



from *Did You Just Receive A Subpoena For Deposition?*

A deposition is testimony taken under oath concerning a lawsuit. It is an official court proceeding. A court reporter swears you in and transcribes every word uttered in the room. Your deposition is requested by one lawyer to gain an advantage over the adversary, and the other lawyer(s) will use it as well. You have become a pawn in their litigation chess match.

The first thing to do once you receive the deposition request is to determine if there is any possibility that your testimony could cause a lawsuit or claim to be made against you personally—if so, do not go to the deposition without a lawyer. Even if the lawyer requesting your deposition gives you reassurances that your care is not in question, think critically about whether your care could be called into question. If so, call a lawyer immediately. Second, do not go into the deposition unprepared. A poorly prepared testimony could cause the patient's lawyer to add you as a Defendant to the litigation. Review all of your records and be ready to discuss them, in detail. Finally, take control of your deposition by following some of these basic rules:

1. Tell the truth at all times. Honesty is always better, and lying under oath is a crime.
2. Be brief and to the point with your answers. If you provide many details, more questions will be asked and you may contradict yourself at some point.
3. Do not volunteer additional information, do not volunteer that additional information exists, and do not volunteer to retrieve additional information at a later date.
4. Listen carefully to the question, hear every part of the question, pause, and then respond carefully and thoughtfully.
5. If you do not hear the entire question or you do not understand the question entirely, ask for the question to be rephrased. You have the 100% right to know what is being asked before you answer.
6. Do not speculate. If you do not know the answer, state that you either do not know or do not recall. If you must estimate something, verbally state that it is only an estimate.
7. Be confident. You are a health care provider, and you know Medicine much better than any lawyer does. If you come across confident, it ends questioning on that topic.
8. Rely on and refer to your medical record. Never assume that the lawyer is correct about what is in the medical record – always verify. Look at your notes.
9. Remain calm and polite at all times. The lawyers are neither your friends nor your enemies. Do not be seduced by friendliness and do not get intimidated by tone of voice.



10. Though this process can be informal, it is still a court proceeding—treat it as such. Do not joke, curse, or make inappropriate comments that you would not make in court.
11. Do not allow misleading impressions. For example, if you did not order x-rays, do not agree that you “failed” to order x-rays. Do not allow the lawyer to place words in your mouth or characterize your actions in a negative light.
12. Get plenty of rest, and do not schedule patients, surgery, or other important events at or near the time of the deposition.
13. Breaks are permitted, so take them if you need to refresh or calm down.
14. Finally, you will almost certainly be asked about medical literature. Never concede that a source of literature is authoritative or reliable on every topic, because it is not. This is an important question, but it is one that can cause literature to be used against you.

If you begin with this advice, your deposition experience will be smoother. There is much more to learn, but this provides you with a good start. Remember, always remain in control of your answers and your attitude, and, above all else, be honest.

About the Author:

Timothy Linkous, Esq. is a healthcare defense lawyer with 18 years of experience. His background is in education and political science. He graduated from Law school with Honors. He is currently in private practice and specializes in healthcare law.