



# **Nine Mistakes People Make When Dealing With Doctors**

**Information Law Guide**

## **9 Mistakes People Make When Seeing Doctors After an Accident**

Our office has been representing injury victims since 1984. During that time, we have represented thousands of families obtain compensation for the injuries and harm they have suffered as a result of the negligence of others. Along the way, we've learned a lot about how accident victims can innocently ruin their own case because of the things they say and do during doctor visits. We decided to create this informational letter to help you avoid these mistakes. We have put together a list of ten common mistakes people make when dealing with doctors and other health care providers after an accident that involves making a legal claim or bringing a lawsuit. The world of personal injury claims lawsuits is unfamiliar to most people. As such, mistakes are bound to happen. The most important thing you have to keep in mind is that everything you say and do at your doctor's office (or other medical providers) is likely to be documented in your medical records. Likewise, you can rest assured that your medical records are going to wind up in the hands of the insurance company or lawyer defending your personal injury claim. For that reason, you need to be keenly aware of the mistakes that can harm your legal claim. There are certain core "fundamentals" that you must absolutely adhere to whenever you deal with a medical provider following an accident:

- Honesty is the best policy. Don't ever mislead a medical provider. Doctors have tests they perform that can give them a pretty good idea of whether a patient is "malingering" or exaggerating to try to build up an injury claim. If they get that sense about you, your legal case will be hurt or ruined.
- Good patients faithfully keep their medical appointments and follow their doctors' advice.
- Do not let a lawsuit drive the kind of medical care you get or how often you go to a doctor.

### **1. Don't Wait to Seek Medical Treatment after an Accident**

I can't tell you how many times I've heard an insurance company or a defense lawyer argue "*how badly could your client be hurt, she didn't even see a doctor for two*

*weeks after the accident.?”* If you are feeling pain or other symptoms after an accident, go straight to the hospital or your physician to get checked out. You will get better medical attention with prompt care. You would be amazed about how many injury victims try to “tough it out” for days (or even weeks) after an accident, hoping that the pain will go away on its own. If the pain doesn’t clear up on its own within a few days, and you are forced to make a legal claim, you are probably going to regret that you waited so long to seek medical treatment. Insurance companies and juries often believe that if you aren’t hurt badly enough to seek immediate medical attention, you aren’t hurt badly enough to deserve compensation. If you assert a legal claim, you are responsible for proving that your injuries were caused by the accident and not some “pre-existing” condition or other cause. If you wait several days after an accident to seek medical treatment, you can count on the insurance company or their lawyer arguing that there was some other “event” that occurred after the accident that is causing your pain. If you are having pain or problems after an accident, don’t ignore them. Get to a doctor or a hospital as soon as possible and get checked out.

While it is critical to obtain medical attention immediately after an accident, it’s a very bad idea to go see a lawyer before you obtain medical treatment. Going to see a lawyer before you seek medical attention certainly gives the insurance company or a jury the impression that your legal claim was a much higher priority than your health.

## **2. Missing Medical Appointments Will Ruin Your Personal Injury Case**

One of the first things that the insurance company will look for, when it receives your medical records, is whether you missed any medical appointments. When you skip a doctor’s appointment or a therapy appointment, there is likely to be a notation in your chart which reads “DNS”, which means “did not show.” When you skip doctor or therapy appointments, you open the door for the insurance company’s lawyers to argue (1) you must not have been hurt as badly as you are claiming; and (2) you must not have cared about getting better. When you miss doctor or therapy appointments, there is a very good chance that your doctor or therapist will begin to wonder whether you are really committed to getting better. Missing medical appointments or showing up late is likely to irritate your doctors and therapists. Irritated doctors and therapists do not make good

witnesses for their patients. If your claim is not settled and your case ends up being tried to a jury, it is very difficult to explain to a jury why you missed scheduled doctor and therapy visits.

There is a very simple way to avoid all of these problems. From the very beginning of your medical treatment until the very last appointment when you are finally released from your doctor's care, you have to commit to attending ALL of your scheduled appointments. If, for some reason, you cannot keep a scheduled doctor's appointment or therapy appointment, be sure to call the office and let them know, in detail, exactly why you cannot make the appointment. Also, be sure to reschedule the appointment.

### **3. When Asked About the Accident, Stick to the Facts You Know**

When you see a doctor or a therapist after an accident, you will be asked to explain "what happened" in the accident. Sometimes, the doctor's office or therapist's office will hand you a form and ask you to write out a detailed story of the accident and your symptoms from the accident. In many situations, an accident happens so quickly that the accident victim doesn't have a complete grasp of what happened. The days and weeks following an accident are usually a very confusing and stressful time in your life. Even if you are certain that the other party was 100% at fault for causing the accident, you have to be careful about what you say or write about the facts of an accident. You may be asked:

- \* The speed of the vehicle that hit you;
- \* How far your car was pushed after impact;
- \* How much damage there was to other vehicle

I can't tell you how many times I have read hospital records where emergency room doctor was told, by an accident victim, that the other driver hit them "at 50 mph." Later on, when photographs are taken of the damage to the vehicles, the physical evidence suggests that the impact speed was only 15 to 20 mph. In almost every case, the accident victim did not mean to exaggerate or embellish the facts of the crash, they simply made an uneducated guess. When you tell your doctor that you were hit at 50 mph, and your report of the speed is recorded in your hospital records, and your report of the speed turns

out to be wrong, it gives the insurance company's lawyer an opportunity to question your credibility.

The point is, when you are asked details of an accident, don't guess or speculate. If you don't know how fast the other car was going when it hit you, it's ok to say "I don't know." Don't tell your doctor your car or the other party's car was "totaled" if it only sustained \$2,000 damage. The insurance company's attorney will try to undermine your credibility with that contradiction. Remember, anything you say to your medical providers about the accident could wind up being recorded in your medical records. Don't guess or speculate. Make sure the factual information you give to your medical providers is accurate.

#### **4. Be Completely Honest with Your Doctor About Your Health History**

Your doctor or therapist will be asking you questions about your pre-accident health history. Likewise, your doctor or therapist will undoubtedly ask you whether you have had any accidents or injuries that may be affecting the same part of the body that was injured in the current accident. I cannot emphasize enough the importance of honesty when it comes to disclosing facts about your pre-accident medical history.

Doctors rely on past medical history to diagnose and treat you. Providing incomplete information can impact that quality of medical care you receive. Concealing prior injury or illness from your doctor will also hurt your legal case. Once you make a legal claim, you can rest assured that insurance companies and their lawyers will be scouring your pre-accident medical records to see whether you have injured that same bodypart in a previous accident. If you try to hide your pre-existing injury (by not telling your treating physician about it) or forget to mention it to your treating doctor, you are making a big mistake. When you assert a personal injury claim, your doctor will be asked by the other side whether you disclosed the prior injury or prior medical treatment. If you provide your doctors with incomplete information, your doctor will be wondering what you are trying to hide. The other side will argue that your doctor's diagnosis of your injuries is questionable because he or she was operating on incomplete information. It's much better to be 100% truthful about your pre-accident medical history. Your doctor

will usually be able to distinguish the injuries you suffered in the past from the injuries that were caused by the accident.

#### **5. Don't Talk to Your Doctor About Your Legal Case**

Over the years, I have learned that many doctors simply do not want to become involved in a legal claim. Doctors enjoy practicing medicine and taking care of patients. Doctors do not enjoy being questioned by lawyers about their care and treatment of patients. Doctors hate being asked to take time out of their busy schedule to come to court to testify in a legal case. Most of them don't want anything to do with lawyers or the legal system. Furthermore, doctors would prefer not to become involved with a patient who seems to be preoccupied with his legal case instead of recovering from his or her injuries.

Your doctor's primary concern is the diagnosis and treatment of your medical condition. In order to do that job, your doctor does not have to know about your lawsuit or things that you discuss with your lawyer. There is no reason to tell your doctor about the issues in your legal claim or that you have filed a lawsuit against the other party. Talking to your physician about your legal case may impact his or her willingness to provide treatment or reach important conclusions. Remember, whatever you say to your doctor or therapist is likely to wind up being recorded in your medical records. If your doctor asks you a question about your legal claim, always tell the truth. If your doctor's office asks you to complete forms that ask if your injury was someone else's fault or is the subject of a claim or lawsuit, be sure to give complete and honest answers. Eventually, your lawyer may want to enlist your doctor to testify on your behalf, but that is something your lawyer should handle without your involvement.

#### **6. Tell Your Medical Providers About Your Pain & Limitations**

Nobody likes to be perceived as a whiner or a complainer. Many people resign themselves that recovering from an injury is a long and painful process and they adopt an attitude that they are going to "tough it out." Unfortunately, a "tough it out" attitude may come back to bite you when you assert a legal claim. In the insurance claims business, a complaint or a problem that does not appear in your medical records does not exist.

Insurance companies and juries will not believe that you are in pain just because you say so. They need to read about your pain in your medical records. When insurance companies and juries review your records, they will be looking to see how soon you reported pain after an injury and how long you continued to report that pain.

Don't tell your doctor that your injury is "all better" if it is still bothering you. During the progress of your medical treatment, you are likely to be asked to rate your pain on a 1 to 10 scale. While it's nice to be able to report to your doctors and therapists that their treatment plan is improving your pain, it's equally important to be honest. If your pain is not improving, you need to tell your doctors and therapists. If a particular course of therapy is actually making your pain symptoms worse, you need to speak up and let your doctors and therapists know the situation. Oftentimes, your doctor will schedule follow-up appointments that are scheduled 4 to 6 weeks in the future, but will tell you to come back in the meantime if your condition worsens. If your symptoms do worsen, don't tough it out. Call your doctor's office and schedule an appointment to be evaluated.

#### **7. Cooperation with Your Doctor is Critical to Your Legal Case**

Most people have a "family doctor" that they have seen for years. If you have seen the same family physician for many years, you probably trust his or her opinion. Hopefully, you "get along" with your family doctor. Unfortunately, if you are involved in an accident and suffer traumatic injuries, you may be referred to medical "specialists" who you have never seen in the past. You may find yourself treating with a physician you don't care for or don't get along with. When we review our clients' medical records, it usually doesn't very long to identify those situations where the doctor/patient relationship is somewhat strained. Even though you may not like your doctor's personality, cooperation with your doctor is critical. Always bear in mind that anything you say to your doctor may wind up in his chart. Be very careful about arguing with your doctor about his/her diagnosis or the treatment plan they are prescribing. Doctors don't like to be "second-guessed" by patients. While questions about the diagnosis or treatment plan are encouraged, you don't want to give your doctor the impression that you know more about your condition or care than he does. That attitude will come across in your medical chart

as uncooperative and argumentative. You can bet that the insurance company's lawyer will try to portray you as a problem patient who kept "second-guessing" his doctor.

Another common problem is a patient who decides (on his or her own) that the medication prescribed by the doctor is not working and simply stops taking it on his/her own. There is a reason why doctors prescribe a particular type of medication for a particular time period. You should follow your doctor's recommendation until your doctor tells you something different. If you think a medication is making your muscles ache or your stomach hurt, say so; side effects are not rare, and your doctor can usually switch you to another drug. Don't put yourself in the position where you have to admit that you chose not to follow your doctor's advice. This can be very harmful to your claim.

#### **8. Stopping Medical Treatment Too Soon**

Insurance companies and juries often believe if a person stops seeking medical treatment for an injury, the injury must be healed. They also believe that significant gaps between treatments suggest that you healed from one injury and must have suffered a new one unrelated to the first. If you have an injury that is affecting your ability to function, you should seek medical treatment until you are healed or until a doctor tells you that there is nothing more that can be done to improve your condition.

If you are still suffering and your doctor tells you to "come back as needed" or "call me if you have any problems," make sure to ask your physician how long you should wait to call if you continue to have the same level of pain and disability.

#### **9. Keep Written Documentation**

It is important that your lawyer knows every medical care provider that you see after an injury. It is also important that you keep track of all doctors' orders, treatment referrals and/or work restrictions. Keeping a file of all materials provided to you by health care providers and insurance companies will ensure that you can provide all necessary information to your lawyer at the appropriate time.