

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 3
(I-03)

Introduced by: American College of Surgeons
American Academy of Facial Plastic and Reconstructive Surgeons
American Academy of Otolaryngology-Head and Neck Surgery
American Association of Neurological Surgeons
American Society of Cataract and Refractive Surgery
American Society of General Surgeons
American Society of Plastic Surgeons
American Urological Association
Congress of Neurological Surgeons
Society for Vascular Surgery
Society of American Gastrointestinal Endoscopic Surgeons
Society of Thoracic Surgeons

Subject: Expert Witness Qualifications and Guidelines for Behavior

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Susan L. Polk, MD, Chair)

1 Whereas, Our American Medical Association and national specialty societies continue to deal
2 with the issue of expert witness qualifications and behavior; and

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4 Whereas, A few specialty societies have developed strong disciplinary measures for members
5 who provide false or misleading testimony as expert witnesses; and

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7 Whereas, Model state legislation has been developed by our AMA for expert witness
8 qualifications, yet many states have not implemented these standards; and

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10 Whereas, AMA Policies H-265.994 and E-9.07 address the issue of guidelines for behavior of
11 the physician expert witness, but do not explicitly require that an expert witness be board
12 certified in a specialty appropriate to the alleged injury or error; therefore be it

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14 RESOLVED, That our American Medical Association support the policy that an expert witness
15 must be board certified by a board recognized by the American Board of Medical Specialties,
16 American Osteopathic Association, or a board with equivalent standards approved by the state
17 medical board in a specialty relevant to the alleged injury or error (New HOD Policy); and be it
18 further

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20 RESOLVED, That our AMA adopt the following Guidelines for Behavior of the Physician Expert
21 Witness:

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23 1. Physicians may testify in court as expert witnesses when appropriate.
24 2. The physician expert witness should review the medical information in the case and testify
25 to its content fairly and honestly. In addition, if the physician expert witness is called upon to
26 draw an inference or an opinion based on the facts of the case, the physician expert witness
27 should apply the same standards of fairness and honesty.
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- 1 3. The physician expert witness should be prepared, if appropriate to distinguish between
2 actual negligence (substandard medical care that results in harm) and an unfortunate
3 medical outcome (recognized complications occurring as a result of medical uncertainty or
4 resulting from factors beyond physician negligence).
- 5 4. The physician expert witness should review the standards of practice prevailing at the time
6 of the alleged occurrence.
- 7 5. The physician expert witness should be prepared to state the basis of his or her testimony or
8 opinion, and whether it is based on personal experience, specific clinical references,
9 evidence-based guidelines, or a generally accepted opinion in the specialty field.
- 10 6. Compensation of the physician expert witness should be reasonable and commensurate
11 with the time and effort given to preparing for deposition and court appearance. It is
12 unethical for a physician expert witness to link compensation to the outcome of a case.
- 13 7. The physician expert witness is ethically and legally obligated to tell the truth. Transcripts of
14 depositions and courtroom testimony may be public records, and subject to independent
15 peer reviews. Failure to provide truthful testimony may expose the physician expert witness
16 to sanctions and/or liability. (New HOD Policy)

Fiscal Note: No Significant Fiscal Impact

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