From mental health professional to expert witness: testifying in court.

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Abstract

Our democratic principles rest on the belief that truth is discovered through the fair and open combat of ideas in a court of law. When mental health professionals participate in this adversary process as expert witnesses, it is essential for them to understand that attorneys will attempt to impeach their credibility. Mental health professionals who appreciate the spirit and mechanics of courtroom communication will be best prepared to protect the integrity of their testimony. The courtroom communications model provides experts with a conceptual framework utilizing three components: the speaker is the expert, the message is testimony, and the audience is the judge or jury. Within the structure of this model, communication principles from social psychology can be used to enhance the clarity of testimony and to prevent attorneys from distorting the expert's opinions. First and foremost, expert witness testimony must be formulated upon accepted scholarly and ethical standards. To establish credibility, experts must appear knowledgeable and trustworthy to the judge and jury. The expert must come to court prepared for both direct examination and cross-examination; know when to emphasize logic or emotion, tailor speech in order to reach the maximum number of jurors, and remain nondefensive by projecting the same demeanor regardless of which side is conducting the examination. The role of the expert witness is forever changing because the judicial system—like the mental health field—continues to evolve. Although the adversary process has undergone dramatic changes over the past eight hundred years, historical vestiges continue to echo throughout our courtrooms. Today, expert witnesses are the champions of victims and the accused. Legal disputes are increasingly being decided by the battle of the experts who must undergo the ordeal of cross-examination. When you consider the brutality of ancient ordeals, responding to attorneys armed with questions may not seem so daunting.

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