

2015

Accidents Will Happen

Even the best drivers can have automobile accidents. Therefore, you should know what steps to take immediately following an accident to protect the life and limb, property, and legal rights of those involved. Doing the right thing, in the right way, at the right time, may save a life. It will always lessen, and often avoid, legal problems.

Here are the steps you should take if you are involved in an accident with another vehicle, bicycle or pedestrian.

Stop Your Car

Never leave the scene of an accident in which you or your car are involved. No matter how slight the collision, if you fail to stop, you may leave yourself open to criminal prosecution even though the accident was not your fault. Stop your car as soon as possible without further endangering any person or property and without blocking traffic. Do whatever is necessary to warn oncoming traffic in order to prevent another accident. If possible, station someone in a position to warn approaching vehicles. At night, use flares, reflectors or a flashlight.

Get Aid for the Injured

If anyone has been hurt, call 911 and ask for an ambulance. Do not attempt first aid unless you are qualified to give it. You may make matters worse instead of better. For example, moving an injured person may worsen the injury.

Call the Police

Call 911 for the police even if there are no injuries. The police are trained to handle any situation that may arise after an accident. Even if you are not physically injured, you may be suffering from shock and excitement and it may be difficult to think clearly. Let the police take over when they arrive. They will handle any emergency and investigate the accident. Their report on the accident may be helpful to you later if you are sued, or if you decide to sue someone else. The police report is also important if you need to make an insurance claim. If the police cannot respond to the accident scene or do not prepare a report, you yourself are required by law to report any accident involving property damage greater than \$1,000 or personal injury within 15 days of the accident to the state Division of Motor Vehicles.

Exchange Information

As the driver of a vehicle involved in an accident, you are required by state law to give the other driver, any injured person, the owner of any damaged property, and the police the following:

- your name,
- your address,
- your driver's license number,
- your motor vehicle's registration number, and
- the name and address of each person in your car.

If you or another driver cannot give or receive this information due to injury or removal from the scene of the accident, the information should be given to the uniformed police officer arriving at the scene of the accident or the nearest police station.

If you hit a parked car, you must locate the operator or owner and exchange the above information. If you cannot locate the owner, leave a written message giving your name, address and the circumstances of the collision. Leave the message in a conspicuous place on or in the parked car.

It is best to give only the information required by law. Do not comment on the cause of the accident, and do not admit fault even if you think you were in the wrong. You may discover later that the other driver was equally or more to blame. Also, immediately after an accident you will most likely be emotionally or physically upset, and you may not be able to see all sides of the situation clearly.

Just as the law requires you to give certain information, you are entitled to the same information from others involved in the accident. Be sure you or the police officer get this information. You should also get the name of the other driver's insurance company, if any.

Besides the names and addresses of the people actually involved, make an effort to get the names and addresses of anyone witnessing the accident. Witnesses may be important later in the insurance claims process or if legal action is begun. Also, if you can:

- take pictures of all vehicles involved in the accident from all angles,
- make notes of the important aspects of the accident to help you remember them,
- draw a diagram of the exact position of the vehicles before and after the accident, and
- take pictures of skid marks and other important landmarks, such as telephone poles or sign posts.

See Your Doctor

If you have any doubt at all about your own condition or that of the passengers in your car, see a doctor as soon as possible. Ask your passengers to do the same. Make sure you give the doctor or emergency room personnel a complete and accurate report of exactly what happened and what injuries you think you have, no matter how minor they seem. Since some types of injuries do not cause noticeable problems until later, it is important for your doctor to have this information.

If you have health insurance, it should cover any medical treatment from a car crash the same as for any other illness or injury. All auto insurance is also required to cover medical bills up to a certain amount, which varies from policy to policy (this is known as “medical payments” coverage, or “med pay”). It can be to your advantage to use your health insurance first, reserving your auto medical payments coverage for any out of pocket co-pays or deductibles associated with your care. Although many hospitals or doctors’ offices will ask for your permission to bill the auto insurance directly, the choice of which insurance to bill – health insurance or auto insurance, or both – is yours. The decision of how to handle insurance can be complicated; you should consider speaking with any attorney if you anticipate having more than minimal medical treatment.

File Accident Reports

If you have automobile insurance, notify your insurance company and/or insurance agent immediately and cooperate with your insurance representatives in their investigation. You are under no obligation to give a statement or speak to representatives from other drivers’ insurance companies, and it is not usually in your best interest to do so without first consulting an attorney.

The police are required to fill out an accident report within five days and file it with the NH Department of Safety, Division of Motor Vehicles. You should check and make sure they do. If they do not, and the accident involved personal injury, death or property damage of \$1,000 or more, NH law requires you to file a written report within fifteen days of the accident (unless you are physically or mentally unable to do so, in which case you or your representative must do so as soon as possible). You can get the proper form from the Department of Safety, Division of Motor Vehicles, Driver Records, at 271-2322, or on the Division of Motor Vehicles website. Your insurance agent and the local police station probably have these forms too. The form tells you where to file the report. You could be subject to criminal prosecution and lose your license if you do not file this report.

If You Are Arrested

If you are arrested or receive a traffic ticket, it may affect your ability, or that of others involved in the accident, to make a claim for your injuries or other damages. You should get legal advice if this happens.

If You Are Hurt or Lose Work

If you lose time from work, sustain injuries or have other losses, you may be entitled to damages (repayment for your loss) from the other party or parties to the accident. You may also be entitled to damages from your own automobile insurance policy. The medical payments coverage in your own auto policy covers most medical bills incurred within one year of an accident, regardless of fault. Make sure to submit copies of all bills to your auto insurance company. If the other party is at fault and has no auto insurance, you are entitled to recover damages from the "uninsured motorist" coverage of your own auto insurance.

Awarding monetary damages is the law's way of trying to put the wrongfully injured person into the same condition they were in before the injury. If the accident was not your fault, you may be entitled to recover money for:

- the nature, extent and duration of any injuries you sustained,
- pain and suffering caused by the injuries,
- disabilities you experience, both temporary and permanent,
- reasonable expenses resulting from your injuries and the accident,
- any loss of income caused by the accident, and
- the value of damages to your property.

Possible sources of recovery include: your own medical insurance; your own auto insurance, as discussed above; your employer's workers' compensation insurance if the accident occurred while you were working; the other party's auto insurance (if they were at fault) and a lawsuit against the party at fault even if they are uninsured. It is not wise to finally settle any claim you have for personal injuries until you have reached your maximum medical improvement. This does not necessarily mean you are pain-free, only that your doctor has indicated that your condition is not likely to improve.

If you are not certain of your rights or responsibilities, you may wish to consult a lawyer. You should do this promptly, since any claims you may have will probably be barred three years from the accident under New Hampshire's general statute of limitations. If you need help finding an attorney, call the Lawyer Referral Service of the NH Bar Association at (603) 229-0002.

The NH Department of Insurance publishes an informative guide to automobile insurance titled: "*Consumer Guide to Automobile Insurance*." It is available by calling the Department at (603) 271-2261 or (800) 852-3416 or at <http://www.nh.gov/insurance/consumers/auto.htm>