

EXAMPLE OF INDEPENDENT MEDICAL EXAM NOTE TAKING



As part of the disability insurance claim process, the insurance company could send you for an independent medical examination, known as IMEs. Physicians conduct IMEs knowing that the insurance company pays the bill. Always bear in mind that this doctor is examining you, not treating you or providing you with assistance to get benefits. Too often the IMEs mission is to find reasons the insurance company can use to deny or terminate your claim.

Remember to be prepared as the IME process does not favor claimants. We advise our clients to bring a witness to the IME. Ask your witness to note the time when your exam begins and ends and to take detailed notes. You can even have your witness make a video of the exam, if the doctor consents or if you have an absolute right under your state laws.

Here is an excellent example of recording detailed contemporaneous notes at an Independent Medical Examination more appropriately called a Defense Medical Examination (“DME”). The insured’s daughter, who took these notes, is a nurse. The names have been changed to protect the privacy of all parties.

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Independent Medical Evaluation of Ellen Smith by insurance company doctor selected by vendor that is a subsidiary of Exam Works Group, Inc., NASDAQ Symbol (EXAM).

Note: After this examination, ERISA long-term-disability insurance company reinstated terminated benefits. The doctor must have reported correctly that insured, Ellen Smith, was functionally disabled from working in her prior occupation or another

March 26, 2015

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Physical Medicine & Rehabilitation
260 Tremont Street – 14th Floor
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Arrived at Medical Offices with my mother, Ellen Smith, at 1:55 PM

Note: Weather was cold, snow/rain all day.

Exam began at 2:05 PM

Exam took place in a very small exam room. The first thing that the Dr. said was, “I just want to make it clear that I am not here to establish a patient doctor relationship, this is strictly an evaluation.” I sat in a chair across from my mother, who sat in front of a small desk. The desk was covered with papers (my mother’s medical records) strewn about the top of the desk. Dr. stood behind desk for some time, rifling through the papers. It was obvious she was unprepared and unorganized.

After struggling to find the information within the pile of papers on the table, the Dr. took the medical records that were covering the desk, and spread them across the window sill because there was nowhere else to put them.

Dr. had a waist-high computer stand with a computer on top of it, connected to dictating equipment, with a microphone.

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Dr. spent a great deal of time looking through records on the window sill, while asking my mother about specific dates of all of her MRI's and X-rays.

Dr. repeated, again, that she could not find the dates she was looking for, as she continued to filter through paperwork. She asked my mother for specific dates for all MRI's and X-rays. My mother said she could not remember exact dates, but that the Dr. should have all dates in the paperwork/reports on the window sill. The Dr. then stated, "Well, I guess in theory, you wouldn't need to know all of this information off of the top of your head." My mother was clearly having a difficult time focusing, and you could see from the expression on my mother's face as well as her body language that she was in a lot pain.

Dr. never asked my mother what symptoms she was experiencing, if any, or any questions regarding her pain level during this time.

Dr. asked me spelling of my name and began dictating notes from the medical records on the window sill.

My mother gave the Dr. the most recent MRI's, together with the written reports, (as the doctor had requested in the letter to my mother scheduling the appointment). The Dr. stated that she did not need the report from my mother's primary care physician, together with a Physical Capacities Evaluation and Medical Assessment, and a written Occupation Description, because the doctor said that she already had those records in her file. Dr. did keep a disc copy of the latest upper body/neck MRI and the lower back/spine MRI, however, she did not have any interest in the corresponding, written reports for either MRI.

As the Dr. dictated into her equipment, she became annoyed because her dictating equipment was not working, so she now had to manually type notes for the rest of the appointment.

Dr. asked general questions regarding when my mother's pain began, when she had surgery, when her pain came back, and when she had to stop working.

My mother tried to explain to the Dr. that the weather directly affects and controls her life due to the pain she has with any weather change. Each time she attempted to do so, the Dr. stated, "I am not asking you about the weather, I am asking you, medically, what is going on."

My mother mentioned that she has a new pain management specialist that ordered her latest MRI and she is also seeing a new Physical Therapist. My mother explained that her new pain management doctor recommended that she have a Spinal Cord Stimulator implanted in her Dorsal Column. The Dr. did not appear to be interested and with a short, quick look dismissed my mother. This was the tone for the remainder of the visit as well.

The only time the Dr. asked my mother any specific questions was with regard to specific dates of exams, MRI's and X-rays.

Dr. directs my mother to sit on exam table

Dr. palpated my mother's entire body, pushing down visibly hard and asking "do you have pain?" My mother would respond that she was very sore. She appeared to be confused at the manner in which the Dr. performed this exam. I was also confused. It seemed rushed. She quickly examined my mother's hands, wrists, forearms, legs, ankles, feet.

Although it was clear that my mother was much weaker on her left side, from her arms to her legs, the doctor would go back to try to use her dictating equipment, stating that "all is intact." It appeared that she had just dictated that each part of my mother's body that was examined was "intact". My mother and I looked at each other, confused, as common sense would tell you that watching these tests, "intact" would not be an accurate description.

I noted, once again, that the Dr. only asked my mother's pain level while she was palpating each body part. It was clear that my mother's pain level was increasing as the visit continued. She never acknowledged her discomfort the entire time we were there.

Dr. began to push, quickly and with force, into front of my mother's chest and then her neck, where she has two thyroid nodules. Dr. said "pain?" My mother winced and said, "Yes, you are too rough and quick," to try and stop her. This was difficult to watch.

Dr. proceeded to press on my mother in the front, the back, and on her shoulders. My mother explained that her shoulders and back hurt, and that nothing in the front of her upper body hurt. She then asked my mother to lift each leg, as she was sitting on the edge of the exam table with her legs in a dependent position. Once again the directions were vague. It was

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unclear whether she wanted my mother to lift her entire leg or raise her leg from the knee up only. Initially she lifted her entire leg, and the Dr. sternly told her, “No, stop,” that she wasn’t doing it correctly.

Immediately after this exam, my mother asked the Dr. for a drink of water, and the Dr. sent me out to the front desk to get it. It took me several minutes to return to the exam room, as the employees at the front desk were having a conversation and they were in no hurry to ask if I needed help. I finally got their attention, but they said they did not have any cups to get water. When I came back into the exam room, my mother was lying on her right side on the exam table. She told me she had to lay down so that she had some relief from the pain, once again the Dr. did not pay any attention to this. The only time she asked about my mother’s pain level was when she was directly examining her. It was becoming increasingly clear that my mother was in excruciating pain, yet Dr. never asked her about it. The doctor then asked me where the water was that I had got for my mother, I explained what the employees said, she was very annoyed and she left the exam room and came back a couple of minutes later with an empty cup. I, again, left the exam room and brought back a full glass of water.

Dr. was now in front of her computer, after a minute or two said to my mother, “I thought you wanted water, all that, and you are not going to drink it? My mother answered that she had already drunk the water, at which point, she looked annoyed again, so I held up the cup to show the Dr. that my mother did, in fact, drink the water. Dr. asked me how far I had filled the cup with water, and seemed very annoyed. My mother was still lying down. It was a very odd and uncomfortable situation, and I felt as though we were being scolded.

Dr. tells mother to stand up and face the door

Dr. had my mother briefly stand up and try to touch her toes, and she was not able to touch her toes. Dr.’s directions were so unclear. Dr. would give her quick directions, and my mother would move the slightest bit, and the Dr. would sternly say “NO!” “Don’t Move!” It was difficult to follow the Dr.’s instructions.

Dr. asked my mother to stand on her tip toes, walk forward and stand on heels, walk backwards. My mother had great difficulty trying to stay balanced on her heels and could not walk backwards on her heels.

Again, Dr.’s directions were unclear, she would give her quick directions, and when my mother moved the slightest bit, Dr. would say “NO” “Don’t Move”. Her directions would be difficult for anyone to follow.

Dr. tells mother to sit back in chair

Dr. spent a great deal of time questioning medications and doses. My mother told her that the letter she received in order to schedule this appointment did not request her should bring in a list of medications and doses, but that the Dr. should find all of this information in the medical reports on the window sill.

My mother could not remember the name of the medication that was prescribed for her high cholesterol. The Dr. stated, “There are too many papers here, you don’t know what medications you are currently taking?” My mother told her that she believed it ended in statin. The Dr. then replied, “I will google statins and you can tell me which one you think it is.” It only seemed logical to pull my mother’s medication list from the pile of papers behind her, but since she was so unorganized, it was taking too long for her to find them. Dr. “googled” statin meds and went through the list one-by-one. She asked her which topical pain relievers she had used and asked my mother to name them, i.e., salon pas, bio freeze, etc.

Dr. asked her if she had any problems with bowels and urinating several times.

Dr. asked if she had done acupuncture. My mother said that because insurance did not cover this, and she has not had any income for over a year, that she cannot do it at this time...until it is free, but she wants to try acupuncture. Dr. stated, “It is free. There are places that are free in Boston.”

My mother was not asked, or allowed to describe, her pain other than when she was directly palpating her body and briefly in the beginning of the visit. She didn’t ask my mother open-ended questions regarding her pain level and when my mother attempted to answer for the most part the Dr. would cut her off.

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Dr. instructed mother, while my mother is still sitting in the chair, to sit with her legs crossed and arms crossed, and asked her to stand up from that position. My mother could not do this. My mother said, "Who can do that?" The Dr. didn't answer. I then crossed my arms and legs and did what the Dr. instructed my mother to do, with ease.

My mother tried once again, but could not rise at all.

Left Exam Room at 3:25 PM

Jane Doe, R.N.

March 26, 2015

Working with an Experienced Attorney Improves Your Chances of Winning Your Disability Claim



Mr. Feigenbaum will examine your claim and help you make it more persuasive.

To talk with a lawyer you can trust about your insurance or employee benefits claim or appealing or pursuing litigation in court, contact us at www.erisaattorneys.com, or call at **617-357-9700** or toll-free at **866-396-9722**. Your initial consultation is free.