



American Association for Bronchology and Interventional Pulmonology

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Expert Witness in Interventional Pulmonology and Advanced Bronchoscopy Guidelines from the American Association for Bronchology and Interventional Pulmonology

The American Association for Bronchology and Interventional Pulmonology believes that physicians have an obligation to provide guidance to the judicial system and to give credible, honest and evidence-based assessments via expert witness testimony when needed. The qualifications of an expert witness vary state to state. Federal Rule of Evidence 702 provides limited guidance on the prerequisites to serve as an expert witness, noting that a witness is one who is qualified as an expert by knowledge, skill, experience, training or education. Although we often associate medical expert witness work with judging causation, liability, or negligence, physicians have a key role in providing opinions when other medico-legal issues arise. This may include evaluation of medical devices or pharmaceutical products, occupational hazard-related cases like mesothelioma, or class action lawsuits. Each of these may require a medical expert witness for the legal teams of both parties when the cases enter the justice system. The expert witness has the obligation to thoroughly examine the facts of a case by reviewing the medical records and any additional information available to them. Using their experience, training, education, and available published evidence, they provide their opinion on the case either verbally to the lawyer, by preparing written statements, and/or providing a deposition or testimony in court.

In this document, we outline the ethical obligations of an expert witness in Interventional Pulmonology and provide general guidance on the prerequisite knowledge and skills to provide testimony as an expert witness in the field of interventional pulmonology and advanced diagnostic bronchoscopy. We recommend that all criteria have to be met prior to engaging in expert witness work in interventional pulmonology and advanced bronchoscopy.

Recommendations for conduct in review:

The ethical principles that guide clinicians in their relationships with patients continue to guide them when they assume the role of medical expert witnesses. These include:

1. Review of the case has to be complete and impartial. The witness should not exclude relevant information to create a view favoring either the plaintiff or the defendant.
2. Provide factual and scientific statements in a truthful manner. The expert's opinion should reflect the state of medical knowledge at the time of the event giving rise to the case.
3. The expert witness will provide impartial testimony and will present in a reasonable and accurate way the relationship between performance (preoperative, intraoperative, or postoperative) and the standard of care.

4. Disclose financial relationships as potential conflicts of interest regarding their testimony.
5. Acceptance of compensation contingent upon the outcome of a case is unethical and unacceptable at all times.

Recommended qualifications for expert Witness in Interventional Pulmonology and Advanced bronchoscopy:

1. Clinically active in the field of Interventional pulmonology or Advanced bronchoscopy (>0.5 full-time equivalent) for at least 3 years (exclusive of training) immediately preceding the date of the occurrence giving rise to the case and in clinical practice at the time of testimony.
2. Hold a current valid and unrestricted medical license in a state, territory, or area constituting legal jurisdiction of the United States as a Doctor of Medicine or Osteopathic Medicine.
3. Current Diplomate of the recognized certifying body in Interventional Pulmonology
4. Recognized expert in the field on Interventional pulmonology and Advanced bronchoscopy, demonstrated by the publication of original scientific and peer-reviewed articles, review articles, textbooks or textbook chapters, editorials, consensus statements or guidelines and presentation at National or International society meetings in the past 3 years. This scholarship and educational work must be on the subject matter, disease state, device or procedure pertinent to the legal case at hand.
5. Participation in ongoing education via maintenance of certification or completion of a minimum of 20 hours of continuing medical education (CME) per year for the prior 3 years

This policy was drafted by Laura K Frye, MD, reviewed and approved by the AABIP Advocacy Committee on 1/04/24 and by the AABIP Board of Directors on 1/17/24

Resources:

Joseph Sanders, *Expert Witness Ethics*, 76 Fordham L. Rev. 1539 (2007). Available at:
<https://ir.lawnet.fordham.edu/flr/vol76/iss3/10>
<https://code-medical-ethics.ama-assn.org/ethics-opinions/medical-testimony>
<https://www.justia.com/injury/medical-malpractice/expert-witnesses/>