

Endocrinology Expert Witness: Bridging Healthcare and Law to Uphold Standards

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Abstract

The role of a medical expert witness is vital in bridging the gap between the healthcare and legal systems, ensuring that justice is served while maintaining high standards of medical care. This perspective highlights the importance of medical professionals engaging in expert witness work, examining both the challenges and rewards of this role. Initially, community physicians may hesitate to participate due to misconceptions about legal risks or potential professional backlash. However, expert witness work provides a unique opportunity to supplement income, contribute to the integrity of the medical profession, and deepen medical knowledge.

The development of legal knowledge, such as understanding tort litigation, medical malpractice, and institutional liability, is essential for effective participation in this field. These skills not only enable physicians to contribute meaningfully to legal proceedings but also foster a more collaborative relationship between medicine and law. Physicians are encouraged to explore this path, as their expertise can significantly impact the justice system and healthcare standards alike.

Keywords: Medical, Expert witness, Endocrinology, Litigation, Malpractice, Plaintiff

1. Introduction

If you're approached to serve as a medical expert witness, we encourage you to consider the opportunity seriously. While some may instinctively shy away from involvement in legal matters, participating as an expert witness may benefit the healthcare system, the justice system, and the expert.¹

Medical expert witnesses play a crucial role in various legal contexts, including medical malpractice cases, personal injury claims, and workers' compensation disputes.² Given the growing demands on physicians and professional burnout, offering expert witness services is a chance to contribute positively to the medical profession. It


may be a viable way to supplement your income and an engaging way to deepen medical knowledge.

1.1. Author's medical expert witness journey

In 2017, the author of this perspective, an endocrinologist, was approached by a fellow physician-scientist to design a clinical study for a lawsuit. Following an interview with one of the lead attorneys, an agreement was reached on an hourly rate, and a retainer was provided. The author began collaborating with a team of specialists to develop the study. However, after several months, the hiring attorney withdrew from the case due to client issues, prompting several team members to leave the project as well. Without a signed agreement and

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additional compensation beyond the retainer, the expert chose to disengage from the case, leaving with a sense of disillusionment about such work.

A few years later, during a Health Care Law and Regulation class at a graduate business school, the same physician expert explored patient protection and compensation mechanisms within tort litigation, including medical malpractice and institutional liability. The legal concepts, particularly the ways in which healthcare delivery is shaped by numerous laws, proved to be both fascinating and enlightening. This understanding underscored the critical role that medical experts with real-world experience in community hospitals play within the legal environment. By 2021, when another attorney sought assistance in a medical malpractice case involving a patient with diabetes, the expert readily accepted the opportunity. The case provided an intellectually stimulating challenge and offered significant insight into the lifecycle of medical malpractice cases, showcasing the profound impact that expert witnesses can have in legal proceedings.

1.2. Dispelling common myths

Several misconceptions may deter physicians from becoming expert witnesses. It's important to understand that medical malpractice cases are civil, not criminal, matters.² These cases involve disputes between private parties—typically a patient or their representative and healthcare providers. They do not involve the threat of fines or imprisonment. In most cases, the defendants are represented by attorneys provided by their professional liability insurance (Fig. 1).

Additionally, while being sued may require disclosure on insurance and hospital privilege applications, it rarely results in a loss of license or

privileges unless there is a pattern of recurrent negligence. Importantly, findings from internal reviews such as morbidity and mortality conferences, are generally not admissible in malpractice litigation.³ The goal in both legal and institutional settings should be to learn from mistakes and prevent future occurrences, not to punish individuals.

1.3. The vital role of medical expert witnesses

Medical malpractice litigation is not a no-fault process; plaintiffs (the patient or their representative) must prove their case in court, often relying on expert testimony (Fig. 1). Physician expert witnesses, regardless of specialty, play a critical role in upholding medical standards and ensuring justice is served. They bridge the knowledge gap in the courtroom by translating intricate medical concepts into terms that judges and juries can understand. This ensures that legal decisions are grounded in sound medical understanding, particularly in malpractice cases where the nuances of medical practice significantly impact outcomes. By analyzing the facts of a case and offering unbiased opinions about whether the standard of care was met, expert witnesses contribute to maintaining high standards of care and accountability within the profession.

1.4. Navigating specialty pressures and maintaining integrity

Some of my attorney colleagues have expressed frustration at the difficulty in securing expert witnesses, often due to fear of professional backlash or simple disinterest. This reluctance must be overcome for the benefit of both the medical and legal systems.



Fig. 1. Simplified timeline of a medical malpractice case.

If you decide to take on the role of a medical expert witness, it's crucial to maintain intellectual honesty throughout the process. If contacted by an attorney about a case and, after reviewing the details, you believe the case lacks merit, you should respectfully decline to participate—though you should still charge for the time spent reviewing the medical records. Conversely, if you determine that a patient was harmed due to substandard care, it's your duty to state this clearly. Your role is not to determine intent but to evaluate whether the standard of care was met and whether any failures caused harm.

1.5. Qualifications and process for becoming an expert witness

Physicians aiming to become expert witnesses should have strong clinical expertise, board certification, and a solid reputation in their field. Attorneys often select experts through referrals, professional networks, or expert witness directories. Preparing for this role involves creating a professional profile, setting clear fee schedules, and understanding the legal and ethical responsibilities. Familiarity with courtroom procedures and evidence-based testimony enhances credibility and effectiveness.

2. Why attorneys need medical expert witnesses

Medical expert witnesses, regardless of specialty, play a role that extends far beyond simply explaining medical terminology; they act as interpreters of the intricate relationship between medical science and legal standards.

2.1. Safeguarding against frivolous lawsuits

Medical expert witnesses are instrumental in safeguarding against unfounded legal claims. Their expert opinions can swiftly identify cases without merit, saving time and resources for all parties involved. Conversely, in cases with valid claims, their testimony can expose substandard practices, leading to improved patient safety and enhanced quality of care.

2.2. Enhancing physician understanding

Engaging in expert witness work often provides physicians with a deeper understanding of the legal and regulatory frameworks that govern their profession. This knowledge can lead to more informed

decision-making, better risk management, and improved communication with patients. For example, understanding the legal implications of medical decisions can transform how physicians approach both their clinical practice and their role in the broader healthcare system.

2.3. Fostering collaboration between medicine and law

The participation of physicians as expert witnesses strengthens collaboration between the medical and legal professions. This collaboration is increasingly vital as healthcare delivery and technology evolve. Expert witnesses help the legal system understand emerging challenges, particularly in cases involving advanced treatments or innovative medical practices. Community physicians serving as expert witnesses contribute not only to the justice system but also to the continuous improvement of healthcare policies and real-world practices. Their expertise ensures that legal decisions are informed by current medical knowledge, benefiting both the legal and healthcare systems.

3. Challenges and pitfalls of being an expert witness

Engaging in expert witness work comes with a unique set of legal and professional challenges. In the United States, one significant issue is the potential for licensure complications when testifying out of state, as rules governing expert testimony may vary across jurisdictions. Some states offer Medical Expert Witness Certificates allowing one to testify as an expert in a particular state. Serving as an expert witness can also take an emotional toll, as the psychological impact of litigation, including intense scrutiny during depositions, can be taxing. The time commitment required for depositions, trials, and other legal proceedings may pull experts away from their clinical practice, disrupting professional responsibilities and patient care. Beyond courtroom testimony, expert witnesses must navigate complex processes such as drafting independent medical reports and affidavits, often with limited prior experience in these areas.

Establishing fee schedules, payment terms, and contractual agreements with attorneys or expert witness placement agencies can be daunting, particularly for those new to the field. Furthermore, the ethical challenges are significant, including avoiding conflicts of interest, maintaining patient confidentiality, and ensuring that opinions are unbiased and evidence-based. Physicians must also

recognize that standard medical malpractice insurance does not cover expert witness work. Addressing these challenges requires preparation, legal education, and a clear understanding of the complexities involved, empowering physicians to navigate this demanding yet rewarding role effectively.

4. Summary

Becoming a medical expert witness provides community physicians from all specialties with a unique opportunity to make meaningful contributions to both the healthcare and legal systems. While some may hesitate to engage in legal matters, the role of a medical expert witness is crucial in upholding high standards of care and ensuring justice. Authors encourage physicians to consider exploring expert witness opportunities and even taking legal courses. These experiences not only enhance your professional skill set but also enable you to make a meaningful impact on the medical profession while addressing the complexities of this vital role.

Regulatory approval or research subject protection requirements

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Conflicts of interest

M.Z. reports consulting for Dexcom, Inc.

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