

**TO: UNREPRESENTED CLAIMANTS**

**READ CAREFULLY**

1. You have the right to legal counsel and may consult with an attorney regarding your workers' compensation claim. An attorney is not provided for you.
2. The attorney scheduling this deposition does not represent you or your interests. Instead, the attorney scheduling this deposition represents the interests of the employer. The attorney scheduling this deposition cannot and will not provide you with any legal advice or guidance on how to proceed with your claim as the attorney does not represent you.
3. If you do not intend to attend this deposition, notify the attorney scheduling this deposition in writing at least seven (7) days in advance of the deposition date.
4. A deposition is a statement under oath. You may be asked questions on various topics such as the facts of your case, your employment status, your employment history, your injuries, your medical providers, your past injuries, your past accident, and anything else that is relevant to your claim. The purpose of the deposition is to learn all of the facts of your case. W. Va. Code § 23-4-7 states:

**§23-4-7. Release of medical information to employer; legislative findings; effect of application for benefits; duty of employer.**

(a) The Legislature hereby finds and declares that two of the primary objectives of the workers' compensation system established by this chapter are to provide benefits to an injured claimant promptly and to effectuate his or her return to work at the earliest possible time; that the prompt dissemination of medical information to the commission and employer as to diagnosis, treatment and recovery is essential if these two objectives are to be achieved; that claimants are increasingly burdened with the task of contacting their treating physicians to request the furnishing of detailed medical information to the commission and their employers; that the commission is increasingly burdened with the administrative responsibility of providing copies of medical reports to the employer involved, whereas in other states the employer can obtain the necessary medical information direct from the treating physician; that much litigation is occasioned in this state because of a lack of medical information having been received by the employer as to the continuing disability of a claimant; and that detailed narrative reports from the treating physician are often necessary in order for the commission, the claimant's representatives and the employer to evaluate a claim and determine whether additional or different treatment is indicated.

(b) In view of the foregoing findings, a claimant irrevocably agrees by the filing of his or her application for benefits that any physician may release to and orally discuss with the claimant's employer, or its representative, or with a representative of the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, from time to time, the claimant's medical history and any medical reports pertaining to the occupational injury or disease and to any prior injury or disease of the portion of the claimant's body to which a medical impairment is alleged containing detailed information as to the claimant's condition, treatment, prognosis and anticipated period of disability and dates as to when the claimant will reach or has reached his or her maximum degree of improvement or will be or was released to return to work. For the exclusive purposes of this chapter, the patient-physician privilege of confidentiality is waived with regard to the physician's providing this medical information to the commission, the employer or to the employer's representative. Whenever a copy of any medical report is obtained by the employer or its representative and

the physician has not also forwarded a copy of the medical report to the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, the employer shall forward a copy of the medical report to the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, within ten days from the date the employer received the medical report from the physician.

5. The Workers' Compensation Board of Review's Procedural Rule (West Virginia Code of State Rules § 102-1) states:

**§102-1-13. Depositions.**

13.1. In order to promptly and efficiently process cases the parties are encouraged, particularly for the purpose of cross-examining expert witnesses, to use depositions to the maximum extent possible. Accordingly, depositions may be obtained and used for evidentiary purposes without prior consent of the Board of Review. Depositions shall be conducted in accordance with the section on "Administrative Hearings Procedures, Generally," except that the Board of Review need not be present and any person otherwise qualified and authorized to administer oaths or affirmations may do so to the deponents. Objections to questions asked in a deposition will be noted upon the record along with the grounds for the objection, and the question shall be answered with the question and answer transcribed as a part of the deposition on avowal. Motions relative to any objections made shall be submitted in writing to the Board of Review within fifteen (15) days after either party tenders the deposition to be made a part of the record. A ruling on motions as to the admissibility or inadmissibility of any questions and answers objected to will be rendered in a timely manner.

13.2. Procedure. The taking of a deposition shall be by agreement of the parties or upon reasonable notice to the deponent and all parties or, if the party is represented by counsel, their counsel of record. Notice shall be in writing and shall contain the date, time, and place of the deposition as well as the name and address of each person to be deposed. The cost of court reporter services shall be borne by the party requesting the deposition unless the Offices of the Insurance Commissioner agrees as a policy to assume the cost. The cost of witness fees and expenses shall be the obligation of a party as provided in the section on "Administrative Hearings Procedures, Generally." Parties are encouraged to utilize depositions to obtain testimony whenever possible.

13.3. Telephone deposition. Depositions may be taken by telephone conference call or other electronic means as if taken in person. The same procedure applies as provided for other depositions. Costs incurred in the taking of telephone depositions shall be borne as provided for other depositions.

13.4. Use of any deposition shall be subject to objection as in Circuit Court. The admission of any deposition into evidence may be denied if it appears that the deposition was taken at such place and under such circumstances as to impose an undue burden or hardship upon the opposing party.

6. Additional information is available by calling the Board of Review at (304) 558-5230 or visiting their website: [https://www.wvinsurance.gov/Workers-Compensation\\_Board-of-Review](https://www.wvinsurance.gov/Workers-Compensation_Board-of-Review)