

Hey, it's Drew from Champlain Valley Law. And in this video, we're going to talk about mental health and privacy after a car crash.

Something a lot of people ask us is "If I've been in a car crash and make a claim, do I have to turn over my therapy records to the insurance company and defense lawyers?"

That's a great question. And it's true, as a general rule, if you've been in a car crash and make a claim, you're going to have to turn over your medical records to the insurance company. For instance, if you broke your leg in the crash, the insurance company's going to want to see your ER records, your x-rays and probably your orthopedic records as well. They're going to want to know how bad the injury was and the records help them figure that out.

And that makes sense to most people when we're talking about a physical injury, but a personal injury claim is about much more than a physical injury. Usually, it's the mental and emotional harm that's most important to you, and for us as lawyers, that's how we add value to your claim.

But not everybody wants to be an open book when it comes to their therapy records and their mental health history. So the question becomes, how do you bring a successful personal injury claim, but still maintain some amount of privacy when it comes to your mental health?

What the courts have said about this is that if you make a claim for what they call a "garden variety" emotional distress, then you don't have to turn over your therapy records and your mental health history. What do they mean by garden variety? Well, let's say you have some sleepless nights. Maybe you have some anxiety about going to medical appointments, or you get a little jumpy every time you drive through the intersection where the crash happened, but at the end of the day, eventually you go back to what's a normal baseline for you personally. In that case, you probably won't have to turn over your mental health records to the defense.

On the other hand, if this crash was so traumatic that you experienced a severe uptick in symptoms of your anxiety disorder, or you've been diagnosed with post-traumatic stress disorder, or if your symptoms are simply indistinguishable from your existing mental health conditions, in that case, you may very well have to turn over your therapy and mental health records to the defense.

So if you were in a car crash and want to make a claim for emotional distress, you should be aware that there may be some trade-offs if you have mental health records that you're concerned about disclosing. If the crash was really severe and your symptoms are very severe, then it's a conversation that you and your lawyer should have about how much of those records to disclose in order to prove your case. But if your experience was one in which you experienced some suffering and some trauma, but eventually you returned back to your normal self, then in that case, there may not be such a trade-off after all.

But of course, every case is different. So if you'd like to know how these rules apply to you and your case, contact information is listed in the description below. Be in touch, we'll be happy to talk to you about it.

If you found this video helpful, please like, subscribe and ring the bell. If there are topics that you're interested in hearing more about, please let us know in the comments section below. Thanks for watching, and we'll see you next time.