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# Checkups

BY ERIC Y. DROGIN

There are any number of reasons to avoid checkups. Perhaps not good reasons, or logical reasons, or even factually based reasons—but reasons, nonetheless.

Even in this era of incentivized wellness, reduced health insurance premiums may be outweighed financially (or so we tell ourselves) by the costs of non-emergency medical visits and the follow-up appointments imposed upon us by nervous doctors. By the way, have you ever noticed how much more nervous doctors are when their patients are lawyers? I'll never forget the time I overheard my own family physician muttering into a Dictaphone as I left the examining room that "this 35-year-old attorney presents today for an annual physical ..." Almost a quarter of a century later, those words are still ringing in my ears. Maybe I should get them checked.

Checkups take time. Clear my calendar, which means that now even more money is being frittered away in the form of lost income. Why don't doctors keep evening or weekend office hours? Explain to my staff and colleagues that I've got an appointment that afternoon. Yes folks, a medical appointment. Thanks for asking. Just a checkup. Don't get excited—I'm fine, so don't bother calling "dibs" on my parking space. Drive to the hospital. Park. Sit in the aptly titled "waiting room." No cell phones please. Fine, I didn't want to bill for this time anyway. Wonder how many germ-ridden people have sat in this very same chair and thumbed through this June 2014 issue of *People* before me. Spend time being examined, waiting in line for another appointment, queuing up to pay for parking, finding my car, driving it back to the office. At least no one parked in my space.

If I don't get a checkup, I don't have to hear any bad news. Bad news is stressful to anticipate, stressful to hear, and stressful to share with loved ones. Isn't stress supposed to be bad for my mental and physical health? Putting off checkups means delaying stress—surely this is a valid tradeoff. Doctors always say "listen to what your body tells you." Right now, my body is saying "I could do without any more stress." The best time to have a checkup, surely, will be when I'm caught up with my work, generally calm about life, but also just a little bit ill, which after all does happen from time to time. This would make my visit to the hospital somewhat more efficient, help the doctor to feel a little more useful, and give me a much better reason to squander all of that time and money.

By virtue of the mindsets that tend to define our practices, various types of

attorneys are predisposed to view checkups in a different fashion. This is one area in which criminal lawyering instincts can be less than beneficial. When would a public defender, for example, ever feel called upon to build a case for a client who has never been accused of anything in the first place? These attorneys never go looking for trouble. Along these lines, why is organized medicine being granted a warrant to search the premises of the client's body, extract a blood sample, or question the client about lifestyle choices? No symptoms means no probable cause. Medicine can't even describe what it's expecting to find. Why is the client being singled out for this treatment—is it because the client is older, because the client somehow “looks” ill, or because medicine believes people like the client are more prone to different conditions? That's discrimination. Is it because the client committed illness in the past? Ditto.

By contrast, if checkups make sense to anyone, it's civil practitioners. They grasp intuitively that a failure to embrace preventive medicine at regular intervals is tantamount to negligence. “Members of the jury, I'll have you know that my client diligently patrolled the premises in question on a consistent basis, alert to any signs of decay, decline, or disrepair. Our documentation is

so detailed and well-organized that if we applied these principles outside the workplace, in our own personal lives, *we* would be referred for psychiatric care. If anyone should be held accountable for the regrettable state of affairs that prompted this litigation, it's those very parties who were invited to conduct inspections and failed to do so in sufficient depth.” In particular, although they are unjustly seen as the bane of the medical workplace in their professional roles, corporate compliance lawyers are highly appreciated as patients, given their penchant for frequent checkups.

Perhaps as much as anything else, checkups are about time. As lawyers, we understand time. Most of us bill for time. Almost all of us can get in trouble for losing track of time, as statutes of limitations expire or as filing deadlines pass. In traditional medicine and other types of health care, the more time that passes without intervention, the more time a disease entity has to settle in and make our bodies its own. Dentists are especially capable of waxing poetic about this—incidentally helped along by the fact, as buttressed by a number of research studies, that they tend to score in the “gifted” range on IQ testing from an early age.

We work in a world dominated by rules. Diseases don't. Doctors can predict,

estimate, and warn about what a given bundle of symptoms might do, but there are no guarantees. As lawyers, we don't get to strike back against diseases in the ways to which we might normally be accustomed. There is no established legal remedy to be imposed when a medical condition fails to conduct itself in the manner observed in other patients, and after all Cancer has no designated process agent. Diseases are neither impressed nor deterred by our “white hat, empty head” or other “safe harbor” arguments, in which we assert we needn't have sought checkups because we ate healthily, slept fully, and exercised faithfully.

The key guarantor of medical wellness—and the improved mental health that attends it—is going to see the doctor every once in a while. The longer a problem goes unattended, the more dangerous it is likely to become. If you've read this far, then perhaps you have more time at your disposal than you think, so please schedule a checkup.



#### ABOUT THE AUTHOR

**ERIC Y. DROGIN** is a Norton Healthcare Louisville Hospitals Medical Staff member with clinical privileges in adult psychology. He teaches

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