

THE BASICS OF PHYSICIAN DEPOSITIONS

Presented by:



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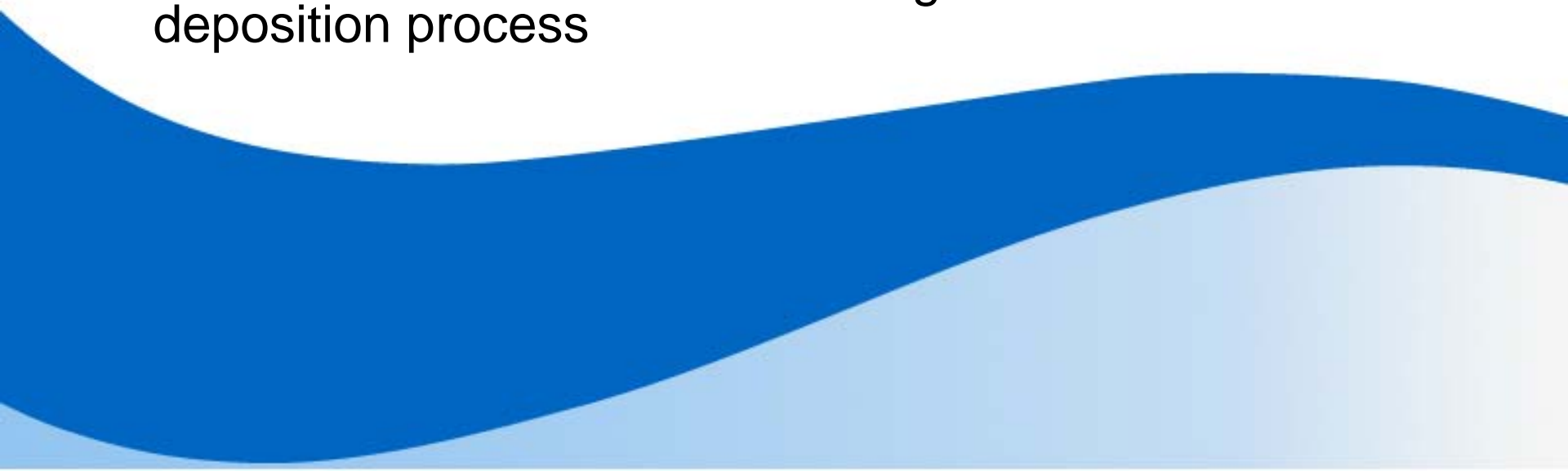


Today's Lecturers:

Christopher E. Brown, J.D.

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OBJECTIVES

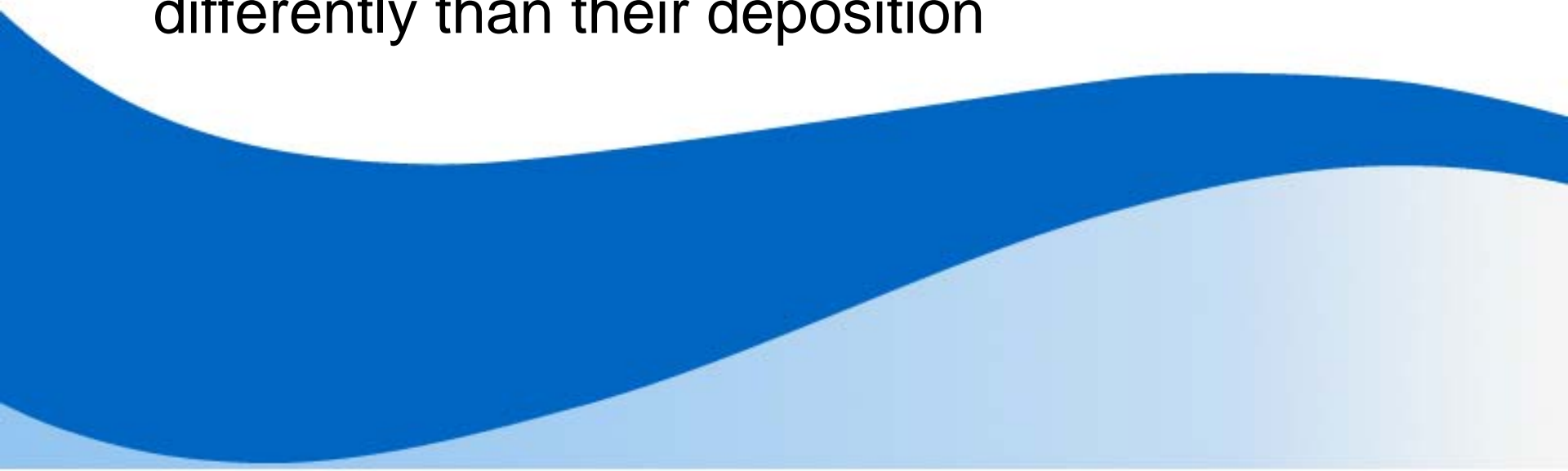
- Understand the purpose and format of a typical physician's deposition;
 - Recognize many of the tricks and tactics attorneys will use in an effort to trap the physician or extract testimony;
 - Understand how best to prepare for a pending deposition in order to provide the best possible defensive testimony;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



Actual Quotes of Doctors and Lawyers from Transcripts

Q: “Doctor, how many autopsies have you performed on dead people?”

A: “All my autopsies are performed on dead people.”



Actual Quotes of Doctors and Lawyers from Transcripts

(Doctor's Divorce Trial)

Q: "How was your first marriage terminated?"

A: "By death."

Q: "And by whose death was it terminated?"

Actual Quotes of Doctors and Lawyers from Transcripts

(Emergency Room Physician testifying)

Q: “Any suggestions as to what prevented this from being a murder trial instead of an attempted murder trial?”

A: “Like, the victim lived.”

Actual Quotes of Doctors and Lawyers from Transcripts


Q: “Do you recall the time that you examined the body?”

A: “The autopsy started around 8:30 p.m.”


Q: “And Mr. Dennington was dead at the time?”

A: “No, he was sitting on the table wondering why I was doing an autopsy.”


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
 - Permitted to state opinions
- 

WHO ARE THE PARTICIPANTS?


- Attorneys
- Court reporter
- Consultants
- Parties



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
- 

Actual Quotes of Doctors and Lawyers from Transcripts

Q: “Is your appearance here this morning pursuant to a deposition notice which I sent to your attorney?”

A: “No, this is how I dress when I go to work.”

Actual Quotes of Doctors and Lawyers from Transcripts

Q: “All your responses must be oral, OK?”

A: “OK.”

Q: “What school did you go to?”

A: “Oral.”

Q: “How old are you?”

A: “Oral.”

Actual Quotes of Doctors and Lawyers from Transcripts

Q: “Are you qualified to give a urine sample?”

A: “I have been since early childhood.”



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 BEGUN

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
- 

TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

5. Pause before you answer



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




TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

9. Make eye contact



TEN POINTS TO REMEMBER WHEN THE DEPOSITION HAS BEGUN

10. Stop talking when your attorney makes an objection



Have you ever been deposed?

A decorative graphic at the bottom of the slide consisting of two overlapping, wavy, horizontal bands. The upper band is a solid, vibrant blue, and the lower band is a lighter, semi-transparent blue, creating a layered, wave-like effect.

AFTER THE DEPOSITION

Always request to review the transcript!



Actual Quotes of Doctors and Lawyers from Transcripts

Q: “You were not shot in the fracas?”

A: “No, I was shot midway between the fracas and the navel.”



Actual Quotes of Doctors and Lawyers from Transcripts


Q: “When was the last time you saw
Michael?”

A: “At his funeral.”

Q: “Did he make any comments to you at the
time?”

Actual Quotes of Doctors and Lawyers from Transcripts

Q: “Now, doctor, isn’t it true that when a person dies in his sleep, in most cases he just passes quietly away and doesn’t know anything about it until the next morning?”



Actual Quotes of Doctors and Lawyers from Transcripts

(Pathologist testifying)

Q: “Doctor, before you performed the autopsy, did you check for a pulse?”

A: “No.”

Q: “Did you check for blood pressure?”

A: “No.”

Q: “Did you check for breathing?”

A: “No.”

Actual Quotes of Doctors and Lawyers from Transcripts

(Pathologist testifying) (Continued)

Q: “So, then it is possible that the patient was alive when you began the autopsy?”

A: “No.”

Q: “How can you be so sure, Doctor?”

A: “Because his brain was sitting on my desk in a jar.”

Actual Quotes of Doctors and Lawyers from Transcripts

(Pathologist testifying) (Continued)

Q: “But could the patient have been alive nevertheless?”

A: “It is possible that he could have been alive practicing law somewhere.”

QUESTIONS?



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