

“Doctor, when you examined my client two years ago, did you do A, B, and C?” “I don’t remember.” “You don’t remember?” Now, do I move on to the next topic simply because the doctor says he doesn’t remember? Or do I probe further? Do you want to know the answer and why it’s so critical to know this answer? Come join me for a moment as I show you some great information. Hi, I’m Gerry Oginski. I’m a New York medical malpractice and personal injury trial lawyer practicing law here in the state of New York. So now, when you bring a medical malpractice lawsuit claiming that a doctor or a series of doctors at a hospital violated the basic standards of medical care, causing you harm, I will have an opportunity to question these doctors at a question and answer session known as a deposition. And it’s as if they’re testifying at the time of trial, but this session goes on in their attorney’s office. So now, I’m asking the doctor a series of questions and he tells me “I don’t remember.” “Doctor, did you do this?” “I don’t remember.” “Doctor, did you do this?” And now he tells me over and over again, “I don’t remember.” Do I let that go and now move on to the next topic? No, I don’t. Do you want to know why? It’s because most really good trial attorneys need to know why the doctor doesn’t remember. “Doctor, isn’t it good medical practice that when you do something, specifically A, B, and C, that it’s important for you to record that information in the patient’s record?” “Yes.” “Tell me why, doctor, it’s important to record it.” And now the doctor will explain why. And if he has trouble doing it, I’ll help him. “Doctor, it’s important to record that information in the patient record because you see many patients each day, true?” “Yes.” “And now, when the patient returns back to you a week later or a month later, now you won’t know – you won’t remember - exactly what you had done unless you had recorded that information in the patient chart. Isn’t that true?” “Yes.” There’s a saying in medicine, as well as in law, that if it wasn’t written down, it simply wasn’t done. The defense, often times, turns that argument around and says “Don’t accuse us of malpractice simply because we were bad record keepers.” So now I’ll turn around and ask the doctor, “Doctor, is there any particular reason why you can’t remember what you did now? Today? Two years later?” And now he’ll give me some explanation about why he can’t remember. I will not let it go at that. “Doctor, two years earlier, did you remember these things?” “Yes, I did.” “And would you agree that good practice required that you record these?” “Yes, I did.” “Can you show me in your records, doctor, where you recorded them?” “No, I can’t.” “So, you are telling me, doctor, that there is nothing in your records to confirm that you did A, B, and C, isn’t that true?” “Yes.” Now when I get an admission like that, or an acknowledgement, then I will move on to the next topic because their obvious answer is “Well, just because I didn’t record it at that moment, I forgot to write it down, doesn’t mean I didn’t do it.” So why do I share this great information with you? I share it with you just give you an insight and an understanding into what goes on in these types of medical malpractice cases here in the state of New York. You know, I recognize you probably have questions or concerns about your own particular matter. Well, if your did matter happen here in New York and you’re contemplating bringing a lawsuit and you have legal questions, what I encourage you to do is pick up the phone and call me. I can answer your legal questions. This is something I do every single day and I’d love to chat with you. You can reach me at 516-487-8207 or by email at Gerry@Oginski-law.com. That’s it for today’s video. I’m Gerry Oginski, have a wonderful day.