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Neurology 2006;66;13-14
DOI: 10.1212/01.wnl.0000190568.69950.11

This information is current as of January 24, 2006

The online version of this article, along with updated information and services, is located on the World Wide Web at:
http://www.neurology.org/cgi/content/full/66/1/13

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American Academy of Neurology qualifications and guidelines for the physician expert witness

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Preamble

Neurologists may be called upon to serve as expert witnesses in various legal proceedings. In this role, they can serve the public interest by providing testimony that is competent, objective, and respectful of law and the legal process. The American Academy of Neurology, as the largest professional society of neurologists in the United States, has undertaken to formulate a Code of Professional Conduct for its members. The purpose of the following provisions is to inform members of the Academy as to what constitutes ethical expert testimony. A neurologist who violates these provisions is subject to disciplinary action under the By-Laws and Disciplinary Action Policy of the Academy if the violation occurs while the neurologist is a member of the Academy.

I. Elements of Medical Expert Testimony

A. The purpose of medical expert witness testimony is to assist a court or other lawful forum to understand medical evidence or to determine medical facts at issue.

B. Where testimony relates to an allegation of medical malpractice, the medical expert may be asked to provide an opinion that—

1. Describes relevant standards of care, specifies any violations of these standards, and indicates whether any such violations caused harm to a claimant.

2. Describes the current clinical status and prognosis of a claimant who alleges malpractice as the cause of his or her injury.

C. Medical expert testimony encompasses the following:

1. Medical evaluation of a party to a legal proceeding, including personal interview and examination and/or review of medical records or other pertinent data (including laboratory tests and imaging studies).

2. Formulating an expert opinion based on such evaluation.

3. Communicating such an opinion to attorneys, courts, licensing boards, peer review bodies, or other lawful agencies, whether in the form of testimony in court, deposition, answers to interrogatories, or affidavit.

II. Qualifications of a Medical Expert

A. Licensure. A medical expert must have a valid and unrestricted license to practice medicine.
B. Training and certification. Physician expert witnesses should be fully trained in a specialty and a diplomate of a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association or by a board with equivalent standards, and qualified by experience or demonstrated competence in the subject of the case. The specialty of physician expert witnesses should be appropriate to the subject matter of the case.

C. Practice and teaching experience. If a medical expert is not in active clinical practice when offering an expert opinion, the expert should be prepared to demonstrate competence to provide such an opinion. Evidence of competence may include active clinical practice, relevant publications in medical or scientific journals, and/or active teaching or supervision of medical students, residents, or fellows in an area relevant to the expert opinion during 3 of the 5 years that immediately precede the date on which the opinion is offered.

D. Medico-legal activities. If a medical expert spends more than 20% of his or her professional time in medico-legal activities (including testimony in court or by deposition or interrogatory, reviewing medical records at the behest of lawyers, performing independent medical examinations, or furnishing opinion letters or affidavits to lawyers), the expert should be prepared to demonstrate competence to provide an opinion that is objective, relevant, and not biased by financial considerations.

III. Guidelines for the Conduct of the Medical Expert

A. A medical expert should strive to provide testimony that is accurate, impartial, and relevant with respect to disputed medical facts or issues. The expert should avoid the role of advocate for the party on whose behalf the expert is providing testimony.

B. A medical expert should carefully and thoroughly review relevant medical and scientific data before offering an opinion. If an expert believes that information that has been provided is incomplete or inaccurate, the expert should request additional information or clarification from attorneys or other relevant parties before agreeing to render an opinion.
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