



Position Statement: Expert Witness Qualifications and Ethical Guidelines for Emergency Medical Services Litigation

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To cite this article: W. Ann ("Winnie") Maggiore, Ryan C. Jacobsen & Douglas F. Kupas (05 Mar 2024): Position Statement: Expert Witness Qualifications and Ethical Guidelines for Emergency Medical Services Litigation, Prehospital Emergency Care, DOI: [10.1080/10903127.2024.2325634](https://doi.org/10.1080/10903127.2024.2325634)

To link to this article: <https://doi.org/10.1080/10903127.2024.2325634>



Accepted author version posted online: 05 Mar 2024.



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Position Statement:

Expert Witness Qualifications and Ethical Guidelines for Emergency Medical Services Litigation

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Key Words: Legal, expert witness qualifications, emergency medical services, medical
ethics, malpractice

Position Statement

Expert Witness Qualifications and Ethical Guidelines for Emergency Medical Services Litigation

The National Association of EMS Physicians[®] (NAEMSP[®]) created a position statement on
expert witness qualifications and recommendations when providing opinion on provision of
medical care in the out-of-hospital setting by Emergency Medical Services (EMS)

clinicians and agencies (1). This document updates and replaces this previous statement.

NAEMSP recognizes that there is a difference in the expertise of individuals who are experienced with the provision of medical care in the out-of-hospital setting by EMS clinicians and agencies when compared with the expertise of those whose experiences are related solely to similar care in the hospital or other clinic settings.

NAEMSP believes that the following principles should guide individuals who provide expert witness opinions, including testimony, in cases related to EMS, including patient care in the out-of-hospital setting and EMS systems issues:

Qualifications:

- Physician expert witnesses should be currently licensed to practice medicine in a legal jurisdiction of the country. Non-physician expert witnesses should similarly be currently licensed or certified to practice as EMS clinicians in a legal jurisdiction of the country.
- Physician expert witnesses should possess expertise in EMS care and/or medical direction as evidenced by current active out-of-hospital EMS practice, EMS medical direction, or other relevant professional EMS experience. In addition, ideally these physicians will possess current board certification in EMS. Merely holding a title of medical director does not ensure expertise in EMS-specific out-of-hospital clinical care or medical direction.
- Non-physician expert witnesses ideally possess credentials similar to the clinician involved in the litigation. Alternatively, they should possess expertise in EMS care as evidenced by current out-of-hospital EMS practice, or other relevant professional EMS experience.

Standard of Care:

- Expert witnesses must possess expertise in areas at issue in the case. Expert witnesses should have prior clinical experience with the medical care or procedures related to a case. Expert witnesses should have prior experience with EMS care and operations in the out-of-hospital setting.
- Expert witnesses should provide testimony that accurately reflects the EMS standard of care at the time and in the jurisdiction of the incident. Expert witness testimony should reflect scientific evidence, especially when rendering opinion regarding causality. Expert witnesses should not knowingly provide false or misleading statements regarding the standard of EMS care or the body of scientific knowledge.
- NAEMSP will consider disciplinary action against any member that provides false or misleading expert witness testimony. National and regional emergency medicine and EMS associations should consider disciplinary action against their members who serve as expert witnesses and knowingly provide false or misleading testimony. If requested, expert witnesses should be willing to submit deposition or trial transcripts for peer review to national or regional emergency medicine or EMS associations in which they are a member.

Ethical Expectations:

- An expert witness has a responsibility to the court.
- An expert witness should request and review all relevant case materials and should not let another individual select the documents for review.

- An expert witness should review the medical facts in an objective manner and should not exclude relevant information to create a favorable opinion for one side of the litigation.
- Compensation for services as an expert witness should be reasonable based upon the time and effort involved and should not be contingent on the outcome of the litigation.

Reference:

1. Expert witness qualifications and ethical guidelines for issues related to emergency medical services litigation [National Association of EMS Physicians position statement]. *Prehosp Emerg Care*. 2009;13:370.