

11 TIPS ON HANDLING **DEFENSE MEDICAL EXAMINATIONS**

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1. USE REASONABLE CAUTION.

The doctors picked by the defendants may be honest and caring doctors, but they usually are asked to be on the lookout for information that can help the defense's case. The defense doctors are not there to treat you; and they are not there to help you in any way. They will not give you any medical advice or help. They only examine and report to the defense attorney. The defense doctors have been told to find anything that will make your injuries not seem so serious, to look for questionable complaints by you, to find out anything contrary to your claim of being injured, and to report anything that can be used to limit your case before a jury. If the doctors work regularly for an insurance company, they will be accustomed to doing that sort of thing. Therefore, use reasonable caution during the examination.

2. BE RELAXED, BUT ALERT AND POLITE.

Be relaxed; after all, you know the answers to the questions the doctors may ask, and you have nothing to hide from the doctor. If you seem tense and upset, the doctor may think you have something to hide.

Be polite and cooperative. Give helpful, straightforward answers that will make a good impression on the doctor.

Be alert, as you will need to answer the medical questions carefully and correctly. You also need to be alert in case the defense doctor starts asking you questions about how the accident happened and what you saw at the accident location. Some defense doctors want to be able to report anything about the accident events that will help the defendant. If the doctor or his or her staff asks you questions that seem to be more about the facts of the accident than your injuries, simply tell the doctor — politely — that your attorney has told you not to talk about the accident to people, but only about your injuries.

3. RESERVE PLENTY OF TIME ON THE DAY OF THE EXAMINATION.

One way to be relaxed about answering questions during the examination, and to give correct answers, is to allow extra time for the defense medical examination. That way you will not omit information because of being rushed.

Be certain to arrive on time. Better yet, arrive a few minutes early. This will give you plenty of time to fill out any routine forms about your past medical history, and you will not omit information because of being rushed.

Plan extra time into your schedule. If the doctor's office calls and tells you the examination will only take an hour, plan on three times that amount of time. Better yet, plan that you will not be doing anything else that day. That way, if the doctor keeps you waiting for hours before the examination, leaves for a hospital emergency, and asks you to wait for him to finish the exam when he or she gets back from the hospital, you will not feel rushed and upset because you had planned on doing something else that day.

Be prepared for long waits. Being angry will not get you anywhere and will prevent you from thinking and answering the doctor's questions in a calm and relaxed manner like you should.

4. YOU CAN ASK FOR HELP IN GETTING TO THE DOCTOR'S OFFICE.

If you need extra help getting to the doctor's office – for example, a friend or relative to drive you, or to help you in and out of a car; or even a taxi to take you to the doctor's office – ask your attorneys; they will likely request the defense to pay for that expense. Tell your attorneys in advance what you need in the way of extra help. Likewise, if seeing the doctor involves expensive travel, or the examination date and place means you have to stay in a hotel overnight, let your attorneys know in advance, so they can make the monetary arrangements before your examination. After your examination, the defense likely will not cooperate to get you reimbursed for help you needed to get to the doctor's office.

In some instances, you are allowed to have a friend or spouse present at your examination. Talk to your attorneys about that before you ask anyone else to come into the examination room with you.

5. DO NOT ACCEPT SUBSTITUTE OR EXTRA DOCTORS.

Know the name of the doctor the defense has specified. If for some reason that exact doctor is not able to be there, do not accept a substitute from the clinic or firm of doctors. Politely tell them that your attorney has told you only to see the named doctor, not any other doctor. The defense attorney will probably not accept the substitution, and the court rules will make you go back and have a second examination.

Likewise, if the clinic or named doctor asks you to see another doctor after the doctor you were scheduled to see, politely tell them that your attorney has told you only to see the named doctor, not any other doctor.

6. BE PREPARED TO ANSWER THE QUESTIONS.

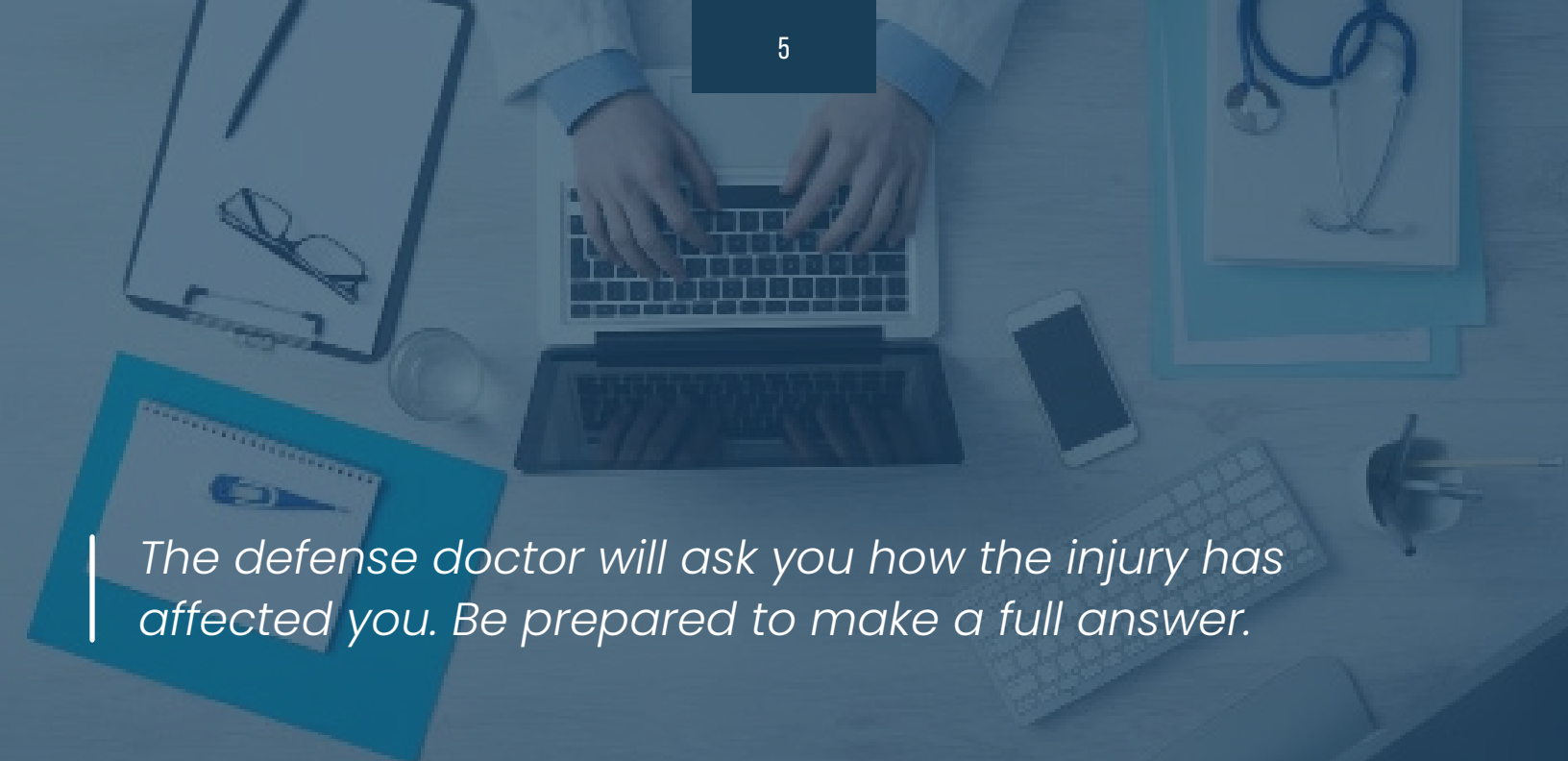
One way to feel more relaxed about answering questions on the opening paperwork or during the doctor's examination is to take the time now to jot down a few things prior to examination day. You know from past experience in doctors' offices that the doctor's staff will usually ask you to fill out paperwork telling about your past medical history, your present problems, and the medications that you take.

Make a list of all your medications that you have ever taken since the accident for the accident injuries. You can take a medications list to the examination. Having that medications list does not make you look like you are trying to make money from the accident.

Next make a list, for your own mental practice, of your medical history. It helps you organize your thinking and feel more relaxed when you are asked about these things by the doctor. Read the list over just before you travel to see the doctor. Usually you should not take this written list of your problems and treatments with you to the examination. It is simply for your own use before you see the doctor. Ordinarily, if your medical history is not complicated, and you still bring a written list, the doctor may think you are trying to exaggerate your medical situation. On the other hand, if your medical history is complicated, write it down and take it with you, so you will be able to fill out the required forms accurately. This is necessary, because if there is something significant left out, the defense attorney likely will claim you were trying to hide something. If you are uncertain about your medical history list, consult with your attorneys about whether you should take a medical history list with you.

The defense doctor will ask you how the injury has affected you. Be prepared to make a full answer. Write out another list, for your own mental practice, of the ways in which the

accident has affected your everyday life. You will not be considered brave or modest if you do not tell everything that the injury did to you. Anything you leave out, the defense doctor will say you never had. As a general rule, you should not take this written list to your appointment. The list is simply for your own use before you see the doctor, because it helps you organize your thinking and feel more relaxed when you are asked about these things by the doctor. Ordinarily, if you



The defense doctor will ask you how the injury has affected you. Be prepared to make a full answer.

bring a list of injuries or how they have affected you, some doctors report that you may be trying to exaggerate your medical situation.

Think about your day-to-day life now and before the accident. Do you now have pain? Do you now have restrictions on what you can do? Are activities more difficult to perform? You might ask a friend or a spouse or fellow worker to tell you about any changes they have noticed since your accident as they may have observed something you did not think of when putting together your list.

7. ANSWER THE QUESTIONS DIRECTLY AND TRUTHFULLY

The first part of your defense medical examination will probably consist of written or oral questions. Answer all the questions politely and truthfully. Do not try to fake anything, as this can be observed or discovered by the doctor. Do not rush. Just answer any questions. If you are asked to write down a medical history and there is not enough space to put down a full answer, write what you can and make a note in the form stating that there was not enough space to complete the answer. If a question is unclear or confusing, do not be afraid to ask the doctor to explain or reword the question. If you do not understand a question, say so. Do not be rushed into answering without thinking.

The defense doctor may have obtained X-rays and other tests of you taken at an earlier time. He or she may even have more medical records of you than your attorneys. Insurance companies sometimes go years back into hospital records, even back into other states where you had lived

as a child, to get past medical records. As a result, do not be surprised if the doctor asks you about past hospitalizations or conditions.

Avoid unnecessary talking. Remember, the doctor is hired by the defense to help its case, so do not ramble on unnecessarily. Anything you say can be brought into court later.

8. THOROUGHLY DESCRIBE PAIN YOU EXPERIENCED/ARE EXPERIENCING.

During the doctor's examination, he or she probably will ask you to describe your aches and pains. Because it is difficult to describe what an ache or a pain is like, it may be best to use the "it hurts when I do this" approach. Relate what it is that you cannot do because of pain, and where the pain is located. Remember the "it hurts when I do this" approach if you find it hard to describe in words what the pain is like.

Do not understate your pain and the problems it causes you. This is not a time to be modest or be some sort of hero about bearing pain. On the other hand, do not exaggerate your pain and the problems associated with the pain.

9. IF YOU ARE UNCOMFORTABLE BECAUSE OF SOMETHING THE DOCTOR DOES, SAY SO.

What the doctor does in the examination depends upon the injuries and what sort of things the doctor is investigating. Some procedures like checking blood pressure, your heart and lungs, or reflexes will probably be familiar to you because they are an ordinary part of any physical examination.

Other procedures are standard in injury cases and defense examinations. They may include the nurse or a doctor watching how you walk in the interior office hallway on the way to the examination room, asking you to sit or remove clothing and watching if there is any difficulty, or a visual examination of your entire body for other difficulties that might contribute to your present condition. (In fact, the defense hopes the doctor finds some other cause for your present condition than the accident.)

The defense doctor may also do other tests that you consider to be normal, such as X-rays. But you do not have to come back on another day for such tests, unless your attorneys tell you

to do that. If the doctor asks you to come back for a second day of tests, politely tell him or her that your attorneys told you that you were only scheduled for that one day. If you can reach your attorney immediately, they may be able to tell you whether the second day of tests is proper; if not, contact your attorney as soon as possible to let him or her know of the request for additional days of testing.

If you have concerns about the safety of any test or procedure, you have a right to say it does not seem safe and you don't want to face the health risk. For example, if the examining doctor requests too many X-rays and you are concerned about excessive X-ray radiation, you have a right to discuss that both with the doctor and with your attorneys before proceeding. Likewise, if the doctor wants to take a biopsy, administer a drug, or inject a dye into your veins, you can decline by politely saying that you think it would be dangerous to your health or body and you want first to check with your lawyer or own doctor to find out if it should be done.

10. DON'T SIGN ANYTHING AT THE DOCTOR'S OFFICE WITHOUT CONSULTING YOUR ATTORNEY FIRST.

There is no reason for you to sign any form giving the doctor any waiver of liability for his or her tests or examination. If the doctor asks for your signature on any "waiver" or "consent" form, just explain politely that your attorney has asked you not to sign any waivers or consents.

Further, there is no reason for you to sign any form agreeing that the doctor can do anything; to sign any form agreeing to pay the doctor anything or say you are responsible to pay anything; or to show your insurance card to the doctor's office.

11. AFTER YOUR EXAMINATION, LET YOUR ATTORNEYS KNOW WHAT HAPPENED.

Many times, a defense doctor will get on the witness stand and say he or she made a complete medical examination of a person, but the defense doctor actually only spent less than five minutes with the person. Therefore, pay attention to the exact time that the doctor comes into the room to see you, and exactly how long he or she stays in the room with you. Do not make a "big deal" out of it or write it down while the doctor or his or her staff is doing something with you. Pay attention to them, not to making any notes.

It may be the case that the doctor comes in and spends three or four minutes with you, leaves, comes back an hour later after various tests have been done, and spends another three or four minutes. Just quietly keep mental track of how many actual minutes the doctor spends with you. As soon as you get out of the doctor's office, write down the number of minutes the doctor actually spent with you, and then call your attorney's office.

Although you want to remember what went on in the examination, do not take notes or bring a tape recorder into the examination room. It can make you look like you are more interested in your settlement than your health.

While your attorneys want you to remember certain specifics of the examination, do not let remembering what is going on distract you. Being alert to the doctor's questions is more important than anything else. When the examination is over, take some time to jot down some notes and contact your attorneys to discuss what went on in the examination.