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What to Expect at Your DMV Hearing

Every case is like a “snowflake.” That is, from a distance, they all look the same, but upon closer scrutiny, under a microscope, they all look unique. Individual. As such, my comments here are necessarily of a general nature, an overview.

EXPECT A WRITTEN TEST

A written test may be given before, during or after a hearing or interview. Not every situation requires one; but be prepared, just in case.

THE PURPOSE OF THE HEARING

The hearing (or “interview”) is not intended by the DMV to be confrontational or difficult for you. It is supposed to be an information gathering process whereby following the questions and answers (“testimony”) and taking all documentary evidence into consideration, your hearing officer will be able to make a “decision.” That decision may come at the conclusion of the hearing (or “interview”) or it may come later by mail—sometimes up to 30 day (or even more).

Bring with you, if you don’t have it memorized, a complete list of all **medications** you are taking including the:

- Name of prescribed medication.
- Potency (20mg for example).
- The frequency (for example, one in the morning and one in the evening).
- Why you are taking each medication. Many medications are prescribed for more than one purpose, so it is important to know why you are taking each medication prescribed to you.
- Note: Do not discuss vitamins unless specifically asked.

THE START OF THE HEARING:

Regardless of whether it is a “hearing” or an “interview,” the meeting with the hearing officer almost always starts with the officer turning on a recorder, testing it briefly, and then stating the hearing officer’s name, title, authority, date and location for the record. Then the officer will ask counsel to state the attorney’s name and law office address; followed by the client, who will be asked to state:

- Your full name.
- Your address.
- Your date of birth. (Month, Day, Year) Example: June 24, 1950.

Next, the hearing officer will comment briefly on the “purpose of today’s hearing” (or interview) and simply state onto the record the various documents that the DMV has obtained. Typically, these will include some of the following:

- Driver Record Printout (the official driving record of the client).
- Confidential Morbidity Report (a report from a doctor, hospital, family member, neighbor or other driver).
- A Request for Reexamination by DMV from a law enforcement agency.
- Traffic Collision Report from law enforcement agency (if applicable).
- Any other documents that the Department has pertaining to your case, such as written or drive test results.
- Driver Medical Evaluation(s) and Report of Vision Examination forms.

Generally, as a prudent attorney, I will not object to any of the evidence that the DMV is trying to get on the record. Some evidence may be deemed “for identification purposes only.” That is generally of no consequence vis-à-vis the other, ordinary, documentary evidence. The DMV’s documents will generally be identified as “Department’s 1,” “Department’s 2,” etc. And documents submitted by the driver, attorney for the driver, and the driver’s doctor(s) will be identified similarly as “Respondent’s 1,” “Respondent’s 2,” etc.

SWEARING YOU IN

Next, the officer will swear in the driver if this has not already been done earlier. Simply raise your right hand, and after comments by the officer, say: **“Yes, I do.”** Or if you wish to be most formal: **“I so swear.”** (There are no magic terms here. Even a simple “Yes” will suffice.)

THE BODY OF THE HEARING:

Then the officer will ask counsel to proceed; or the officer will ask questions directly to the driver. (Generally, I prefer to defer to the officer to ask questions first; and then I will follow up with any comments or questions that I have. But at some point, often on correspondence, I will have already stated our request for reinstatement, a drive test, a permit for lessons, etc.)

These questions, whether by the officer or the attorney, will generally revolve around the issue at hand: Medical condition, vision, prior failed road tests, etc.

Often, the officer will ask about drug use. This could include not only prescribed medications, but also any over-the-counter medications, alcohol and illegal drugs. Don't be offended by such questions, these are routine and the officer is simply doing a job.

Focus instead on the goal of getting your license back (or out of jeopardy). Do this by **honestly answering questions: directly, but briefly**. Do not go where the question doesn't take you.

HEARING'S CONCLUSION:

At the end of the hearing, the officer may ask for new documentation from a doctor. But in most cases the officer will either render a decision orally on the record; or will simply say that the officer "will take this matter under submission and get back to you within 30 days by mail." In any event, all we do as counsel and driver is say "thank you" and leave.

Good luck!

Questions? Please feel welcome to call me directly at **714-404-4788**.