



Psychiatry and Behavioral Sciences Section - 2014

I26 Effective Communication of Psychiatry and Behavioral Science to the Judicial System: How to Survive a Cross Examination

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After attending this presentation, attendees will: (1) be able to discuss general expectations when testifying in court; (2) be able to demonstrate familiarity and insight into attorneys' general strategies; (3) be able to discuss general issues in the formulation of valid responses during cross-examination; and, (4) demonstrate familiarity with general professional guidelines and issues of uniformity among experts' reports.

This presentation will impact the forensic science community by improving the quality of communication by mental health professionals who submit expert testimony to the courts.

In effectively communicating mental health information to the courts, experts in psychiatry and behavioral science must strike a unique balance. To meet the demands of the mental health and legal professions, issues including translating jargon for a potentially lay readership, avoiding over- and under-inclusion of information, and protecting test integrity without being evasive must be carefully considered. While various texts have outlined tenants of forensic report writing,¹⁻⁴ data suggest that even seasoned, board-certified evaluators do not always follow these guidelines.⁵ Moreover, even when such guidelines are strictly followed, it may be impossible to meet the needs of all disciplines.

In preparing for written testimony, the forensic mental health professional should be mindful of general guidelines for report writing within the fields of psychology and psychiatry, as well as the (potentially conflicting) perspectives of forensic readership. Moreover, in preparing for cases using mental health experts, legal professionals may benefit from awareness of these guidelines and learning to distinguish stylistic variation between reports from more substantive errors in approach or opinion.

This presentation is structured into three parts: (1) an example of a "straw man" forensic mental health report, rendering a hypothetical expert opinion on competence to stand trial, for audience review; (2) a simulated cross-examination of an expert witness on the opinion provided in the "straw-man" report; and, (3) an interactive discussion, including general recommendations on how to support one's opinions in both written and oral form, from the perspectives of both legal and mental health professionals. From a cross-disciplinary perspective, the audience will be exposed to questions and techniques commonly used on cross-examination, with the goal of promoting mindfulness when creating the written report.

In order to best accomplish the educational objectives, the processes of creating the "straw man" report and simulation of cross-examination deviate from actual practice in that the simulated attorney has significant input to the contents of the report, and the simulated expert witness has significant input to the content of the cross examination.

References:

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Scientific Communication, Report Writing, Cross-Examination