providing services to the residents during this
19 particular time.

20 BY MR. SMITH:

21 Q. Any in particular? Any staff in particular
22 that you say it was their conduct was deficient?

23 A. I don't have any staff in particular to say
24 that this is their concern only. I don't have a
25 specific staff person.

1 So if there's anything else that you say no, I've formed
2 this expert opinion that I'm going to share in this
3 proceeding, now is my chance.

4 So do you have anything else that you would
5 share?

6 A. Okay, what I would like to say is that to me,
7 this was an example and a situation that is totally
8 abnormal. You know, I've never seen it happen before
9 where we would have this amount of residents to die in
10 such a short period of time.

11 And it was an unusual situation. We used the
12 information that we could gather as quickly as possible
13 for the health and safety of the residents that were
14 admitted there and for the health and safety of future
15 residents.

16 And so that's why I believe that the facility,
17 I believe in the moratorium, I believe in the revocation
18 order, the emergency suspension order. And, you know,
19 would like to, you know, just put that on the record.

20 Q. I understand. So it wasn't an everyday
21 occurrence as a regulator, this situation of having
22 multiple deaths in a facility that way?

23 A. Correct.

24 MR. MENTON: She'll probably also comment upon
25 how the limitations that were put on them by law

1 Q. Okay. Have you formed any other kind of
2 professional or expert opinions that you would want to
3 share in this proceeding with the administrative law
4 judge that you and I have not discussed today?

5 MR. MENTON: Just in disclosure, she is going
6 to testify that she believes that the agency's
7 action in issuing the immediate moratorium and
8 emergency suspension order were justified, and
9 that -- I mean so she has kind of said that, but I
10 don't want there to be any doubt that she's going
11 to --

12 MR. SMITH: And I understand that.

13 You believe that it was a reasonable action
14 for the agency to take what the agency has done and
15 that you believe it's reasonable to seek suspension
16 or revocation of the license?

17 MR. MENTON: And consistent with her statutory
18 and regulatory authority.

19 THE WITNESS: Yes, I do.

20 BY MR. SMITH:

21 Q. And outside of that, I'm just looking, you
22 know, this is -- we call it sometimes closing the loop
23 or closing the box.

24 I just want to make sure I've gotten all your
25 expert opinions, because this is my chance to do that.

1 enforcement was part of this, you know, did
2 restrict some of the information they are able to
3 get and whether or not that information was still
4 adequate to reach the conclusions that they
5 reached.

6 THE WITNESS: Yes.

7 MR. MENTON: And that just kind of the, I
8 guess the implications of the entire scene that was
9 going on down there.

10 THE WITNESS: Yes.

11 BY MR. SMITH:

12 Q. Tell me about that. Tell me how did the
13 actions or activities of law enforcement affect your
14 ability to investigate?

15 A. Well, we would normally go directly into the
16 facility. As soon as we would hear about some type of a
17 situation like this, we would normally just go to the
18 facility and be able to enter into the facility, be able
19 to access the medical records, be able to observe
20 residents within the facility.

21 And so we weren't able to actually, you know,
22 get into the building. And the only part that we were
23 able to get into was the Larkin Behavioral Health Unit,
24 which is in the back of rehab center.

25 Q. So you weren't able to conduct your normal

1 investigation into the events?
2 A. When it comes to going into the facility, but
3 we were able to, you know, do the procedures that we
4 would normally do, just not the normal process that we
5 would take.

6 MR. SMITH: Okay. I don't have any other
7 questions for you. Thank you very much for your
8 time today.

9 THE WITNESS: You are welcome.
10 (Discussion held off the record.)

11 MR. SMITH: Can we just identify for them and
12 then maybe you can give me a copy? Can we mark as
13 Exhibit 15 -- is this a timeline of events that you
14 put together?

15 THE WITNESS: Yes.

16 MR. SMITH: And is it accurate and true, to
17 the best of your knowledge.

18 THE WITNESS: Yes, it is.

19 (The document was marked Exhibit 15
20 for identification.)



21 MR. SMITH: And this Exhibit Number 16 is just
22 some notes that you made from reviewing the files
23 and records; is that right?

24 MR. MENTON: Actually, notes made in talking
25 directly with Kathy and Anne on the 13th, I

1 CERTIFICATE OF OATH
2 STATE OF FLORIDA
3 COUNTY OF PALM BEACH
4
5

6 I, the undersigned authority, certify that
7 Arlene Mayo-Davis personally appeared before me and was
8 duly sworn on the 1st day of December, 2017.
9

10 Witness my hand and official seal this 10th
11 day of December, 2017.
12

13
14
15
16  

17 Rachel W. Bridge, RMR, CRR
18 Notary Public - State of Florida
19 My Commission Expires: 1/15/19
20 My Commission No.: FF 159892
21 Job #20428
22
23
24
25

1 believe. Those were her contemporaneous notes from
2 the 13th.

3 (The document was marked Exhibit 16
4 for identification.)

5 BY MR. SMITH:

6 Q. So these were notes that you made at the time
7 on September 13th?

8 A. Yes, correct. This is the interview with
9 Kathy and Anne while they were at the facility.

10 MR. SMITH: Let me just take one quick look at
11 that. Thank you.

12 THE WITNESS: Do I make a copy?

13 MR. SMITH: I'd rather that you make a copy
14 and we'll keep the copy if you want to keep the
15 original. I'm happy to keep your original if you
16 don't want it, but usually people want their own
17 records.

18 THE WITNESS: Yes.

19 MR. SMITH: If you don't mind making us a copy
20 of that and we'll attach it.

21 (Witness excused.)

22 (Deposition was concluded.)
23
24
25

1 CERTIFICATE
2 STATE OF FLORIDA
3 COUNTY OF PALM BEACH
4
5

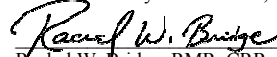
6 I, Rachel W. Bridge, Certified Realtime
7 Reporter and Notary Public in and for the State of
8 Florida at Large, do hereby certify that the
9 aforementioned witness was by me first duly sworn to
10 testify the whole truth; that I was authorized to and
11 did report said deposition in stenotype; and that the
12 foregoing pages numbered 1 to 79 inclusive, are a true
13 and correct transcription of my shorthand notes of said
14 deposition.
15

16 I further certify that said deposition was
17 taken at the time and place hereinabove set forth and
18 that the taking of said deposition was commenced and
19 completed as hereinabove set out.
20

21 I further certify that I am not attorney or
22 counsel of any of the parties, nor am I a relative or
23 employee of any attorney or counsel of party connected
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Dated this 10th day of December, 2017.

20 
21 Rachel W. Bridge, RMR, CRR
22 Job #20428
23
24
25

1 DATE: December 10, 2017
 2 TO: Ms. Arlene Mayo-Davis Job #20428
 3 c/o Stephen Menton, Esq.
 4 Rutledge Ecenia
 5 119 S. Monroe Street, Suite 202
 6 Tallahassee, Florida 32301
 IN RE: State of Fla. AHCA vs. Rehabilitation Center

7 The transcript of your deposition taken on
 8 12-1-17 has been completed and awaits reading and
 9 signing. The transcript will be furnished to you
 10 through Mr. Menton.

11 At the end of the transcript you will find an
 12 errata sheet. As you read your deposition, any changes
 13 or corrections that you wish to make should be noted on
 14 the errata sheet, citing page and line number of said
 15 change. Once you have read the transcript and noted any
 16 changes, be sure to sign and date the errata sheet and
 17 return these pages to me.

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 19 within a reasonable time, the original, which has
 20 already been forwarded to the ordering attorney, may be
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 22 your signature, sign your name in the blank at the
 23 bottom of this letter and return it to us.

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 and return it to us.

Sincerely,

 Rachel W. Bridge, RMR, CRR
 SIGNATURE COURT REPORTING, INC.
 400 South Narcissus Ave., Suite 400
 West Palm Beach, Florida 33401
 Phone: 561-659-2120

I do hereby waive my signature.

 Arlene Mayo-Davis
 cc: Via transcript: Geoffrey Smith, Esq.,
 Stephen Menton, Esq.,
 Stephen Menton, Esq.

ERRATA SHEET

IN RE: State of Florida vs. Rehabilitation Center
 CR: Rachel Bridge
 DEPOSITION OF: Arlene Mayo-Davis
 TAKEN: 12-1-17
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Under penalty of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE: _____

SIGNATURE OF DEPONENT: _____

CERTIFICATE

- - -

THE STATE OF FLORIDA
 COUNTY OF PALM BEACH

I hereby certify that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

Dated this ____ day of _____,
 2017.

 Arlene Mayo-Davis
 Job #20428

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