

The PA as an Expert Witness

Have Knowledge, Will Travel

After 35 years as a PA in family practice, emergency medicine, urgent care and corrections medicine, PA Raymond P. Mooney began doing expert legal review 12 years ago.

1. What does it mean for a PA to be an expert witness?

As an expert witness, what you [are addressing] is whether or not the “standard of care” was complied with. In Michigan, the standard of care is considered what a reasonable PA would do in the same or similar circumstances. However, the standard of care can vary depending on the jurisdiction of the care that you are reviewing.

2. A PA may be asked to review medical information, give a deposition and expert opinion or appear in court as an expert witness to give testimony. Would you elaborate on that?

Once the attorney interviews the potential client or his family, he or she will review the case and determine whether or not it has merit. Where it goes from there depends on the individual attorney.

3. In what kinds of cases may a PA render an expert opinion?

A PA could be asked to offer testimony in a case where he himself was the medical provider. And this would be called a fact deposition, where [the PA is] the one who treated this patient. A PA may also be asked to render an expert opinion on behalf of the patient, depending on the preference of that attorney. When it comes to the medical malpractice arena [and] the PA is the expert witness, the PA is retained not by the attorney but by the client of the attorney.

4. When may a PA be asked to become an expert witness?

The PA expert always has to remember that it is their job to provide an objective review of the medical materials presented to them. A PA is not a patient advocate. The attorney is the advocate for the patient. Once the PA obtains and reviews the medical records, the PA and the attorney will discuss the case, and the PA will render an opinion on whether they believe that there has been a deviation from the standard of care. Most attorneys retain PAs to provide opinions as to the standard of care. However, there have been a few jurisdictions where PAs have been permitted to offer causation opinion within the limits of the PA education and training.

5. What are the positives of being an expert witness?

It’s intellectually challenging. It’s an excellent way to broaden your scope of clinical knowledge, and it’s also a very good way to train your mind to think in a very logical fashion.

6. What are the negatives of being an expert witness?

To provide due service to the client who has retained you, it requires a significant amount of time. If you are not committed to the time necessary to do a very meticulous and excellent review, and to be able to defend that deposition in trial, then you are not the type of person who should be an expert witness.

7. Are PAs held to the same standards as physicians and other health care providers?

To a certain degree, this depends on the jurisdiction of the case that you have been asked to

review. However, a PA is only allowed to offer testimony to the actions of another PA. Even though PAs and NPs are considered midlevel providers, most states require that PA testify concerning a PA and NP testify concerning an NP.

8. Could a PA be asked to become an expert witness for a patient who is suing their clinic/hospital/supervising physician?

Yes, they could, but it could become very complicated, and I am sure that a PA would turn down a request like that. For instance, if a PA was working for Dr. Smith and one of Dr. Smith’s patients is suing him and some lawyer calls the PA and says they would like them to be their expert witness because they had never been involved in this patient’s care. It would seem that there would be a significant conflict of interest in that situation, and that would not be an appropriate case for a PA to take.



Raymond P. Mooney, PA-C

9. Can you opt out of being an expert witness?

Of course. If a lawyer calls and asks if you would like to be an expert witness in a case, you can say no. However, if you previously entered into a contract with the attorney and after reviewing the material agree that there has been a deviation in the standard of care, the only time you would be able to opt out is during the discovery stage of the proceedings, when you obtained additional information which justified you in reversing your opinion. In other words, you cannot say six months into the case that you do not want to do this anymore. **PA**