

DEPOSITIONS:
How to be prepared and what to expect

Classroom Outline / Syllabus
2 hours Advanced - CE 3-24c - Adjuster Optional
Course ID # 66125

- I. **Depositions:** (10 Minutes)
 - a. What they are
 - i. Florida Rules of Civil Procedure 1.310
 - b. Why are you being deposed
 - c. Where is it being taken
 - i. Within the county
 - ii. Out of state
 - d. Opposing counsel is not your friend
 - e. Tell the truth
 - i. If you don't know the answer don't be scared to say you don't know

- II. **Who is being deposed:** (20 Minutes)
 - a. Pre-Suit Adjustor
 - i. Why did claim get assigned to you
 - ii. What unit do you work for
 - 1. special considerations
 - 2. SIU
 - b. Suit Adjustor
 - i. When did you start working on file
 - ii. What are defenses
 - iii. Do you know the law
 - c. Person with Most Knowledge (PWMK)
 - i. Usually pre-suit or suit adjustor
 - ii. What do you know and why do you know it
 - d. Underwriting
 - i. Who applied for the policy
 - ii. What does the application say
 - iii. How was the policy rated
 - iv. Possible material misrepresentation
 - e. Management
 - i. Was there a claims decision that required management approval
 - ii. Why did you get involved
 - iii. Why are you a manager
 - f. Anyone else
 - i. Specific reasons for others to be deposed
 - 1. who responded to demand letter
 - 2. who sent patient for IME or EUO

3. who spoke to patient
4. language translation

III. **How do you prepare(30 Minutes)**

- a. Claims file
 - i. Review, review, review
- b. Personal notes
 - i. Protected by work product privilege
 1. non discoverable
- c. History of Claim
 - i. Make a detailed history of the file for easy reference
 - ii. Include the following
 1. date claim was reported & by whom
 - a. by phone, in writing, by agent
 2. any verbal contact with patient
 3. any written contact with patient
 4. who was assigned to the claim, when and why
 5. when was information requested, by whom and was it sent
 6. AOB / IOT / other correspondence from Medical facility
 - a. Date received
 7. Treatment notes / medical bills
 - a. Date received
 8. Payments made
 - a. When and to whom
 9. Explanation of benefits
 - a. When sent
 - b. What are reasons for denial or reduction
 10. Request for IME / EUO / Peer Review
 - a. Why
 - b. To Whom
 - c. Within 30 days?
 11. Denial
 - a. Why
 - b. By whom
 - c. Who was notified
 12. Attorney Correspondence
 - a. Letter of representation
 - b. Outgoing correspondence to attorney
 13. Other
 - a. Underwriting review
 - b. Clinic inspection
 - c. Anything else
- d. How well is the file documented

- i. Is there any room for the attorney to claim that an event did not happen
 - 1. if it is not in the file, it did not happen
- e. Have you been deposed by this attorney before
 - i. How did you feel
 - ii. How did others feel

IV. **How do we prepare you:** (15 Minutes)

- a. Deposition prep
 - i. A must
 - 1. in person or by phone
 - ii. Have you been deposed before
- b. Review of claims file
 - i. Is there anything wrong
- c. Ask the hard questions
 - i. What to expect
 - ii. Simulated deposition questions
- d. Meet before the deposition
 - i. Review physical claims file
 - ii. Last minute questions

V. **The deposition:** (15 Minutes)

- a. Stipulations
 - i. Review of documents will not waive work product privilege
 - ii. No stipulation
 - 1. put away claims file and what personal knowledge do you have
- b. Introductions
 - i. Name of attorney
 - ii. Name of case
 - iii. Are you the person on the notice / subpoena
- c. Background info
 - i. Biography
 - ii. Employment
 - iii. Licenses
- d. History of claim
 - i. See above
 - ii. Always asked even if you think it is irrelevant
 - iii. Documents attached as exhibits
 - 1. always show your attorney first
- e. The unexpected
 - i. Always be prepared
 - ii. You can't know everything
 - iii. You can't remember everything
 - iv. The facts are what they are
 - v. What did someone else do

- vi. Avoid answering legal questions
 - 1. what is the law that supports your affirmative defense or response to request for admission
 - 2. Attorneys love to ask for every fact you know of to support the affirmative defense; sometimes there are none, but you should make it clear you aren't waiving Plaintiff's prima facie burden that the accident happened, the insured was injured, the treatment was reasonable, related and necessary.
 - f. Cross examination
 - i. Usually not done
 - ii. Is there something that needs to be said that wasn't
 - g. Read or waive
 - i. Usually read
 - ii. Allows us to know the transcript was ordered
- VI. **Post deposition:** (5 Minutes)
- a. Does the file change
 - b. How did you hold up
 - c. Other defenses
 - d. Where do we go from here
- VII. **Transcript review:** (15 Minutes)
- a. Case example "A"
 - i. Review selected (and redacted) portions of a "good deposition"
 - b. Case example "B"
 - i. Review selected (and redacted) portions of a "bad deposition"
 - c. Case example "C"
 - i. What do you think?
 - 1. good or bad
- VIII. **Simulated deposition:** (10 Minutes)
- a. Brief presentation of written facts
 - b. Review of written facts
 - c. Any volunteers
 - d. Simulated deposition
 - i. Are you prepared
 - ii. How did you do
 - iii. How can we do better
- IX. **Questions / Comments:**