

2022 QME WINTER ZOOMINAR SERIES

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HOW TO SUCCEED AT DEPOSITIONS

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ADMIN

- Check the Chat for links to your Course Materials
- Use “Right Click””Open Link in New Tab”....to keep link open during ZOOMinar
- During ZOOMinar Keep Microphone muted
- Put any questions/comments in the “Chat” and we will discuss at the conclusion - Please Participate
- Answer Questions on Course Exam for Immediate Certificate of Completion

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UPCOMING SESSIONS

- WINTER “**QME SUCCESS**” ZOOMINAR SERIES -
 - 3X PER MONTH DWC APPROVED CEU DISCUSSION
 - 1X PER MONTH *QME PRACTICE BUILDING SUCCESS* SERIES - NO CE CREDITS!
- 01/05/22 - How to Determine the Scope of the Evaluation
- 01/12/22 - How to Succeed at Depositions
- 01/19/22 - Substantial Medical Evidence - Part 1
- **01/26/22 - The New Medical Legal Fee Schedule - No CE Credit**
- 02/02/22 - Substantial Medical Evidence - Part 2
- 02/09/22 - Accurate Permanent Impairment Ratings
- 02/16/22 - Deception, Symptom Magnification, and Malingering
- 02/23/22 - **The New Medical Legal Fee Schedule - No CE Credit**
- SPRING 2022 ZOOMINAR SERIES -
- 03/02/22 - Alternative Impairment Ratings Under A/G

UPCOMING SESSIONS

- Today's (1/12/22) Discussion - "QME SECRETS OF SUCCESS - How To Succeed at Deposition"
- For More Information:
 - THE QME FORENSIC SUPER SLEUTH - 6 HOURS
 - QME DEPOSITION MASTERY - 6 HOURS
 - COMPENDIUM OF DEPOSITION QUESTIONS - 550 QUESTIONS



HOW TO SUCCEED AT DEPOSITION

- Today's Session: What they don't tell us about in Depositions:
 - Most common reasons for Depositions
 - Deposition Questions



HOW TO SUCCEED AT DEPOSITION

- CCR 10727 Cross Examination: “The Workers' Compensation Appeals Board favors cross-examination of medical witnesses by way of deposition. Reasonable costs in connection with such deposition shall be allowed under Labor Code Section 4621.”



HOW TO SUCCEED AT DEPOSITION

- ML204 - The physician shall be reimbursed at the rate of RV 7, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. The physician shall be entitled to fees for ~~all itemized reasonable and necessary time spent~~ related to the testimony, including reasonable preparation and travel time. The physician shall be paid a minimum of two hours for a deposition. If a deposition is canceled fewer than eight (8) calendar days before the scheduled deposition date, the physician shall be paid a minimum of one hour for the scheduled deposition.



HOW TO SUCCEED AT DEPOSITION

- Defense Attorney reasons:
 1. Generate more billable work hours for the Defense Law Firm (\$\$)
 2. Harass the Applicant Attorney, hoping to consume so much of the Applicant Attorney's time to make the AA more likely to agree to a less than optimal settlement (\$\$)



HOW TO SUCCEED AT DEPOSITION

- Defense Attorney reasons (continued):
 3. Prolong litigation to try to “starve out” Applicant
 4. To prevent the case from going to Trial (creating a reason that the case is not yet ready for Trial), and then repeatedly rescheduling the QME Deposition
 5. To actually discuss medical legal issues.



HOW TO SUCCEED AT DEPOSITION

- Applicant Attorney reasons:
 1. Hoping the QME could not schedule the deposition within 120 days of the request to try to “get rid” of an unfavorable QME report.
 2. Dispute about Permanent Impairment rating - (many possibilities here) and the application of the Guzman line of cases
 3. Dispute about Apportionment: (many possibilities here)



HOW TO SUCCEED AT DEPOSITION

- Apportionment to “Degenerative changes” and/or “asymptomatic pre-existing conditions”:
- Deposition Questions:
 1. “Doctor, what is your understanding of Labor Code 4663?” Answer. And then, “how does Labor Code 4663 apply in this case?”
 2. “With regard to degenerative changes (or asymptomatic pre-existing conditions), what facts do you rely on to conclude that the (“other factors”) is causing impairment (functional loss or interference with activities of daily living)?”



HOW TO SUCCEED AT DEPOSITION

California Code of Civil Procedure - 2025.420

- (a) Before, during, or after a deposition, any party, any **deponent**, or any other affected natural person or organization may promptly move for a protective order.....
- (b) The court, for good cause shown, may make any order that justice requires to protect any party, **deponent**, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:
 - (1) That the deposition not be taken at all.
 - (2) That the deposition be taken at a different time.
 - (3) That a video recording of the deposition testimony of a treating or consulting physician or of any expert witness, intended for possible use at trial under subdivision (d) of Section 2025.620, be postponed.....
 - (6) That the **deponent's** testimony be taken by written, instead of oral, examination.



HOW TO SUCCEED AT DEPOSITION

California Code of Civil Procedure - 2025.420

- (8) That the testimony be recorded in a manner different from that specified in the deposition notice.
- (9) That certain matters not be inquired into.
- (10) That the scope of the examination be limited to certain matters.
- (12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.
- (16) That examination of the **deponent** be terminated. If an order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.



HOW TO SUCCEED AT DEPOSITION

- Other Deposition Questions:
- Introductory Questions
- Familiarity & Preparation Questions
- Ascertain Experience
- Causation
- Mechanism of Injury
- Permanent Impairment Rating
- Referral for Additional QME
- QME Process/Procedure

