



**Expert Witness Qualifications
and Testimony**

Revised May 2016

The Academy believes it is important for otolaryngologists to serve as expert witnesses in legal proceedings to assist in the administration of justice. The otolaryngologist, as a medical expert witness, shall be appropriately qualified and shall be thoroughly prepared with relevant facts so that he or she can, to the best of his or her ability, provide the court with opinions that are accurate and capable of substantiation with respect to the matters at hand. Physicians serving as expert witnesses must provide informed, objective, and truthful testimony without adopting a position of advocacy, and serve as spokesman for the field of special knowledge the medical expert witness represents. It is unethical for physicians to accept compensation for expert witness testimony that is linked to the outcome of the case. Academy members must abide by the following "Statement on Qualifications and Guidelines for the Physician Expert Witnesses."

Statement on Qualifications and Guidelines for the Physician Expert Witness

I. Qualifications for the Physician Expert Witness:

- A. The physician expert witness must have a current, valid and unrestricted license to practice medicine in the state in which he or she practices.
- B. Members who act as physician experts in the courts will be familiar with the Academy's educational materials on Expert Witness Testimony.
- C. The physician expert witness should be fully trained in a specialty or a diplomat of a specialty board recognized by the American Board of Medical Specialties and qualified by experience and demonstrated competence in the subject of the case. The specialty of that physician should be appropriate to the subject matter in the case.
- D. The physician expert witness should be familiar with the clinical practice of the specialty and the subject matter of the case, and should be actively involved in the clinical practice of the specialty and the subject matter of the case, for three (3) of the previous five years at the time of the testimony.

II. Guidelines for Behavior of the Physician Expert Witness:

- A. Physicians have an obligation to testify in court as expert witnesses when appropriate to assist in the administration of justice and/or necessary to protect a patient's legal rights.
- B. Physician expert witnesses should not adopt a position as an advocate or partisan in the legal proceedings.
- C. The physician expert witness should review *all* the appropriate medical information in the case and testify to its content fairly, truthfully, and objectively.
- D. Within a reasonable time prior to testifying, physician expert witnesses should review and be thoroughly familiar with the relevant standards of practice and medical literature prevailing at the time of the occurrence, and limit their testimony to their areas of expertise, both in terms of the specialty and the subject matter of the case.

- E. The physician expert witness should state the basis of the testimony presented and whether it is based on personal experience, specific clinical references, or is a generally accepted opinion in the specialty field.
- F. Compensation of the physician expert witness should be reasonable and commensurate with the time and effort given to preparing for deposition and court appearance. It is unethical for a physician expert witness to link compensation to the outcome of the case.
- G. The physician expert witness should be aware that transcripts of their deposition and courtroom testimony are public records, subject to independent peer review.