THE BASICS OF PHYSICIAN DEPOSITIONS

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OBJECTIVES

- Understand the purpose and format of a typical physician's deposition;
- Recognize many of the tricks and tactics attorneys will use in an effort to trap the physician or extract testimony;
- Understand how best to prepare for a pending deposition in order to provide the best possible defensive testimony; and
- Leave with a better understanding of the overall deposition process
A DEPOSITION DEFINED

- A lawyer representing a party to a lawsuit asks questions to a witness under oath, but out of court
Depositions have several basic purposes:

- Learn what a witness or party knows about case;
- Fixes a witness's story so that it cannot be amended at trial;
- Preserves testimony for witnesses who may not be available to testify at trial; and
- Used to impeach a witness who testifies differently than their deposition.
Subpoena Duces Tecum

• A summons may require you to appear and bring documents or other tangible evidence with you to a deposition.

• May also be called a “subpoena for production of evidence.”
WHY AM I BEING DEPOSED?

- As a medical malpractice defendant
- As a treating physician
- As an expert witness
Medical Malpractice Defendant

- Adversarial process
- Goal is to show physician’s negligence harmed the patient
- Must be familiar with the patient’s record
Treating Physician

• Not a party to the lawsuit
• Questions focus on patient’s treatment, condition and prognosis
• Not an expert witness
Expert Witness

• A witness who has specialized knowledge in a particular subject
• Has received documents for a particular party in area of expertise
• Permitted to state opinions
General Party Litigant or Witness

- Divorce
- Contract disputes
- Custody disputes
- Witness to workplace sexual misconduct or discrimination
WHO ARE THE PARTICIPANTS?

- Parties
- Attorneys
- Court reporter
- Consultants
- Deponent (non-party)
- Videographer
OBJECTIONS

- Your attorney may object to a question asked of you for reasons of:
  - Relevancy or form
  - Privileged communication

- Immediately stop your answer and listen to the objection carefully
BREAKS

- Take breaks when you need them or if your attorney suggests it.

- During a break, do not speak with anyone other than your own counsel.
Sample Depositon

• https://www.youtube.com/watch?v=jGuuEHa1J2k
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

1. Tell the truth
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

2. Review the medical records
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGIN

3. Depositions are not conversations
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

4. You cannot win your case at a deposition, but you can lose it.
5. Listen carefully and pause before you answer (it is beneficial to repeat the question)
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

6. Keep your answers short
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

7. Never guess
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

8. Do not get angry
9. Make eye contact
TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGIN

10. Stop talking when your attorney makes an objection
AFTER THE DEPOSITION

Always request to review the transcript!
Key Takeaways

• You must completely understand the theme of your case.
• You should know every allegation made against you or the defendant.
• Know the best answers in defense.
Word to the Wise

• Consider deposition prep by qualified attorneys.
• Supplemental coverage is available for deposition representation
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