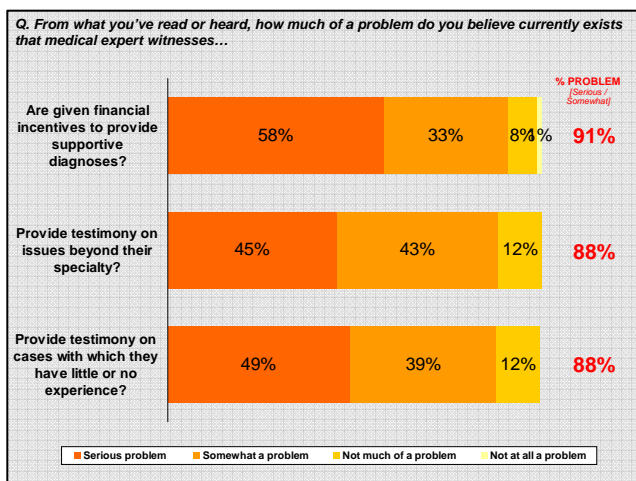


Perceptions of Medical Expert Witness Testimony: A Survey Among Physician Specialists

Conducted by the Center for Survey Research at the University of Virginia and commissioned by the American Tort Reform Association and Sick of Lawsuits

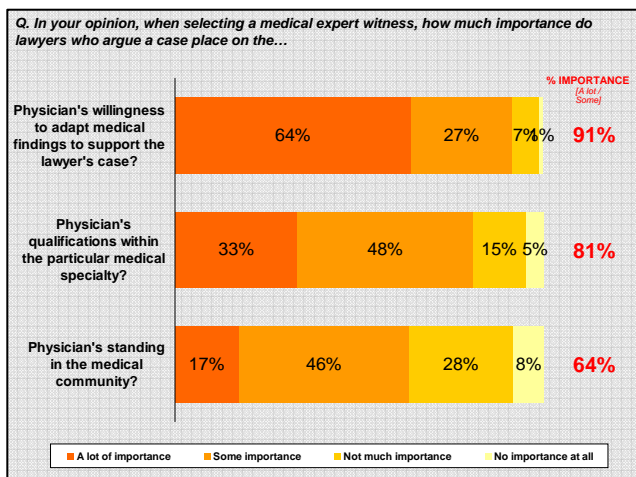
Problems with Expert Witness Testimony

Concern runs high about problems related to medical expert witness testimony. Nine out of ten physicians believe there is a problem with medical expert witnesses who *are given financial incentives to provide supportive diagnoses* (91%). A similar proportion believe there is a problem related to medical expert witnesses *providing testimony on issues beyond their specialty* (88%) and on *cases with which they have little or no experience* (88%).



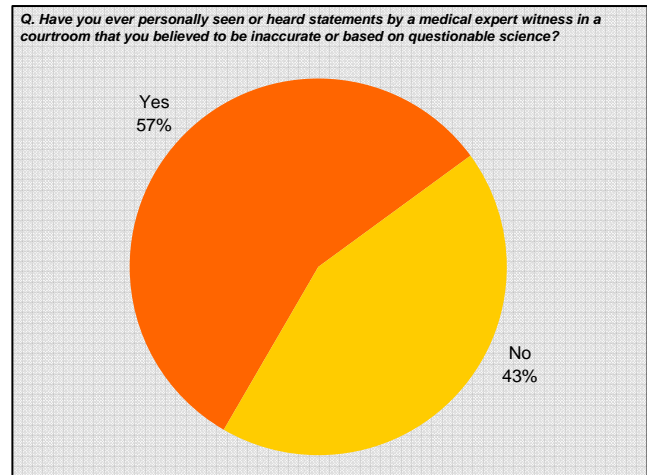
Criteria for Witness Selection

Physicians are twice as likely to believe lawyers who argue a case place "a lot" of importance on a *physicians' willingness to adapt medical findings to support the lawyer's case* (64%) compared to *the physician's qualifications within a particular medical specialty* (33%). Less than one in five physicians say lawyers place "a lot" of importance on *the physician's standing in the medical community* (17%).



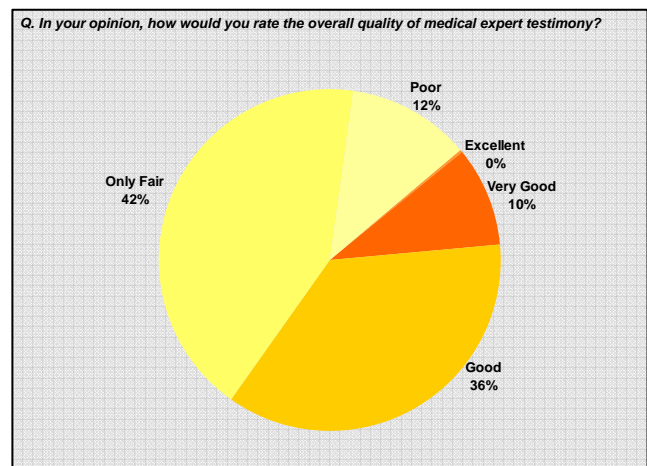
A Prevalent Issue

Nearly three in five physicians (57%) have personally seen or heard statements by a medical expert witness in a courtroom that they believe to be inaccurate or based on questionable science.



Quality of Expert Witness Testimony

Over half (54%) rate the overall quality of medical expert witness testimony as "poor" or "only fair." One-third (36%) rate it as "good" – and only one in ten (10%) rate the overall quality of medical expert witness testimony as "very good" or "excellent."



Attitudes Toward Medical Litigation: Other Findings

Current testimony practices affect the medical community

- Most physicians believe medical expert witnesses have a negative impact on both the *integrity of the medical profession* (77%) and the *public view of expert witness testimony* (59%).

Doctors strongly support reforms to govern medical expert witness testimony

- Nearly all physicians (95%) support the creation of a code of ethics to govern physicians' conduct in providing expert witness testimony.
- Four in five physicians (84%) agree that physicians who provide expert witness testimony in the courtroom should be held to the same standards and sanctions as they would be in practicing medicine in an office or hospital setting.
- Three-quarters (76%) believe a medical expert witness found to be providing fraudulent testimony should be subject to sanctions both in the state where they testified and the state where they are licensed.

Payment for supportive findings is perceived as unethical

- Nearly all physicians (97%) believe it is unethical for medical expert witnesses to receive payment contingent upon the outcome of their testimony. There is strong intensity in their belief: 86% find the practice "definitely unethical" and 11% "probably unethical."

RESEARCH METHODOLOGY

The American Tort Reform Association (ATRA) and Sick of Lawsuits commissioned the Center for Survey Research and Analysis at the University of Virginia to conduct an objective scientific survey with physician specialists concerning medical expert witness testimony. Interviews were conducted by mail among 800 physician specialists from September 19 to October 31, 2006. Doctors were specialists in anesthesiology, cardiovascular disease, emergency medicine, obstetricians/gynecologists, neurology, or pulmonology and were selected from the American Medical Association list. The response rate for the survey was 53% and the margin of error for the sample is $\pm 2.6\%$.