

EXPERT WITNESS QUALIFICATIONS AND ETHICAL GUIDELINES FOR ISSUES RELATED TO EMERGENCY MEDICAL SERVICES LITIGATION

APPROVED BY THE NAEMSP BOARD OF DIRECTORS JANUARY 2008

POSITION STATEMENT

The National Association of EMS Physicians (NAEMSP) recognizes that there is a difference between the expertise of individuals who are experienced with the provision of medical care in the out-of-hospital setting by emergency medical services (EMS) systems and the expertise of those whose experiences are related solely to similar care in the hospital or other clinic settings.

Furthermore, NAEMSP also recognizes that physicians who provide medical direction for EMS personnel have a clinical and oversight relationship with EMS personnel. This relationship uniquely qualifies EMS medical directors to provide expert opinions related to the medical care provided by EMS services, physicians, and providers; conversely, physicians without EMS experience are not qualified to provide expert opinion regarding the provision of EMS.

Therefore, NAEMSP believes that the following principles should guide individuals who provide expert witness in cases related to EMS, including patient care in the out-of-hospital setting and EMS systems issues:

Qualifications

- Physician expert witnesses should be currently licensed to practice medicine in a legal jurisdiction of the country. Nonphysician expert witnesses should similarly be currently licensed or certified to practice as EMS providers in a legal jurisdiction of the country.
- Physician and nonphysician expert witnesses must possess expertise in EMS care and/or medical direction as evidenced by current active field practice, EMS medical direction, or other relevant professional EMS experience. Individuals without experience in EMS-specific clinical care or medical direction generally are not qualified to provide expert witness testimony.

Standard of Care

- Expert witnesses must possess expertise in areas at issue in the case. Expert witnesses should have prior clinical experience with the medical care or procedures related to a case. Expert witnesses should have prior experience with EMS care and operations in the out-of-hospital setting.
- Expert witnesses should provide testimony that accurately reflects the EMS standard of care at the time and in the jurisdiction of the incident. Expert witness testimony should reflect scientific evidence, especially when rendering opinion regarding causality. Expert witnesses should not knowingly provide false or misleading statements regarding the standard of EMS care or the body of scientific knowledge.
- Expert witnesses should be willing to submit deposition or trial transcripts for peer review, including peer review by national and regional emergency medicine and EMS organizations. National and regional emergency medicine and EMS organizations should consider disciplinary action against expert witnesses who knowingly provide false or misleading testimony.

Ethical Expectations

- An expert witness has a responsibility to the court.
- An expert witness should review all case materials and should not let another individual select the documents for review.
- An expert witness should review the medical facts in an objective manner and should not exclude relevant information to create a favorable opinion for one side of the litigation.
- Compensation for services as an expert witness should be reasonable based on the time and effort involved and should not be contingent on the outcome of the litigation.