

SAFE HARBOR

A monthly newsletter for the Maritime worker from
The Law Offices of Lyle C. Cavin, Jr.

October 2012



Thank you for your maritime service and taking the time to review our Newsletter. We at the Law Offices of Lyle C. Cavin, Jr. hope you find the following information informative and helpful. If you have any questions regarding your rights or remedies please contact us at any time. We are here to serve you.



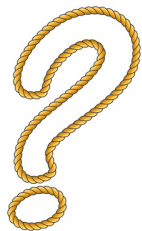
YOUR MEDICAL EXAMINATIONS

Merchant mariners normally undergo annual medical examinations and, in many cases, pre-sign on physicals in order to be eligible for employment.



As part of these processes forms disclosing medical history are required to be completed by the mariner. It is very important to complete these questionnaires as thoroughly as possible. Failure to disclose a pre-existing illness or injury can give rise to serious legal and employment consequences. The withholding of pertinent medical information can be used to reduce or defeat a claim brought by the seaman, if an accident or illness occurs. Full disclosure is the best approach. Read the forms carefully!

QUESTION FROM THE BRIDGE



Dear Counsel,

I was injured as a deckhand but the shipowner is now claiming they don't have to pay me maintenance and cure because in my pre-sign on physical examination record there is no mention of treatment for an old back injury for which I was receiving treatment before I shipped out for this company. What are my rights?

Eric P., Long Beach

Eric,

A shipowner can use a failure to disclose a pre-existing medical condition in an attempt to preclude or limit your claim for maintenance and cure. This is known as the McCorpen defense. However, it is a difficult argument to make unless the exact condition for which you are now seeking benefits was the same condition or area of your body that had preexisting problems. However, in order for the shipowner to prevail on this defense they must show a fraudulent concealment of a preexisting condition, not just put negligent or careless failure to disclose the condition.

About Our Law Firm

For more than four decades, merchant mariners, longshoremen, fishermen and harbor workers plying their trades at sea, on the docks, on our U.S. coastal waters and inland waterways have turned to the maritime law firm of Lyle C. Cavin, Jr. & Associates in Oakland. Today, we are proud to be recognized as one of the preeminent maritime law firms serving injured marine workers nationwide, as well as one of the most successful personal injury litigation firms serving victims of negligence in the San Francisco Bay Area and throughout the West Coast.

Team Approach to Every Personal Injury and Jones Act Claim

When you retain Lyle C. Cavin, Jr. & Associates with a Jones Act injury claim or personal injury claim, you don't get just one attorney, you get our entire team of dedicated professionals. Our attorneys offer more than 150 combined years of courtroom and negotiated claims settlement experience. We will represent your interests with unwavering dedication, speed and expertise.

Law Offices of Lyle C. Cavin, Jr. & Associates

"Serving the Merchant Mariner Since 1970"

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