

Guidelines

Guidelines for Expert Testimony for the Speciality of Interventional Pain Management

American Society of Interventional Pain Physicians

Members of the American Society of Interventional Pain Physicians (ASIPP) are often called upon to provide expert witness testimony relating to medical jurisprudence. When a member accepts this vitally necessary responsibility, there exists an absolute ethical obligation to provide truthful, unbiased and scientifically sound testimony. Courts seek such testimony to evaluate a variety of medico-legal issues, such as if the applicable standard of care has been provided or whether a treatment is safe and efficacious. ASIPP encourages physicians with sufficient experience and relevant expertise to testify in these venues. ASIPP has developed for its members the following “Principles of Conduct for Expert Witnesses” that are consistent with the mission and ethical standards of ASIPP.

The interventional pain management community must guard against the practice of the self-identified expert witness who invokes unsupported theories of medical causation or who presents inaccurate interpretations of scientific fact or process. These minimum recommendations provide general guidance regarding appropriate qualifications for the expert witness in interventional pain management, for acceptable professional conduct.

ASIPP hopes that these guidelines will increase the awareness of expert testimony issues and encourage the participation of more interventional pain management physicians in this process. An increased level of

participation will help to avoid the possibility that only a small number of physicians spend disproportionate amounts of time as expert witnesses. Increased professional participation will also foster the credibility of professionals in interventional pain management. ASIPP intends that these guidelines will serve to limit uninformed and irresponsible testimony, to ensure consistency in expert testimony, and to identify unqualified witnesses.

PRINCIPLES OF CONDUCT FOR EXPERT WITNESSES

- An ASIPP member should champion what is believed to be true but strictly refrain from being an advocate or partisan.
- An ASIPP member must truthfully and fully testify to his or her qualifications, knowledge, and expertise as it pertains to the facts of the case.
- An ASIPP member will provide evidence or testify only in those areas of clinical practice where recent and substantive experience and knowledge is demonstrated.
- An ASIPP member must provide a thorough, fair, and objective review of the facts and medical care provided, and not exclude any relevant information that might be favorable to either the plaintiff or defendant
- An ASIPP member will review the case and form opinions based on the relevant knowledge and

These guidelines are designed primarily as an educational resource for interventional pain management physicians who provide expert witness testimony in interventional pain management. Adherence to these guidelines is voluntary. These guidelines should not be considered inclusive of all considerations or exclusive of others that are reasonably directed toward obtaining the same results. In determining the propriety of any specific testimony, the physician should apply his or her own professional judgement to the specific facts presented by the individual case.

accepted clinical practices that prevailed at the time of the alleged occurrence.

- An ASIPP member will strive to make a clear distinction in testimony between a failure to apply the standard of care at the time of the occurrence and an untoward outcome.
- An ASIPP member will make every effort to clarify whether a causal relationship exists between any alleged failure to apply the standard of care and the medical outcome.
- An ASIPP member will be prepared to state whether the testimony given is based on personal experiences, specific clinical references, and/or generally accepted standards in the subspecialty field.
- An ASIPP member, if providing testimony based on a theory not widely accepted in the profession, will characterize it as such.
- An ASIPP member will not enter into a financial relationship or fee arrangement that is contingent on the outcome of the case. Financial compensation accepted for expert witness testimony must be fair and commensurate with the time and effort involved in preparing for and participating in testimony.

The following qualifications are recommended to serve as an expert witness in the field of Interventional Pain Management:

- The interventional pain management physician expert will have a current, valid, and unrestricted license to practice medicine as a Doctor of Medicine or Doctor of Osteopathy in the state, territory, or area of the United States in which he or she practices.
- The interventional pain management physician expert should, at a minimum, be board certified in his or her primary area of medical specialty.
- The interventional pain management physician expert must be actively practicing in the pertinent

area of interventional pain management or demonstrate enough familiarity with current practices to warrant designation as an expert witness.

- The interventional pain management physician expert shall provide evidence or testify only in matters in which she or he has relevant clinical experience and knowledge in the areas of medicine that are the subject of the proceeding.
- The interventional pain management physician expert should be chosen solely on the basis of his or her relevant experience in the field of interventional pain management and not solely based on his or her offices or positions held within the American Society of Interventional Pain Physicians or any other society involved in this field
- A member of ASIPP who serves as an expert witness must be willing to provide transcripts and/or documents for peer review if requested by the society. Complaints alleging non-compliance with the "Principles of Conduct for Expert Witnesses" or of fraudulent, misleading, or inaccurate testimony can lead to disciplinary action by the society.

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REFERENCES

1. Brent RL. The irresponsible expert witness: A failure of biomedical graduate education and professional accountability. *Pediatrics* 1982; 70:754-762.
2. Weintraub MI. Expert witness testimony: A time for self-regulation? *Neurology* 1995; 45:855-858.
3. Chadwick DL, Krous HF. Irresponsible testimony by medical experts in cases involving the physical abuse and neglect of children. *Child Maltreatment* 1997; 2:313-321.
4. American Academy of Pediatrics, Committee on Medical Liability. Guidelines for expert witness testimony in medical liability cases (S93-3). *Pediatrics* 1994; 94:755-756.
5. American College of Emergency Physicians. Expert witness guidelines for the specialty of emergency medicine. Policy number 400114. Approved by the ACEP Board of Directors, September 1990. Accessed May 11, 2010, at www.acep.org/practices.aspx?id=29446&terms=witness.
6. American College of Physicians. Guidelines for the physician expert witness. *Ann Intern Med* 1990; 113:789.
7. American Academy of Orthopaedic Surgeons. Advisory statement. Orthopaedic medical testimony. Document number 1006. 1996. Accessed May 11, 2010 at www.aaos.org/wordhtml/papers/advistmt/medtest.htm.