

# **The Physician Assistant PA Expert Witness & Medical-legal Consultant:**

## **A Guide for Attorneys & Experts**

by Jeffrey G. Nicholson, PhD, PA-C

### **The Physician Assistant PA Expert Witness Defined**

Known as PA expert, or PA expert witness or of providing PA expert witness services, the PA expert is a licensed and clinically practicing physician assistant who is qualified by credential, training and experience to testify on the standard of care of fellow physician assistants and other “mid-level” providers of medical care. The “standard of care” is generally defined as that care which is reasonably expected to be provided by a health care practitioner of same or similar credential and experience under same or similar circumstances. The standard of care of physician assistants is a national standard, and it does not preclude PA experts from testifying in any state, including those in which they are not licensed. This national standard is based on a well-defined standardized PA program curriculum, on strictly enforced program accreditation standards and on a single national certifying examination.

Although formal additional training is not required, some PA expert witnesses have completed seminars conducted by and for legal nurse consultants. Frequently, PA expert witnesses are faculty or former faculty at physician assistant training programs. The majority of PA experts get into the practice of providing opinions on malpractice cases because they are asked, not because they set out to become expert witnesses.

PAs may also be qualified to opine on the standard of care of advanced practice nurses also known as nurse practitioners(NPs) or advanced practice nurse prescribers(APNPs). PAs and nurse practitioners are often referred to as “mid-level” providers of medical care because their education and training lies somewhere between the nurse and the physician. PAs and NPs often compete for the same jobs and each is required by state regulations to either be supervised or collaborate with physicians in the ordinary discharge of their duties. Additionally, there are several training programs that offer graduates the ability to sit for either the PA national certification exam or one of the advanced practice nursing certification exams. In these programs the curriculum is identical.

### **Physician Assistant Practice Requirements and Supervision**

Physician assistants are health care professionals now licensed in all fifty states to provide medical care under the general direction or supervision of a doctor of medicine or osteopathy. It is not necessary in any state for supervising physicians to be present in order to meet state requirements of supervision. PAs generally may practice as autonomous providers of medical care, but in most states a physician must be readily available for consultation on an as needed basis determined by the PA practitioner. In nearly all practice situations it is the PA who seeks

out the physician for consultation. PAs in most states may not practice outside the scope of practice of their supervising physician. Physician supervisory requirements vary by state, but commonly regulations require some amount of patient chart review or prescribing review. PAs may prescribe medications in nearly all states. The US Drug Enforcement Agency allows PAs to register as prescribers of controlled substances, and PAs may prescribe controlled substances in most states. A summary of [individual state PA regulations](#) may be found on the American Academy of Physician Assistants(AAPA) website, [click here](#).

In order to become licensed, PAs must graduate from a program accredited by the Accreditation Review Commission on Education for the Physician Assistants (ARC-PA) ([www.arc-pa.org](http://www.arc-pa.org)) and pass a national comprehensive board examination conducted by the National Commission on Certification of Physician Assistants (NCCPA) ([www.nccpa.net](http://www.nccpa.net)). In order to maintain the certification designation, the “C” in PA-C, PAs must complete 100 hours of continuing medical education every two years and receive a passing score on a national comprehensive board exam (similar to the initial certification exam) every six years.

### Legal Scope of Practice

PAs are broadly trained in general and primary medical care. They then take this broad-based training into a primary care practice or into various medical specialties. Primary care has traditionally been defined as family medicine, general internal medicine, pediatrics and obstetrics/gynecology. Many PAs in primary care also provide some urgent care, walk-in care or same day appointments which also may be considered primary care. PAs build upon their general and primary medical care knowledge while employed under the general supervision of a physician in any medical specialty. Although additional formal training is available in some specialties in the form of year-long post-graduate fellowships, PAs are not required to hold any additional specialty credential other than that of national certification as a generalist PA. There is a “certificate of added qualifications” in various specialties just recently offered by the PA national certifying commission. This certificate is not required for specialty practice by any state regulatory body, and it is held by a very small percentage of PAs in specialty practice. As of February 2012, less than three hundred PAs held the additional certificate.

As mentioned, although physician assistants by definition and scope of practice, must provide medical care under the general supervision of physicians, they may practice autonomously and at remote distances or offices from their supervising physicians. Even so, most states consider physicians as sharing in the responsibility and liability of their supervised PA’s clinical decisions and actions. On this matter, legal case precedent differs from state to state, and the liability or level of responsibility of the supervising physician for a PA's clinical care and judgment is not well defined and is continually reinterpreted in the courts.

While the role of PA and physician is similar, each may have a separate scope of practice defined by training, credential and personal experience. If a PA infers substandard care by a physician in a deposition, trial attorneys are quick to point out that PAs are not physicians and do not have the full length or breadth of physician training. However, it may be quite appropriate for PAs to comment on the standard of care of physicians depending upon the circumstance. The standard of care for the evaluation and treatment of minor medical illness may be exactly the same for a

PA and a physician. For example, the evaluation and treatment of a sinus infection may be the same for a PA and a family medicine physician, but it may differ between the PA or family medicine physician and an otolaryngologist specialist.

Physicians are typically and more frequently disallowed from providing testimony on the standard of care of physician assistants, but they may comment on the physician supervisory role and state supervisory requirements. Most states now require PA expert witness testimony in malpractice cases where physician assistants are involved. A generalist or primary care PA may comment on the standard of care of another PA in any medical specialty if the care involves the basic and general medical knowledge that all PAs are reasonably expected to possess. Nevertheless, it may be prudent to choose a PA expert witness who has current practice experience in the medical specialty of the PA involved in the civil action. Attorneys often must choose between utilizing a generalist PA who has seasoned expert witness experience or a novice PA expert who practices in a specialty.

### Physician Assistant PA Practice Safety

Research indicates that PA practice safety exceeds that of physicians. A recent study examining the first 17 years of data in the [National Practitioner Databank](#) found that the per-provider incidence of malpractice of physicians was 12 times that of PAs during the 17 year 1991-2007 study period and that average malpractice payments by physicians for damages was significantly higher than that by PAs ([see Journal of Medical Licensure and Discipline, Vol. 95, Num. 2, 2009](#)). For a condensed summary of the study, [click here](#).

### Physician Assistant PA Expert Ethical Guidelines

The American Academy of Physician Assistants ([AAPA](#)), the national professional association of PAs ([www.aapa.org](#)), has recognized the PA expert witness and has adopted [ethical guidelines](#) on the use of PAs as expert witnesses in malpractice cases.

### Finding Physician Assistant PA Experts

Physician Assistant PA expert witnesses may be found by contacting [Dr. Jeff Nicholson](#) or by contacting the [AAPA](#), or the American Academy of PAs in Legal Medicine ([AAPALM](#)), a special interest group endorsed by the AAPA. AAPALM provides medical-legal education for physician assistants and resources for PAs who are interested in becoming physician assistant expert witnesses.

### Other Information Resources

Another valuable resource for attorneys and anyone interested in PA practice is the [Physician Assistant Employment Guide](#). This free and comprehensive manual overviews PA education, certification, licensing, scope of practice, and compensation.

*Jeffrey G. Nicholson is a nationally known speaker and recognized leader in the PA profession and authority on the standard of care and other legal aspects of PA clinical practice. He has been an actively*

*practicing PA for 20 years and has been in PA academia for over 12 years serving as Assistant Professor, Director of Clinical Education and PA Program Director, most recently at the University of Wisconsin-Madison. He is a Distinguished Fellow of the American Academy of Physician Assistants, President of the American Academy of PAs in Legal Medicine and a longstanding board member of the Wisconsin Academy of Physician Assistants. He has completed degrees at Boston College, Harvard University and the University of Wisconsin. He has published articles on PA education, PA malpractice, and PA employment. He leads a consulting firm to support the work of attorneys and insurance companies providing case merit review and expert testimony on the standard of care of physician assistants and nurse practitioners in all medical specialties.*