

Association of Rheumatology Health Professionals

Policy and Guidelines for Expert Witness Testimony in Malpractice Litigation

This policy and guidelines applies to ARHP members practicing in the United States Of America

Policy

The interests of the public and the health care professions served by rheumatology health professional members of the ACR are best served when scientifically sound and unbiased expert witness testimony is readily available to plaintiffs and defendants in malpractice litigation. When ARHP members are asked to testify as expert witnesses in matters concerning potential health care malpractice it is in the public interest that their expert testimony be readily available, objective, and unbiased. The American College of Rheumatology believes that the adoption of these guidelines will help further that objective.

Expert witnesses are called upon to assess the standard of care for health professionals in matters of alleged malpractice in health care delivery. Because expert witness testimony has the potential to set standards of health care, the American College of Rheumatology considers expert testimony to fall within the practice of health care and to be subject to review by appropriate licensing authorities for the health professions. Health professionals whose testimony is false, deceptive or misleading or otherwise violates the following guidelines may be subject to disciplinary action by the American College of Rheumatology.

Expert Witness Guidelines

I. Relevant Qualifications

- A. The health professional serving as an expert witness must comply with their profession's and state's requirements for legal practice.
- B. The health professional serving as an expert witness should have knowledge and experience about the range of the standard of care and the available scientific evidence for the condition in question during the time of occurrence.
- C. The health professional serving as an expert witness should have been engaged in practice of their profession with a primarily rheumatological population for a period of not less than three years.
- D. The health professional serving as an expert witness must not accept compensation that is contingent upon the outcome of the litigation.

Compensation should be reasonable and commensurate with the time and effort in his or her service as an expert witness.

II. Guidelines

- A. Before offering testimony, the health care professional must thoroughly review the medical facts of the case and all relevant information and testify as to the content fairly and honestly.
- B. The health care professional serving as an expert witness must not provide testimony that is false, misleading or without foundation and must not knowingly misrepresent his or her credentials.
- C. The health care professional serving as an expert witness should distinguish between an unfortunate medical or therapeutic outcome and actual negligence.
- D. The health care professional serving as an expert witness should be prepared to state the basis of his or her testimony or opinion and whether it is based, for example, on personal experience, specific clinical references, evidence-based guidelines or a generally accepted opinion in the field.
- E. The health care professional who is seeking to serve as an expert witness must not provide representations about their qualifications, experience or background that are false or deceptive.

Approved by the ACR Board of Directors – February 2011