

# **GUIDELINES FOR EXPERT WITNESS QUALIFICATIONS AND TESTIMONY**

**Committee of Origin: Professional Liability**

**(Approved by the ASA House of Delegates on October 15, 2003, and last amended on October 22, 2008)**

## **PREAMBLE**

The integrity of the litigation process in the United States depends in part on the honest, unbiased, responsible testimony of expert witnesses. Such testimony serves to clarify and explain technical concepts and to articulate professional standards of care. The ASA supports the concept that such expert testimony by anesthesiologists should be readily available, objective and unbiased. To limit uninformed and possibly misleading testimony, experts should be qualified for their role and should follow a clear and consistent set of ethical guidelines.

### **A. EXPERT WITNESS QUALIFICATIONS**

1. The physician (expert witness) should have a current, valid and unrestricted license to practice medicine.
2. The physician should be board certified in anesthesiology or hold an equivalent specialist qualification.
3. The physician should have been actively involved in the clinical practice of anesthesiology at the time of the event.

### **B. EXPERT WITNESS ETHICAL GUIDELINES**

1. The physician's review of the medical facts should be truthful, thorough and impartial and should not exclude any relevant information to create a view favoring either the plaintiff or the defendant. The ultimate test for accuracy and impartiality is a willingness to prepare testimony that could be presented unchanged for use by either the plaintiff or defendant.
2. The physician's testimony should reflect an evaluation of performance in light of generally accepted standards, reflected in relevant literature, neither condemning performance that clearly falls within generally accepted practice standards nor endorsing or condoning performance that clearly falls outside accepted medical practice.
3. The physician should make a clear distinction between medical malpractice and adverse outcomes not necessarily related to negligent practice.
4. The physician should make every effort to assess the relationship of the alleged substandard practice to the patient's outcome. Deviation from a practice standard is not always causally related to a poor outcome.
5. The physician's fee for expert testimony should relate to the time spent and in no circumstances should be contingent upon outcome of the claim.
6. The physician should be willing to submit such testimony for peer review.