

Risk Tip: Deposition Guidelines for Answering Questions

Many practitioners approach the deposition process with great trepidation. They know their testimony and that of other treating practitioners can make or break their case. It is always best to contact the PSIC claims department immediately after you receive a notice for a deposition.

Presenting well, both as to substance and appearance, comes with good preparation. Strong deposition testimony by defendant physicians and witnesses for the defense provide a foundation for mounting a solid defense.

Brief and direct answers are often best. Hypothetical questions can be challenging and preparation is key for those types of questions. Very few defendants know all of the facts of each case. That role is typically left to retained experts who have reviewed all of the materials in the case.

In addition to consulting with a lawyer and being prepared, listen to the entire question, pause and give a thoughtful, concise answer. Treat a deposition just as you would a presentation of this patient's case before a panel of professionals.

The following are suggestions to improve a physician's deposition testimony:

- Speak in full, complete sentences.
- Do not volunteer information.
- Be consistent. Changing your testimony can be detrimental to your credibility.
- Do not guess, give opinions or share rumors.
- If an explanation is required, try to keep it concise.
- Be thoughtful in responding.
- If you don't know the answer, say so. If you cannot give an opinion, say so.
- Never characterize your own testimony. For example, avoid: "in all candor," "honestly," "I'm doing the best I can."
- Avoid adjectives and superlatives, such as "I never" or "I always." Such statements could come back to haunt you.
- Do not testify to what other people know unless specifically asked to provide such a statement.
- Do not bring notes, diagrams, visual aids or anything else related to your case to your deposition.
- Never express anger or argue with the examiner. If your deposition becomes unpleasant, it is your attorney's job to manage it.
- If you experience a "flash of brilliance" while testifying that you have not previously discussed with your attorney, keep it to yourself until you discuss it with your attorney.
- Remember that plaintiff attorneys are not your friends. They may appear sympathetic to get you to let your guard down and provide harmful testimony against yourself.

Again, please contact the PSIC claims department immediately after you receive a notice for a deposition. They can help with next steps.

Remember, many areas of medicine are not black and white, and every case is unique.

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