

Position Statement on Expert Witnesses

(Approved by the Board of Directors: November 22, 2003; Revised May 21, 2016)

The integrity of the judicial process depends, in part, on the honest, unbiased testimony of expert witnesses on both sides of courtroom controversies. Justice, humaneness, and professionalism demand that dermatologists bring to the courtroom the same competence, expertise, objectivity, and compassion that they bring to the care of their patients; testimony in matters medical/legal is as much a part of the practice of medicine as is caring for patients.

Witnesses are designated as “expert” if they have knowledge of specific topics thought to be beyond the ready understanding of the laity. Non-partisan, scientifically valid expert testimony assists soundly in the deliberation of particular cases and contributes to equitable outcomes based on generally accepted medical principles. The expert witness is expected to be impartial and should not assume the role of advocate except as a spokesperson for the field of special knowledge that he or she represents.

It is unethical to request or to accept a fee that in any way is contingent on the outcome of any judicial proceeding. Compensation of the expert witness should be reasonable and commensurate with the time and effort devoted to preparing for, and attending, depositions and court proceedings.

In order to warrant designation as an expert witness, a dermatologist serving as an expert witness should be licensed to practice medicine, certified by the American Board of Dermatology or the American Osteopathic Board of Dermatology, should be engaged in the active practice of medicine and be able to demonstrate familiarity with current standards of practice in the arena pertinent to his or her testimony, as well as with standards of practice prevailing at the time of the matter at issue. A physician should never testify concerning matters about which he or she is not knowledgeable.

Prior to offering any testimony, a dermatologist serving as an expert witness should:

- Become familiar with all data relevant to the particular matter at issue, excluding no relevant information for the purpose of creating a view that favors either party to a dispute;
- Review previous and current concepts related to standards of dermatologic practice standards applicable to the matter at issue;
- Decide whether his or her opinions, if any, will contribute in a meaningful, positive, and unbiased way to adjudication of the case impartially.

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The expert witness should:

- Testify honestly, fully, and impartially concerning his or her qualifications as an expert.
- Offer expert testimony that is objective, truthful and accurate, based solely on medical knowledge of the matter at issue and never on the litigation posture of plaintiff(s) or defendant(s).
- Offer an assessment of the matter at issue in the context of generally accepted standards of practice, neither condemning performance that clearly falls within generally accepted standards of practice nor endorsing or condoning performance that clearly falls outside accepted standards of practice.
- Honestly, and fully, describe where and how his or her opinions may differ from common practice, never representing his or her own views as the only correct ones if they differ from those held by other qualified dermatologists.

These principles apply equally to pretrial evaluation of medical/legal disputes, whether or not such opinion is given under oath. The expert witness should be aware that depositions and courtroom testimony are public statements. The physician expert should not offer testimony that he or she would not be willing to submit for independent peer review.

This Position Statement is provided for educational and informational purposes only. It is intended to offer physicians guiding principles and policies regarding the practice of dermatology. This Position Statement is not intended to establish a legal or medical standard of care. Physicians should use their personal and professional judgment in interpreting these guidelines and applying them to the particular circumstances of their individual practice arrangements.