

TSA Guidelines for Expert Witness Qualifications and Testimony

Developed By: Committee on Professional Liability

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The integrity of the litigation process in the United States depends in part on the honest, unbiased, responsible testimony of expert witnesses. Such testimony serves to clarify and explain technical concepts and to articulate professional standards of care. The ASA supports the concept that such expert testimony by anesthesiologists should be readily available, objective and unbiased. To limit uninformed and possibly misleading testimony, experts should be qualified for their role and should follow a clear and consistent set of ethical guidelines. These guidelines apply to written opinions as well as testimony offered by experts.

A. EXPERT WITNESS QUALIFICATIONS

1. The physician (expert witness) should have a current, valid and unrestricted license to practice medicine.
2. The physician should be board certified in anesthesiology or hold an equivalent specialist qualification.
3. The physician should have been actively involved in the clinical practice of anesthesiology at the time of the event and should have relevant clinical experience and knowledge in the clinical practice areas that are the subject of the proceeding.

B. EXPERT WITNESS ETHICAL GUIDELINES

1. The physician's review of the medical facts should be truthful, thorough and impartial. The physician should not exclude any relevant information to create a view favoring either the plaintiff or the defendant.
2. The physician's testimony should reflect scientific evidence and accepted prudent practice prevalent at the time of the event in question.
3. Whenever an ASA document is referenced or quoted for purposes of expert witness testimony, the physician is obliged to differentiate whether these documents are ASA Standards, Practice Guidelines, Practice Advisories & Alerts or Expert Consensus Documents.
2. The physician should make a clear distinction between medical malpractice and adverse outcomes not necessarily related to negligent practice.
3. The physician should make every effort to assess whether the alleged substandard practice was causally related to the adverse outcome.
4. The physician's fee for expert testimony should relate to the time spent and in no circumstances should be contingent upon outcome of the claim.

The physician should be willing to submit such testimony for review.