

## **American Urological Association, Inc.**

1000 Corporate Boulevard, Linthicum, Maryland 21090

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### **Expert Witness Testimony in Medical Liability Cases**

The American Urological Association, Inc.\* (AUA) believes that experienced and knowledgeable urologists have an ethical obligation to serve an active role in educating participants in the judicial system about proper standards of care in urology. The urologist's testimony should help the court and jury understand the standard of care in each situation, and to distinguish between professional negligence and medical mal-occurrence. Impartial review of cases of alleged malpractice is therefore encouraged, with the aim of increasing the probability of equitable outcomes based on generally accepted urological principles.

Expert witness testimony is considered within the purview of the practice of medicine and therefore is subject to peer review. Members whose testimony is erroneous, deceptive, misleading or without scientific basis may be subject to disciplinary action.

Qualifications for providing expert witness testimony should include:

1. Active in the practice of clinical urology with a current valid and unrestricted license at the time of the alleged occurrence.
2. Current certification in urology from the American Board of Urology.
3. At least five years of clinical practice after satisfactorily completing residency/fellowship training.
4. Expertise with texts, journals, guidelines and other sources of information that establish the applicable standard of care at the time of the alleged occurrence. Where possible, these standards should be in writing and should be evidence-based.
5. Be proficient and experienced in the area of clinical practice which is the subject of the case. The urologist should testify only in areas where he or she is qualified by training and has experience in actively performing similar procedures within the past five years of the alleged occurrence.
6. Willing to serve for either defendant or plaintiff in a fair and impartial manner. The most objective testimony is that which could be used unaltered by either the defendant or the plaintiff. The expert witness should not be manipulated by an attorney into becoming an advocate or partisan for one side or another.
7. Perform a complete and thorough review of all available medical and legal information, including other medical depositions, before rendering any opinion regarding the case.
8. Identify personal opinions as such, particularly where these deviate from other urologic viewpoints. A urologist's review of the case should be complete and impartial. Expert witness testimony should not reflect the expert's personal bias, but should include all acceptable and realistic options for care as advocated by reputable and respected practicing urologists.
9. Be able to discuss the factual, scientific and truthful basis for the expert witness opinion provided.
10. Willing to declare and document the particulars related to their expert witness practice, inclusive of the number of cases for the defense or plaintiff, the percentage of time spent in expert witness testimony, as well as fees or other compensation. An expert witness should not unduly profit from his or her consultation and testimony. Acceptance of compensation contingent upon the outcome of a case is inconsistent with proper medical ethics.

The urologist should be aware of and willing to sign AUA's Expert Witness Affirmation Statement.

*Board of Directors, October 2001*

*Board of Directors, February 2006 (Revised)*

*Board of Directors, May 2006 (Revised)*

*Board of Directors, May 2011 (Revised)*



## Expert Witness Affirmation Statement

I have read and I understand the AUA Expert Witness Policy. As a member of the medical profession and of the American Urological Association, I affirm my duty, when giving evidence or testifying as an expert witness, to do solely in accordance with the merits of the case. Furthermore, I declare that I will uphold the following professional principles in providing expert evidence or expert witness testimony:

- 1) I will always be truthful.
- 2) I will conduct a thorough, fair and impartial review of the facts and the medical care provided, and will not exclude any relevant information from consideration.
- 3) I will provide evidence or testify only in matters in which I have recent and relevant substantive clinical experience and knowledge, in the areas of medicine that are the subject of the proceeding.
- 4) I will evaluate the medical care provided in light of generally accepted standards, neither condemning performance that falls within generally accepted practice standards, nor endorsing or condoning performance that falls below these standards.
- 5) I will evaluate the medical care provided in light of generally accepted standards that prevailed at the time, place and circumstances of the occurrence.
- 6) I will provide evidence or testimony that is complete, objective, scientifically based, and helpful to a just resolution of the proceeding.
- 7) I will make a clear distinction between a departure from accepted practice standards and an untoward outcome, making every effort to determine whether there is a causal relationship between the alleged substandard practice and the medical outcome.
- 8) I will make a clear distinction between my personal opinion and accepted practice standards.
- 9) I will submit and provide copies of my testimony to scrutiny, if requested, by professional organizations (including AUA), hospitals, peer review bodies, and state medical or licensing boards, as appropriate.
- 10) I am willing to testify equally for plaintiffs and defendants, as requested, based on an objective review of the facts.
- 11) I will not accept compensation that is contingent upon the outcome of the litigation, or that is excessive under the circumstances.

Printed Name: \_\_\_\_\_ AUA Member Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Signed statements may be mailed to AUA Headquarters c/o Legal Department 1000 Corporate Boulevard, Linthicum, MD 20190. The AUA will not accept an Affirmation Statement that has been altered. Violation of the above principles may result in disciplinary review by the AUA Judicial & Ethics Committee. This Affirmation Statement shall expire only upon a written rescinding of the signature.**