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August 13, 2009

Robert T. Hall, Esq.  
Hall Sickels Frei & Mims, PC  
12120 Sunset Hills Road  
Suite 150  
Reston VA 20190

Re: Harry W. Pryde and Karen W. Pryde, Personal Representatives of the Estate of Julia Kathleen Pryde, deceased v. John W. Thyden, Administrator of the Estate of Seung-Hui Cho, deceased, et al.

Grafton William Peterson, Administrator of the Estate of Erin Nicole Peterson, deceased v. John W. Thyden, Administrator of the Estate of Seung-Hui Cho, deceased, et al.

Dear Mr. Hall:

Enclosed please find Defendant's Answers to Plaintiffs' First Set of Interrogatories in the above-referenced cases.

Please call me if you have any questions.

Very truly yours,

  
Edward J. McNelis, III

EJM/jma

Enclosures

cc: Mike F. Melis, Esq. (w/enc.)  
Jim H. Guynn, Jr., Esq. (w/enc.)  
Ben DiMuro, Esq. (w/enc.)

bcc: Cathye Betzel (via email w/enc.)  
Sherry Lynch Conrad (via email w/enc.)  
Christopher Flynn (via email w/enc.)  
Robert Miller (via email w/enc.)  
Sandra Ward (via email w/enc.)  
John Alexander, Jr., (DRM #IN43088-023) (via email w/enc.)  
John D. McChesney  
Elizabeth Muldowney  
Cari Mikalson  
Ashlee Kneip

VIRGINIA:

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

HARRY W. PRYDE and KAREN W. PRYDE,  
Co-Administrators of the Estate of Julia  
Kathleen Pryde, deceased,

Plaintiffs,

v.

Case No. CL-005526

JOHN W. THYDEN, Administrator of  
the Estate of Seung-Hui Cho, deceased,  
*et al.*,

Defendants.

**DEFENDANT ROBERT MILLER, Ed.D.'s ANSWERS AND OBJECTIONS  
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant Robert Miller, Ed.D., by counsel, hereby provides the following answers and states the following objections in response to plaintiffs' first interrogatories.

**GENERAL OBJECTION**

Defendant Robert Miller, Ed.D. filed dispositive motions including a demurrer and a special plea in bar. The parties are currently attempting to have these dispositive motions set for hearing as soon as possible. This defendant objects to any discovery being conducted that is not directly related to the pending dispositive motions. This defendant is answering these interrogatories as the inadvertent and unexpected discovery of certain records pertaining to the late Seung-Hui Cho may be relevant to the pending dispositive motions.

### Interrogatories

1. Indicate the date you or someone on your behalf removed the Seung-Hui Cho files from the Cook Counseling Center, and, if you did not personally remove them, identify who removed these files.

**Answer:** No one else was involved in removing the files and no one assisted me in moving out of my Cook Counseling Center office. I inadvertently removed the records while I was cleaning out my office during the timeframe of February 27 – March 9, 2006. See also Answer to Interrogatory No. 6.

2. Indicate the date you or someone on your behalf removed the other student-patient files from the Cook Counseling Center, and, if you did not personally remove them, identify who removed these files.

**Answer:** No one else was involved in removing the files and no one assisted me in moving out of my Cook Counseling Center office. I inadvertently removed the records while I was cleaning out my office during the timeframe of February 27 – March 9, 2006. See also Answer to Interrogatory No. 6.

3. Provide a description of the documents removed, including:
- a. Identify the author of each such document,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** Without waiving said objection, I recall the authors of the documents pertaining to Seung-Hui Cho were Drs. Lynch and Betzel, and Ms. Smith

(now Dr. Smith). Also attached to the Cho documents was an email sent from Residential Life. I do not recall the name of the author of the email as I returned the records to Cook Counseling Center shortly after I discovered them. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

Without waiving said objection, I presently lack sufficient information to answer the question in relation to the documents that did not directly involve Seung-Hui Cho. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

b. The date each such document was created,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** Without waiving said objection, I lack the information needed to respond to this question as I returned the records to Cook Counseling Center shortly after I discovered them. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

c. The number of pages of each,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** See Answer to Interrogatory No. 3(b).

d. The form, if any on which the entries were made,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection and without fully understanding what you are asking me, I can state that the Cho documents were standard triage forms used at the Cook Counseling Center in late 2005. There was a post-it note on one of the triage forms. The email was in email format. I am not permitted to discuss the content of the other documents in the file.

e. The identity of any typist of any such record if the records were typed in whole or in part,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** The documents pertaining to Seung-Hui Cho were pre-printed triage forms with handwritten notations.

f. The date any such document was typed or transcribed,

**Answer:** Please see Objection and Answer to Interrogatory Nos. 3(b) & (e).

g. The identity of all persons who had custody of these documents from the date of creation until the date of removal,

**Objection:** Defendant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. This defendant also lacks a sufficient foundation to respond to this interrogatory as he was not the custodian of these records at all times.

**Answer:** Without waiving said objection, I know that the counselors who made notations on the triage forms possessed the forms at some point. I was also in possession of the forms. I am not sure who else may have had custody of the records at Cook Counseling Center. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

h. The identity of any individual counter-signing any such document,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** In regards to the documents pertaining to Seung-Hui Cho, Ms. Smith was a pre-doctoral intern at the Cook Counseling Center at the time. I recall her triage note was counter-signed by Dr. Gary Bennett, a psychologist at the Center. This is the only counter-signing I recall. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

i. The identity of anyone to whom these documents or any one of them was circulated, and

**Answer:** To the best of my knowledge, the documents were not circulated by me to anyone. The records were returned as described in my answer to Interrogatory No. 14.

j. A description of any document created at the Cook Counseling Center as a result of the creation of any of the removed documents.

**Objection:** Defendant lacks any foundation to answer this interrogatory. Moreover, this interrogatory is vague and ambiguous.

4. Provide a description of any appointment book, log, journal or other entry made by the Cook Counseling Center staff prior to the creation of each such document reflecting the nature of the contact by Seung-Hui Cho with the Cook Counseling Center.

**Answer:** The Counselors completed the standard triage forms each time that Cho had contact with the Center. In addition, all of Seung-Hui Cho's known contacts with the Center were recorded electronically on MEDICAT. MEDICAT tracked the date, time, student name, the purpose of the contact with the Center, and scheduled follow-up appointments (if any). I no longer have access to the Cook Counseling Center's electronic records.

5. Provide a description of any book, log or journal entries made following any contact by Mr. Cho with the Cook Counseling Center.

**Answer:** Please see Answer to Interrogatory No. 4.

6. State the reason why you removed these records from the Cook Counseling Center.

**Answer:** In order to properly answer this interrogatory, I believe it is necessary to explain my status at Cook Counseling Center during the time I inadvertently and unknowingly removed the triage forms.

During the late fall of 2005, I suggested to Dr. Zenobia Hikes, the Vice President for Student Affairs at Virginia Tech, that an independent consultant be retained to review operations at the Center. This suggestion had nothing to do with Mr. Cho or the mental health care of the other clients whose records I inadvertently removed as described hereinafter. Dr. Hikes agreed and a consultant, Dr. Jackie Johnson, was hired to conduct the review.

Dr. Johnson began her review on December 14, 2005. This was also the date on which Mr. Cho had his last contact with the Center. In the course of completing her review, Dr. Johnson interviewed me as well as other members of the Center's staff.

Sometime around Christmas 2005, I met with Dr. Hikes and Dr. Johnson to discuss the findings of Dr. Johnson's individual staff meetings. Dr. Hikes said that, based on Dr. Johnson's report, she intended to remove me as Director and reassign me to some unspecified position. Dr. Hikes did not indicate a specific date for my reassignment.

Dr. Hikes again stated that I was going to be removed as Director in a telephone conversation we had on January 17, 2006. Again, no specific information was discussed as to my reassignment, including the date.

I took several weeks of leave in late January and early February 2006 at the suggestion of my supervisor, Dr. Warren.

Still being unsure as to what my future would be at Virginia Tech, I called Dr. Hikes on February 20, 2005 and scheduled an appointment with her to discuss my disposition. The appointment was scheduled for February 24, 2006.

At the appointment on Friday, February 24, 2006, I was given a letter (the letter is actually dated February 25, 2006) and told by Dr. Hikes that I was to leave Cook Counseling Center by March 9, 2006. From the time of my meeting with Dr. Hikes and Dr. Johnson around Christmas 2005 until my appointment with Dr. Hikes on February 24, 2006, I was uncertain of my status at the Center in terms of my duties and responsibilities.

The following Monday (February 27, 2006), I returned to Cook Counseling Center and began packing up my office. It is my belief that between February 27, 2006, and March 9, 2006, I inadvertently packed client records, including the triage records of Seung-Hui Cho, within the several boxes of personal belongings from my office and transported them to my home. Cho's triage records and the records of the other clients were in a manila folder that I mistakenly packed into boxes with my personal items. The boxes included diplomas, memorabilia, journals and journal articles, manuscripts of papers I was writing or had written, books, thank you letters I'd collected from various individuals over the years, information for professional presentations, copies of my performance evaluations, faculty-staff retreat documents and annual reports of the Counseling Center dating back to 1988 when I first came to the Center. I also had taken from my office documents of mine from prior to working at Cook Counseling Center (old CV's, graduate school transcripts, a copy of my dissertation).

7. Identify all persons you made aware that you removed these records from the Cook Counseling Center, whether affiliated with the Cook Counseling Center or not, or affiliated with Virginia Tech or not.

**Answer:** I discovered the records during the evening of July 15, 2009. I called my attorney, Edward J. McNelis, III, and left him a voice mail that evening around 7:30PM. Other than Mr. McNelis, I did not speak to anyone else or make anyone else aware that I had removed the records.

8. State the date each such person became aware of your removal of these records, and how they became aware of your removal of these records.

**Answer:** Mr. McNelis became aware of my removing the records on the morning of July 16, 2009, when he listened to my voice mail message.

9. Identify each and every person with whom you spoke on or after April 16, 2007 about the absence of these records from the Cook Counseling Center.

**Answer:** To the best of my recollection, Dr. Betzel called me after April 16, 2007 (I do not remember the specific date) and asked me if I had any records regarding Mr. Cho. I told her I did not because I did not know that I had the records at that time. I recall other people at the University mentioning that they were having difficulty finding Mr. Cho's records; however, I cannot remember specifically whom I spoke with about this issue other than Dr. Betzel. I have talked to my attorney, Edward J. McNelis, III about the records as indicated above.

10. State the text of what you told each such person about the absence of such records from the Cook Counseling Center, and the date you spoke with, emailed or otherwise correspondence with them on that subject.

**Objection:** Defendant objects to this interrogatory on the grounds that the information sought, in part, is privileged communication.

**Answer:** Without waiving said objection, to the best of my memory I said to Dr. Betzel "I do not have any records on Counseling Center clients" when she asked me if I had Cho's records, or words to that effect. I did so because I did not know I had the records at that time.

11. State the initials of all other students or patients of the Cook Counseling Center whose records you removed from the Cook Counseling Center, and why you removed them. If you contend that stating their initials would violate their rights of privacy, assign a number or letter to each such patient and describe why you removed that patient's records.

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I do not recall the contents of the file besides those records pertaining to Seung-Hui Cho. Furthermore, I no longer have access to those files. Those documents were in a manila folder along with Cho's records and were removed for the same reasons described in Answer to Interrogatory No. 6.

12. Identify each and every policy, protocol or procedure of the Cook Counseling Center applicable from 2005 through 2007 which dealt with:

- a. The creation of student-patient mental health records,
- b. The retention of student-patient mental health records,
- c. The storage of student-patient mental health records, and
- d. The removal, whether temporary or permanent, of student-patient mental health records from the Cook Counseling Center.

**Objection:** Defendant lacks the proper foundation to answer this interrogatory as he was reassigned from the Center in 2006. Furthermore, defendant objects to the interrogatory on the grounds that the information sought is privileged pursuant to Va. Code §§ 8.01-581.16 and 8.01-581.17. Furthermore, this interrogatory is unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence. Lastly, defendant objects on the grounds that the information sought is available from a more convenient source. These objections pertain to Interrogatory No. 12 a-d.

13. State what use you made of each such student-patient record removed by you from the date of its removal from the Cook Counsel Center up to and including the date you turned them over to a third party.

**Answer:** I made no use of the student-patient records.

14. Identify the third person to whom you turned over these records in 2009 and the date, time and place they were turned over.

**Answer:** I turned the records over to Dr. Christopher Flynn, the current Director of the Cook Counseling Center, on July 16, 2009, in the afternoon in the Blacksburg Public Library parking lot.

15. If you contend that you removed these student-patient records from the Cook Counseling Center in order to conduct research or participate in a study, identify with specificity the nature of the research and/or the focus of the study and your role in each.

**Answer:** I did not remove the records for research or study.

16. If you contend that you removed these records in order to complete, edit, analyze or supplement these records, state what deficiencies, inadequacies or incompleteness of each such record removed you desired to review, change or supplement.

**Answer:** I did not remove the records for the purpose of completing, editing, analyzing or supplementing them. Nor did I add, alter or otherwise change them in any way while they were stored in my home.

17. Were any of the student-patients whose records you removed ever patients of yours [as opposed to patients of the Cook Counseling Center] or seen by you professionally? If so, identify each such patient using any reasonable technique to avoid disclosing their identity.

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I lack the sufficient information needed to respond to this question. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

18. Did you ever see, meet, take a history from, diagnose, treat or review the history, diagnosis, treatment or care of Seung-Hui Cho at any time prior to April 16, 2007? If so, describe each such occasion, giving the date, time, place and purpose of each such involvement.

**Answer:** To the best of my knowledge, I never saw, met, took a history from, diagnosed or treated Seung-Hui Cho. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses. Based on the records found in my home, it is likely that I discussed Seung-Hui Cho with Dr. Sherry Lynch on or around December 14, 2005, when she conducted her triage with him. The time of such a meeting between Dr. Lynch and me, if it occurred, would have been after her meeting with Mr. Cho, the time of which is available on MEDICAT. The place of the meeting would have been Cook Counseling Center. I presently have no independent recollection of meeting with Dr. Lynch about Mr. Cho.

19. Prior to removing the files of any student-patient from the Cook Counseling Center did you alert, advise or consult with the student-patient's therapists who created or made entries in the records removed? If so, identify each such therapist, the approximate date of each such alert, advice or consultation and what you said or otherwise advised them.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g).

**Answer:** Without waiving said objection, I do not recall alerting, advising or consulting with therapists who created or made entries in the records removed. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

20. Identify each and every student-patient record you removed from the Cook Counseling Center on which you had made any entry contemporaneously with the events described therein.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I lack the sufficient information needed to respond to this question. I recall only that Seung-Hui Cho's triage forms were among the documents I unintentionally removed. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

21. Identify each and every student-patient record you removed from the Cook Counseling Center on which you had made any entry after its removal from the Cook Counseling Center, the text of the entry made by you and the purpose of each such entry.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I did not make any entries on any of the records after I removed them from the Cook Counseling Center.

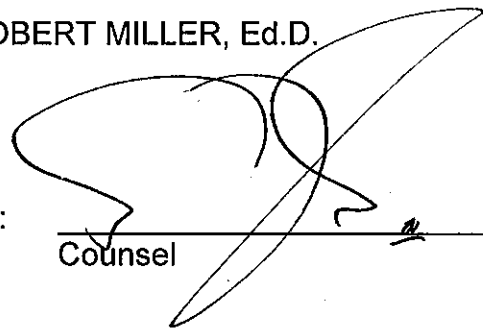
22. While the student-patient records were in your possession identify each and every document you made, created, or authored that referred to the student-patient record, extracted from it or used that record as a resource for your entries.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I did not make, create or author any documents referring to the student-patient records nor did I extract from or use the documents in any way.

Respectfully submitted,

ROBERT MILLER, Ed.D.

By:  \_\_\_\_\_  
Counsel

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John D. McChesney (VSB #44326)  
Rawls & McNelis, P.C.  
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Certificate of Service

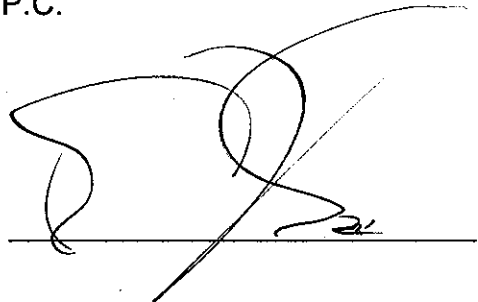
I hereby certify that on this 13<sup>th</sup> day of August 2009, I transmitted a true and correct copy of the foregoing to:

Robert T. Hall, Esq.  
Hall, Sickels, Frei & Mims, P.C.  
12120 Sunset Hills Road, Suite 150  
Reston, VA 20190

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908 King Street, Suite 200  
Alexandria, VA 22314

Mike F. Melis  
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Jim H. Guynn, Jr.  
Elizabeth K. Dillon  
Adam G. Swann  
Guynn, Memmer & Dillon, P.C.  
415 S. College Avenue  
Salem, VA 24153

A handwritten signature in black ink, appearing to be "JH Guynn", is written over a horizontal line. The signature is stylized and somewhat cursive.

VIRGINIA:

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

GRAFTON WILLIAM PETERSON,  
Administrator of the Estate of Erin  
Nicole Peterson, deceased,

Plaintiff,

v.

Case No. CL-09-005525

JOHN W. THYDEN, Administrator of  
the Estate of Seung-Hui Cho, deceased,  
*et al.*,

Defendants.

**DEFENDANT ROBERT MILLER, Ed.D.'s ANSWERS AND OBJECTIONS  
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant Robert Miller, Ed.D., by counsel, hereby provides the following answers and states the following objections in response to plaintiff's first interrogatories.

**GENERAL OBJECTION**

Defendant Robert Miller, Ed.D. filed dispositive motions including a demurrer and a special plea in bar. The parties are currently attempting to have these dispositive motions set for hearing as soon as possible. This defendant objects to any discovery being conducted that is not directly related to the pending dispositive motions. This defendant is answering these interrogatories as the inadvertent and unexpected discovery of certain records pertaining to the late Seung-Hui Cho may be relevant to the pending dispositive motions.

## Interrogatories

1. Indicate the date you or someone on your behalf removed the Seung-Hui Cho files from the Cook Counseling Center, and, if you did not personally remove them, identify who removed these files.

**Answer:** No one else was involved in removing the files and no one assisted me in moving out of my Cook Counseling Center office. I inadvertently removed the records while I was cleaning out my office during the timeframe of February 27 – March 9, 2006. See also Answer to Interrogatory No. 6.

2. Indicate the date you or someone on your behalf removed the other student-patient files from the Cook Counseling Center, and, if you did not personally remove them, identify who removed these files.

**Answer:** No one else was involved in removing the files and no one assisted me in moving out of my Cook Counseling Center office. I inadvertently removed the records while I was cleaning out my office during the timeframe of February 27 – March 9, 2006. See also Answer to Interrogatory No. 6.

3. Provide a description of the documents removed, including:

a. Identify the author of each such document,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** Without waiving said objection, I recall the authors of the documents pertaining to Seung-Hui Cho were Drs. Lynch and Betzel, and Ms. Smith

(now Dr. Smith). Also attached to the Cho documents was an email sent from Residential Life. I do not recall the name of the author of the email as I returned the records to Cook Counseling Center shortly after I discovered them. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

Without waiving said objection, I presently lack sufficient information to answer the question in relation to the documents that did not directly involve Seung-Hui Cho. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

b. The date each such document was created,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** Without waiving said objection, I lack the information needed to respond to this question as I returned the records to Cook Counseling Center shortly after I discovered them. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

c. The number of pages of each,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence.

**Answer:** See Answer to Interrogatory No. 3(b).

d. The form, if any on which the entries were made,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection and without fully understanding what you are asking me, I can state that the Cho documents were standard triage forms used at the Cook Counseling Center in late 2005. There was a post-it note on one of the triage forms. The email was in email format. I am not permitted to discuss the content of the other documents in the file.

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**Answer:** The documents pertaining to Seung-Hui Cho were pre-printed triage forms with handwritten notations.

f. The date any such document was typed or transcribed,

**Answer:** Please see Objection and Answer to Interrogatory Nos. 3(b) & (e).

g. The identity of all persons who had custody of these documents from the date of creation until the date of removal,

**Objection:** Defendant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. This defendant also lacks a sufficient foundation to respond to this interrogatory as he was not the custodian of these records at all times.

**Answer:** Without waiving said objection, I know that the counselors who made notations on the triage forms possessed the forms at some point. I was also in possession of the forms. I am not sure who else may have had custody of the records at Cook Counseling Center. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

h. The identity of any individual counter-signing any such document,

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** In regards to the documents pertaining to Seung-Hui Cho, Ms. Smith was a pre-doctoral intern at the Cook Counseling Center at the time. I recall her triage note was counter-signed by Dr. Gary Bennett, a psychologist at the Center. This is the only counter-signing I recall. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

i. The identity of anyone to whom these documents or any one of them was circulated, and

**Answer:** To the best of my knowledge, the documents were not circulated by me to anyone. The records were returned as described in my answer to Interrogatory No. 14.

j. A description of any document created at the Cook Counseling Center as a result of the creation of any of the removed documents.

**Objection:** Defendant lacks any foundation to answer this interrogatory. Moreover, this interrogatory is vague and ambiguous.

4. Provide a description of any appointment book, log, journal or other entry made by the Cook Counseling Center staff prior to the creation of each such document reflecting the nature of the contact by Seung-Hui Cho with the Cook Counseling Center.

**Answer:** The Counselors completed the standard triage forms each time that Cho had contact with the Center. In addition, all of Seung-Hui Cho's known contacts with the Center were recorded electronically on MEDICAT. MEDICAT tracked the date, time, student name, the purpose of the contact with the Center, and scheduled follow-up appointments (if any). I no longer have access to the Cook Counseling Center's electronic records.

5. Provide a description of any book, log or journal entries made following any contact by Mr. Cho with the Cook Counseling Center.

**Answer:** Please see Answer to Interrogatory No. 4.

6. State the reason why you removed these records from the Cook Counseling Center.

**Answer:** In order to properly answer this interrogatory, I believe it is necessary to explain my status at Cook Counseling Center during the time I inadvertently and unknowingly removed the triage forms.

During the late fall of 2005, I suggested to Dr. Zenobia Hikes, the Vice President for Student Affairs at Virginia Tech, that an independent consultant be retained to review operations at the Center. This suggestion had nothing to do with Mr. Cho or the mental health care of the other clients whose records I inadvertently removed as described hereinafter. Dr. Hikes agreed and a consultant, Dr. Jackie Johnson, was hired to conduct the review.

Dr. Johnson began her review on December 14, 2005. This was also the date on which Mr. Cho had his last contact with the Center. In the course of completing her review, Dr. Johnson interviewed me as well as other members of the Center's staff.

Sometime around Christmas 2005, I met with Dr. Hikes and Dr. Johnson to discuss the findings of Dr. Johnson's individual staff meetings. Dr. Hikes said that, based on Dr. Johnson's report, she intended to remove me as Director and reassign me to some unspecified position. Dr. Hikes did not indicate a specific date for my reassignment.

Dr. Hikes again stated that I was going to be removed as Director in a telephone conversation we had on January 17, 2006. Again, no specific information was discussed as to my reassignment, including the date.

I took several weeks of leave in late January and early February 2006 at the suggestion of my supervisor, Dr. Warren.

Still being unsure as to what my future would be at Virginia Tech, I called Dr. Hikes on February 20, 2005 and scheduled an appointment with her to discuss my disposition. The appointment was scheduled for February 24, 2006.

At the appointment on Friday, February 24, 2006, I was given a letter (the letter is actually dated February 25, 2006) and told by Dr. Hikes that I was to leave Cook Counseling Center by March 9, 2006. From the time of my meeting with Dr. Hikes and Dr. Johnson around Christmas 2005 until my appointment with Dr. Hikes on February 24, 2006, I was uncertain of my status at the Center in terms of my duties and responsibilities.

The following Monday (February 27, 2006), I returned to Cook Counseling Center and began packing up my office. It is my belief that between February 27, 2006, and March 9, 2006, I inadvertently packed client records, including the triage records of Seung-Hui Cho, within the several boxes of personal belongings from my office and transported them to my home. Cho's triage records and the records of the other clients were in a manila folder that I mistakenly packed into boxes with my personal items. The boxes included diplomas, memorabilia, journals and journal articles, manuscripts of papers I was writing or had written, books, thank you letters I'd collected from various individuals over the years, information for professional presentations, copies of my performance evaluations, faculty-staff retreat documents and annual reports of the Counseling Center dating back to 1988 when I first came to the Center. I also had taken from my office documents of mine from prior to working at Cook Counseling Center (old CV's, graduate school transcripts, a copy of my dissertation).

7. Identify all persons you made aware that you removed these records from the Cook Counseling Center, whether affiliated with the Cook Counseling Center or not, or affiliated with Virginia Tech or not.

**Answer:** I discovered the records during the evening of July 15, 2009. I called my attorney, Edward J. McNelis, III, and left him a voice mail that evening around 7:30PM. Other than Mr. McNelis, I did not speak to anyone else or make anyone else aware that I had removed the records.

8. State the date each such person became aware of your removal of these records, and how they became aware of your removal of these records.

**Answer:** Mr. McNelis became aware of my removing the records on the morning of July 16, 2009, when he listened to my voice mail message.

9. Identify each and every person with whom you spoke on or after April 16, 2007 about the absence of these records from the Cook Counseling Center.

**Answer:** To the best of my recollection, Dr. Betzel called me after April 16, 2007 (I do not remember the specific date) and asked me if I had any records regarding Mr. Cho. I told her I did not because I did not know that I had the records at that time. I recall other people at the University mentioning that they were having difficulty finding Mr. Cho's records; however, I cannot remember specifically whom I spoke with about this issue other than Dr. Betzel. I have talked to my attorney, Edward J. McNelis, III about the records as indicated above.

10. State the text of what you told each such person about the absence of such records from the Cook Counseling Center, and the date you spoke with, emailed or otherwise correspondence with them on that subject.

**Objection:** Defendant objects to this interrogatory on the grounds that the information sought, in part, is privileged communication.

**Answer:** Without waiving said objection, to the best of my memory I said to Dr. Betzel "I do not have any records on Counseling Center clients" when she asked me if I had Cho's records, or words to that effect. I did so because I did not know I had the records at that time.

11. State the initials of all other students or patients of the Cook Counseling Center whose records you removed from the Cook Counseling Center, and why you removed them. If you contend that stating their initials would violate their rights of privacy, assign a number or letter to each such patient and describe why you removed that patient's records.

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I do not recall the contents of the file besides those records pertaining to Seung-Hui Cho. Furthermore, I no longer have access to those files. Those documents were in a manila folder along with Cho's records and were removed for the same reasons described in Answer to Interrogatory No. 6.

12. Identify each and every policy, protocol or procedure of the Cook Counseling Center applicable from 2005 through 2007 which dealt with:

- a. The creation of student-patient mental health records,
- b. The retention of student-patient mental health records,
- c. The storage of student-patient mental health records, and
- d. The removal, whether temporary or permanent, of student-patient mental health records from the Cook Counseling Center.

**Objection:** Defendant lacks the proper foundation to answer this interrogatory as he was reassigned from the Center in 2006. Furthermore, defendant objects to the interrogatory on the grounds that the information sought is privileged pursuant to Va. Code §§ 8.01-581.16 and 8.01-581.17. Furthermore, this interrogatory is unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence. Lastly, defendant objects on the grounds that the information sought is available from a more convenient source. These objections pertain to Interrogatory No. 12 a-d.

13. State what use you made of each such student-patient record removed by you from the date of its removal from the Cook Counsel Center up to and including the date you turned them over to a third party.

**Answer:** I made no use of the student-patient records.

14. Identify the third person to whom you turned over these records in 2009 and the date, time and place they were turned over.

**Answer:** I turned the records over to Dr. Christopher Flynn, the current Director of the Cook Counseling Center, on July 16, 2009, in the afternoon in the Blacksburg Public Library parking lot.

15. If you contend that you removed these student-patient records from the Cook Counseling Center in order to conduct research or participate in a study, identify with specificity the nature of the research and/or the focus of the study and your role in each.

**Answer:** I did not remove the records for research or study.

16. If you contend that you removed these records in order to complete, edit, analyze or supplement these records, state what deficiencies, inadequacies or incompleteness of each such record removed you desired to review, change or supplement.

**Answer:** I did not remove the records for the purpose of completing, editing, analyzing or supplementing them. Nor did I add, alter or otherwise change them in any way while they were stored in my home.

17. Were any of the student-patients whose records you removed ever patients of yours [as opposed to patients of the Cook Counseling Center] or seen by you professionally? If so, identify each such patient using any reasonable technique to avoid disclosing their identity.

**Objection:** Defendant objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I lack the sufficient information needed to respond to this question. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

18. Did you ever see, meet, take a history from, diagnose, treat or review the history, diagnosis, treatment or care of Seung-Hui Cho at any time prior to April 16, 2007? If so, describe each such occasion, giving the date, time, place and purpose of each such involvement.

**Answer:** To the best of my knowledge, I never saw, met, took a history from, diagnosed or treated Seung-Hui Cho. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses. Based on the records found in my home, it is likely that I discussed Seung-Hui Cho with Dr. Sherry Lynch on or around December 14, 2005, when she conducted her triage with him. The time of such a meeting between Dr. Lynch and me, if it occurred, would have been after her meeting with Mr. Cho, the time of which is available on MEDICAT. The place of the meeting would have been Cook Counseling Center. I presently have no independent recollection of meeting with Dr. Lynch about Mr. Cho.

19. Prior to removing the files of any student-patient from the Cook Counseling Center did you alert, advise or consult with the student-patient's therapists who created or made entries in the records removed? If so, identify each such therapist, the approximate date of each such alert, advice or consultation and what you said or otherwise advised them.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g).

**Answer:** Without waiving said objection, I do not recall alerting, advising or consulting with therapists who created or made entries in the records removed. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

20. Identify each and every student-patient record you removed from the Cook Counseling Center on which you had made any entry contemporaneously with the events described therein.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I lack the sufficient information needed to respond to this question. I recall only that Seung-Hui Cho's triage forms were among the documents I unintentionally removed. However, discovery is an ongoing process and I reserve the right to amend and supplement my answer as discovery progresses.

21. Identify each and every student-patient record you removed from the Cook Counseling Center on which you had made any entry after its removal from the Cook Counseling Center, the text of the entry made by you and the purpose of each such entry.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I did not make any entries on any of the records after I removed them from the Cook Counseling Center.

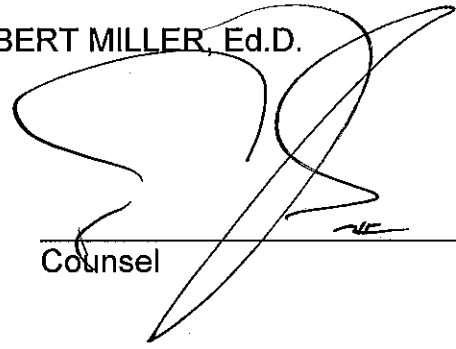
22. While the student-patient records were in your possession identify each and every document you made, created, or authored that referred to the student-patient record, extracted from it or used that record as a resource for your entries.

**Objection:** Defendant objects to the interrogatory as supernumerary and, therefore, in violation of Virginia Supreme Court Rule 4:8(g). Defendant further objects to this question on the grounds that the content of medical documents not related to Seung-Hui Cho is irrelevant, cannot be disclosed under federal and state privacy laws, and inquiring about their content is not reasonably calculated to lead to the discovery of admissible evidence. This defendant further objects to this interrogatory as being vague and ambiguous.

**Answer:** Without waiving said objection, I did not make, create or author any documents referring to the student-patient records nor did I extract from or use the documents in any way.

Respectfully submitted,

ROBERT MILLER, Ed.D.

A large, stylized handwritten signature in black ink, appearing to be 'RM', written over a horizontal line.

By:

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Certificate of Service

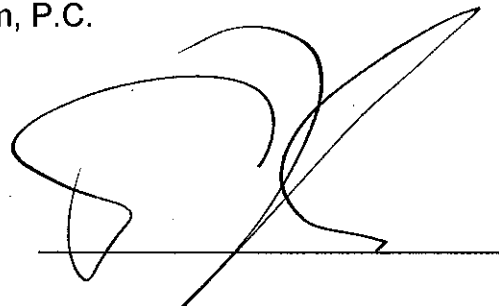
I hereby certify that on this 13<sup>th</sup> day of August 2009, I transmitted a true and correct copy of the foregoing to:

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A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned to the right of the contact information for Guynn, Memmer & Dillon, P.C.