Motion to Suppress—Blood Draw OFFICER CROSS-EXAMINATION QUESTIONS

# Education:

-Do you have a BS or higher in major related to phlebotomy?

-If so, What?

-If not, level of education?

# Medical Training:

-Have you ever received any medical training?

-Have you ever received any training on how to administer blood draws?

-Where?

-When?

-Was your instructor a licensed medical doctor?

-How long was the course? (most do schools that are 3 to 6 months)

-Did your training include withdrawing blood from patients arrested for DUIs?

-Did your training include Title 17?

-Did your training include administering the blood draw in accordance with the current laws?

-Were you trained on how to administer blood draws?

-Were you trained on the difference between a medical blood draw and a forensic blood draw?

-What is the difference?

-Which one is better to preserve alcohol?

-Why?

(DA will usually ask about training. If phleb states that she is trained yearly, then ask if the training is an 8 hour class via the internet. The test that he/she took was an open book test. Some facilities will give trainings. Ask if the trainings were done by a license doctor; how do they know; etc. The trainings are usually done by scientists (forensic toxicologist) not doctors.)

# Employment:

-Current employer?

-How long?

-Ever been employed else where as a phleb?

-Where?

-How long?

-Who is your current supervisor?

-What is his title? (scientist or MD or something else)

Has there been any complaints about you from patients regarding blood draws?

# Medically Accepted by Community:

-Do you keep current on the issues regarding phlebotomy?

-Do you read literature related to phleb?

-subscribe to any periodicals?

-magazines?

-newspapers?

-journals?

-last book read re: phleb?

-last article read re: phleb?

-Do you belong to any organizations related to phleb?

-Have you ever given a lecture on a subject re: phleb?

-Have you ever written an article re: phleb?

# Blood draw:

-Do you remember this blood draw?

-Please answer the questions to what you remember, okay? (very often do not remember)

-Did you check for vital signs?

IS IT COMMON IN THE MEDICAL FIELD FOR A MEDICAL PROFESSIONAL TO NOT CHECK VITAL SIGNS PRIOR TO A MEDICAL PROCEDURE?

-Was a medical history of subject taken?

IS IT COMMON IN THE MEDICAL FIELD FOR A MEDICAL PROFESSIONAL TO NOT TAKE A PATIENT’S MEDICAL HISTORY PRIOR TO A MEDICAL PROCEDURE?

-Do you know what anemia is?

-Did you ask the patient if he/she was anemic?

-Do you know the consequences of drawing blood from an anemic person?

-If yes, what? (usually don’t know but if do stress health risks)

IS IT COMMON IN THE MEDICAL FIELD FOR A MEDICAL PROFESSIONAL TO NOT ASK IF A PATIENT IS ANEMIC PRIOR TO A MEDICAL PROCEDURE INVOLVING A BLOOD DRAW?

-Do you know what hemophilia is?

-Did you ask if the patient was hemophilic?

-Do you know the consequences of drawing blood from a hemophiliac?

-If yes, what? (usually don’t know but if do stress health risks)

IS IT COMMON IN THE MEDICAL FIELD FOR A MEDICAL PROFESSIONAL TO NOT ASK IF A PATIENT IS A HEMOPHILIC PRIOR TO A MEDICAL PROCEDURE INVOLVING A BLOOD DRAW?

-Did you ask the patient if he had given blood within the last 24 hours?

-Isn’t it true that the patient’s BAC result would be affected if he had given blood within the last 24 hours?

-Do you know what a veinous blood draw is?

-Do you know how to perform one?

-Do you know what an arterial blood draw is?

-Do you know how to perform one?

-Do you know the difference between a veinous blood draw and an artillery blood draw?

What is it?

Which is better to preserve alcohol?

Why?

# Blood Kit:

-Where did you receive the blood kit?

-When?

-What type of condition was the blood kit kept?

-Did you check to see if the vacuum was broken?

-Did you check the expiration date of the vacuum tube?

-Did you check to see if the right amount of chemicals were in there?

*Of your own personal knowledge*, right amount of preservative?

[usually Sodium Fluoride (100mg)/preservative is to prevent fermentation] *Of your own personal knowledge*, was the right amount of anti-coagulent? Potassium Oxalate (20mg) (anticoagulant)

-Why are the specific amount of preservatives important for blood draws?

[specific amount of preservative is dependent on volume of blood taking less amount could increase %, as more blood would decrease the %]

-So what was the final percentage of each chemical to the sample?

-KIT have instructions in it?

One for the drawer instructing to invert the tubes FIVE X=s

One for the cop instructing the cop to invert the tube TWENTY X=s

-Do you know of the needle being sterilized?

How sterilized? Where?

When?

-Did you examine both arms?

-Did you check pulse?

Left or right arm?

Is one arm better than the other?

-Did you use a Tourniquet? How long left on for?

Amount of pressure applied by it?

Is there a length of time that a person may be injured after leaving it on for?

-Did you conduct a venous blood draw?

[venal draw b/c safer and reflects blood currently passing in body=s system] How confirmed? [correct answer: one way is dark color]

-Why do you want a venous blood draw?

-Why are the arms chosen for the blood draw?

-Are their parts of the body where if blood is drawn it will not accurately reflect the BAC?

-Did you ask the defendant if he wanted his own personnel to draw the blood? (Veh. Code section 23158 (b).)

-Who approved the procedures that you conducted for this blood draw? (VC 23158 (e)- MD.)

-Was there a medical professional available during the blood draw if a medical emergency occurred during the blood draw? (VC 23158(a).)

-Who?

-Where were they located?

[Depending on case and witness, you may want to ask if client complained about pain, bruising, how many times he/she had to puncture client to obtain blood.)

# Location of Blood Draw:

-Where was the blood draw conducted?

-Did you clean the area where the blood draw was conducted?

(If in police station or jail then ask questions about people coming in; make a point that it is open to a variety of people passing through; what it looks like, a lot of paper, etc.)

# ARGUMENT:

**NOT A MEDICAL PROFESSION**

**DOES NOT KEEP UP WITH THE MEDICAL PROFESSION THROUGH PERIODICALS, ETC.**

**NOT TRAINED BY A DOCTOR**

**NO EDUCATION AS A MEDICAL PROFESSIONAL**

**PROCEDURE NOT APPROVED BY A MEDICAL PROFESSIONAL**

**LACK OF KNOWLEDGE RE: MEDICAL PROCEDURES (anemia, hemophilia,**

**etc.)**

**THUS, CANNOT TESTIFY AS TO THE BLOOD DRAW BEING CONDUCTED WOULD BE ACCEPTED BY THE MEDICAL COMMUNITY.**

**NOT COMPLIANT WITH VC 23158**

**NO MEDICAL PROFESSIONAL AVAILABLE ON SITE LACK OF KNOWLEDGE RE: ANEMIA, HEMOPHILIA, ETC. LOCATION NOT CLEAN**

**[COMPLAINTS OF PAIN, BRUISING, CRYING, ETC. THUS, RISK OF INJURY**