

## **Attorney Client Communication--Confidential**

### **PREPARING FOR YOUR COMPULSORY MEDICAL EXAM**

#### **The Compulsory Medical Examination--A Routine Procedure**

Every year there are more than 63 million injuries due to accidents in the United States. Many of these injuries are not reported, but many injuries are serious enough to warrant filing a claim with an insurance company or a lawsuit against those at fault. If you are involved in a suit or claim, you may undergo a Compulsory Medical Examination. The exam is often characterized as an Independent Medical Examination, but in actuality it is a Defense Medical Examination which is not necessarily independent.

The injured party making the claim is called the plaintiff or claimant. The person or company against whom you bring your claim is called the defendant, and their side is called the defense. The Compulsory Medical Examination is a physical examination by a doctor chosen and paid for by the defense.

## **Confidentiality**

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This information is intended for the use of our clients. You should read the information before attending your compulsory medical examination. Do not take this letter to the exam.

## **Use Reasonable Caution**

Although the doctors picked by the defense may be honest, caring professionals, they have probably been asked to look out for information that can help the defense's case. They may have been told to look for complaints which do not follow the pattern of your injury; they may interrogate you regarding the facts of your injury to aid the defense of your claim. The defendant may provide the doctor with surveillance films, investigation reports about you, and medical reports and records regarding your medical history. Insurance companies hire doctors who regularly examine injured people and who are accustomed to developing those things that can help the insurance company who retained them.

It is only reasonable for you to go into the examination with a certain amount of preparation and care. There are some simple guidelines to follow that will help you make the best impression.

### **Do Not Take it Personally**

It is important to go into this examination with the right attitude. One thing that can help you is to recognize that the compulsory medical exam is a routine procedure of insurance companies in personal injury cases, the results of which are extremely important to the ultimate outcome of your claim. It is important for you to spend time preparing for it. No one has singled you out to question your truthfulness or that of your physician. Do not appear defensive or hostile, but remember that these physicians are hired to assist the defendant and not to participate in your medical care.

### **Be Alert, Relaxed, and Polite**

At your exam, be truthful, alert, and polite. You need to be alert in order to answer the questions carefully and to remember what went on in the examination.

Pay attention to all of the questions, but do not become nervous or upset. If you are tense, nervous and upset, this will reflect adversely on the examiner's medical opinions of you and your injuries. Remember, the examiner will record his or her observations of your conduct during the exam.

Again, be truthful, polite and cooperative. A straightforward answer to a question is the best course of action.

## **Be Prepared**

Allow plenty of time before your scheduled visit to review your medical history and the many ways in which your accident has affected your everyday life.

Be sure you note all the details of your medical history. If your medical history is complicated, you may wish to review it with your lawyer so that, if requested, you will be able to report it accurately.

Be prepared to describe the ways in which your life has changed since your accident. Do you suffer pain or restriction of movement? What activities are difficult or impossible to perform? To make sure your list is complete, ask a friend, spouse, or fellow worker to tell you about any changes they have noticed since your accident. The purpose of this list is to refresh your memory, but you should not take the list with you to your examination.

## **Know Where to Go, When, and Who to See**

Be sure to write down the time and place of the compulsory medical exam, and the name of the doctor you are supposed to see. Be certain to arrive on time. Better yet, arrive early.

Plan extra time into your schedule. If the doctor is delayed, you will not feel rushed and upset during the exam.

Know the name of your doctor. If for some reason the doctor is detained or unable to be there, contact your lawyer.

Be sure to discuss with your attorney who or whether to bring someone with you before the exam.

## **Meeting the Doctor**

You need to pay attention to what the doctor does, says, and asks. Remember what tests are given and the time the appointment begins and ends.

Although you want to remember what happens during the examination, do not take notes or bring a tape recorder to the exam. This could make you look like you are more interested in your settlement than your health.

Also, do not let remembering become a burden. Focus on answering the questions. Attorneys often ask clients to call in after an exam. Their questions can help you remember what went on.

## **Answering Questions**

**Be truthful.** The first part of your exam will probably consist of questions. Answer all questions politely and truthfully. Do not try to fake or exaggerate anything--this will be quickly discovered by an experienced physician. A truthful and candid answer is the most effective response to any question!

**Do Not Rush.** Take the time to answer all questions carefully. If a question is unclear or confusing, do not be afraid to ask the doctor to explain or re-word the question before you answer. And do not be rushed into answering without thinking. If you make a mistake, correct it immediately.

**Avoid unnecessary elaboration.** Remember that the doctor is hired by the defense to help its case. While you should always answer a question politely, honestly, and completely, do not ramble on or elaborate unnecessarily. Any facts that are discovered during the examination may be brought up in court later.

The examining physician should only question you about your injuries and what caused them. The doctor should not ask what caused your accident or irrelevant past health or personal habits. Be sure to ask your attorney before the examination what to do if the doctor asks you such questions. You may be asked to fill out forms or fill in a diagram showing what parts of your body hurt. Before the exam, you should discuss with your attorney if there are any forms you should not fill out or sign at the exam.

### **Describing Pain**

During the exam, you will probably be asked to describe your aches and pains. Since pain is a subjective thing and often difficult to describe, it may be best to use the "it hurts when I do this" approach. You can then relate your list of everyday activities that are affected by the pain. Here again, be as truthful and accurate as possible. If your injuries affect your activities, describe the effect. Try to avoid the phrase "I cannot do . . ." Describe your limitations. No one likes complainers who exaggerate all of the ills. On the other hand, do not understate your pain and the problems it causes you. You deserve to have it recognized and to be compensated for it.

### **The Physical Examination**

The kinds of observations the doctor will need to make during the physical will vary according to your injury.

Some procedures like checking blood pressure, measuring height and weight, checking heart and lungs, and testing reflexes will be familiar to you because they are ordinarily part of any physical.

Other procedures are standard in injury cases and may include a general observation of

normal and restricted movement when you walk, sit or remove clothing, a spinal exam and a visual examination for scars, bruises, and disfigurements. The doctor may also view and discuss X-rays and EEG's or other tests taken at an earlier time.

The doctor may also want to test the range of motion in an affected limb. In a test of passive range of motion, the doctor will move the limb to see how movement has been restricted by the accident. The doctor may also test active range of motion by asking you to move the affected limb.

### **Tests**

The doctor may also require other kinds of tests, x-rays, ECG's (electrocardiogram--used to detect heart disease), EEG's (electroencephalogram--a test of brain activity), psychological tests, and more.

Before the examination, check with your lawyer to find out what sorts of tests to expect and whether you should refuse to undergo any tests. For example, you do not need a blood test for a back injury.

Doctors often observe you as you enter or leave the clinic, undress, or perform activities. The exam begins when you leave home, and is not over until you are back in your house. It is not unheard of for insurance companies to hire investigators to watch and film people as they are leaving their homes, getting into the car, arriving at the doctor's office, going between their car and the office, and again on the way home.

### **After the Exam**

Your attorney is going to be interested in knowing just what went on in the exam. If your attorney has asked you to do so, after you leave the doctor's office, take some time to jot down as much as you can remember about what the doctor said, what you answered, what the doctor did, and what if anything was dictated into a recorder.

Note as accurately as possible the time you arrived at the office, the time when you were admitted to the examining room, and when the exam ended. It can be important to have an exact record of the time the doctor spent with you in case he or she files a detailed report despite having only spent a short time with you.