

Ask the Ethicist: Expert Witness for a Cardiology Case

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Q: *I have been asked to provide expert witness testimony in a malpractice case involving visual loss following uncomplicated coronary bypass surgery. Visual loss in bypass surgery, although somewhat unusual, is not an unknown complication. I believe this visual loss was directly caused by improper blood flow resulting in severe edema (malpractice) during the surgical procedure. Should I provide testimony outside my specialty if I believe I am on firm footing to support my position on malpractice?*

A: Neither the Academy nor the Ethics Committee has any power or desire to limit the types of cases in which its members might choose to testify. Ultimately, it will be up to the trial judge to review your qualifications and determine whether you will be allowed to testify. As an expert, you will likely be asked to render opinions regarding causality between negligent acts, the plaintiff's injury, the extent of that injury and whether the care provided fell below the established standard of care (i.e., negligence). This is an extraordinarily responsible position, requiring not only scrupulous honesty and objectivity but also true expertise in what may become a very detailed analysis of facts and circumstances.

Providing testimony outside your normal area of practice will require extensive preparation. You will also need to exercise great care so as to avoid being trapped on cross-examination while you are in unfamiliar territory. In any expert testimony situation, it is your obligation as an Academy member to comply with Rule 16 of the Code of Ethics, regardless of the type of case at issue. Central to Rule 16 is the requirement that your testimony must not be false, deceptive or misleading. In addition, your testimony should be provided in an objective manner, based on medical knowledge to form your expert medical opinions.

For more information or to submit a question for this column, contact the Ethics Committee staff at ethics@aao.org. To read the Code of Ethics, visit www.aao.org/ethics and select "Code of Ethics."