

The Physician Assistant Expert Witness

Revisited

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The legal community is becoming increasingly aware of the physician assistant profession and the role of the PA as an expert witness. Many significant changes and growth have occurred in the profession in the last decade. Citizens, attorneys and the legal community are now more aware of the physician assistant profession and its role. However, there is still some misunderstanding among attorneys concerning the education, role and scope of practice of PAs. This article explores: history of the profession, educational requirements, licensing/registration, scope of practice, developing role of the profession, acceptance of the physician assistant, medical malpractice, and the physician assistant as an expert witness.

History of the Physician Assistant Profession:

The original physician assistant concept dates back to 1650 with the introduction of Feldshers. They were military medical assistants introduced into Russian armies by Peter the Great in the 17th Century.ⁱ Later in the 1960's China trained more than 1.3 million "barefoot doctors" to improve the delivery of health care.ⁱⁱ Then in 1962 Dr. Henry McIntosh, a cardiologist at Duke University, trained firemen in emergency procedures. These men eventually staffed the cardiac catheterization laboratory. Eventually, former Navy hospital corpsman were hired for similar roles and

subsequently classified as physician's assistants by the Duke University payroll department.

The PA concept was founded by Eugene A. Snead, Jr., MD. He realized that experienced corpsman and medics returning from the Vietnam War had skills in emergency medicine and trauma surgical care and no comparable civilian employment opportunities. Dr. Snead and other physician advocates persuaded leaders in the American Medical Association (AMA) to endorse the PA concept by bringing attention to the needs of the returning medics, the failure of the medical establishment to respond to the perceived shortage of physicians, and how experienced corpsman could fill these needs.ⁱⁱⁱ Dr. Richard A Smitwasis was assigned to the Pacific Northwest by Surgeon General William Stewart to develop a physician assistant training program with a strong emphasis on the development of students and graduates into the medically underserved communities.^{iv}

The American Academy of Physician Assistants was founded in 1968. Its mission was “to provide quality, cost effective, accessible health care, and to promote the professional and personal development of physician assistants”. In 1995 The American Academy of Physician Assistants (AAPA) adopted a definition of the PA that was originally proposed by the Council on Graduate Medical Education Advisory Workgroup on Physician Assistants and the Workforce.

In 1996 the AAPA house of Delegates amended the definition as follows:

Physician assistants are health professional licensed or in the case of those employed by the Federal Government, credentialed to practice medicine with physician

supervision. Physician assistants are qualified by graduation from an accredited physician assistant educational program and/or certification by the National Commission on Certification of Physician Assistants. Within the physician/PA relationship, physician assistants exercise autonomy in medical decision making and provide a broad range of diagnostic and therapeutic services. The clinical role of physician assistants include primary and specialty care in medical and surgical practice settings in rural and urban areas. Physician assistant practice is centered on patient care and may include educational, research, and administrative activities.

By 1973 there were twenty-six physician assistant programs and with two (Yale University and Mercy College of Detroit) offering a Bachelors Degree. In 1975 the National Commission on the Certification of Physician Assistants (NCCPA) reported that there were 1, 998 certified physician assistants in the United States. The original requirements for acceptance to a physician assistant program were two years of college and two years of direct patient care experience.

In 1997 The American Academy of Physician Assistants (AAPA) reported that there were 29,000 physician assistants practicing in the United States. By 2007 that number had increased to 63,000.^v An estimated 54% increase.

In 1999 there were 96 accredited programs. That number is now 136. These programs are accredited by the Accreditation Review Commission on the Education of the Physician Assistant (ARC-PA). The ARC-PA defines the standards for PA education and evaluate PA educational programs within the territorial United States. The education of a physician assistant is a generalist approach and is based on the medical school model of education.

Educational Requirements And Student Data

The typical PA program is 24 to 27 months in length and requires at least two years of college and some health care experience prior to admission. The majority of students have a BA/BS degree and approximately 40 months of health care experience. While all programs recognize the professional credential (PA) 75 percent of the programs now award a master's degree^{vi} or 103 as compared with 90 in 2005. Over the past five years thirty-four programs have converted to the masters degree.^{vii}

Matriculating students had a mean overall GPA of 3.39 with eighty-three percent having at least a bachelor's degree.^{viii}

In October of 2002 the Association of Physician Assistant Programs (APAP) Degree Task Force set the goal of PA education at the post-baccalaureate level and many of the programs offered additional education to its previous bachelors graduates permitting them to obtain a masters

degree.

Licensing/Registration Requirements:

In order to be licensed to practice as a physician assistant each graduate is required to take and pass a certifying examination administered by the National Commission on the Certification of Physician Assistants (NCCPA). To maintain active certification a physician assistant must take a re-certification examination every six years. Eighteen states require active certification to practice. Five states do not require CME for license renewal (CA, CO, MI, NY, WI). Active certification by the NCCPA allows reciprocity between all states, although most states retain the right to the administration of a state examination if they so desire. The PA must be actively certified to use the initial “C” for certified after his/her name (PA-C).

To maintain active certification a physician assistant must have completed 100 hours of Continuing Medical Education every two years. Individual states may have their own continuing medical education (CME) requirements. The process by which physician assistants apply for licensing/registration varies from state to state. Forty three states and the District of Columbia now use licensure as the regulatory term for physician assistants.^{ix}

Scope of Practice And The Evolving Role Of The Profession:

In 1997, thirty-nine states, the District of Columbia and Guam permitted PAs to prescribe

medications. Today that number now includes all 50 states including the District of Columbia, Guam and the U.S. Virgin Islands. Forty-four authorize the prescribing of controlled substances. PAs are required to register with the Drug Enforcement Agency and possess a valid DEA number to prescribe controlled substances. The specific rules and regulations concerning the prescribing of controlled substances rests with the individual states. Oregon requires NCCPA Certification to prescribe controlled substances and three states (Minnesota, Washington and West Virginia) require NCCPA certification for license renewal with prescriptive privileges. The AAPA estimates that in 2006 there were approximately 231 million patient visits made to physician assistants and approximately 286 million medications were prescribed or recommended by PAs.^x

The U.S. Bureau of Labor Statistics (BLS) projected that total employment for physician assistants in the country would grow by 14% between 1994 and 2005. It now projects that the number of physician assistant employment opportunities will grow by 50% between 2004 and 2014. Making it the fourth fastest growing profession in the country.^{xi}

The median starting salary for PA graduating in 2007 was \$74,470 and ranged to \$91,689 a year.

Each state writes its own laws and one should expect to find variation from state to state in the structure and content of those laws.^{xii} Statutes concerning the scope of practice concerning physician assistants have undergone significant individual state revisions in the past ten years. PA statutes are amplified by rules issued by the administrative agency or board. These rules define and interpret the language of the law. For example, the law may require PAs to pass a national certifying examination to qualify for licensure.^{xiii} Areas such as supervision, number of physician

assistants one physician can supervise, practice settings, co-signature requirements, etc. undergo periodic evaluation and revision. For example Michigan Public Act 512 of 2004 eliminated the physician co-signature requirement previously imposed by Michigan rules. Michigan Public Act 281 Of 2005 was signed by the Governor and allowed PA's the authority to prescribe physical therapy.^{xiv} Legislation passed in Wyoming in 2005 increased the number of PAs a doctor may supervise from two to four.^{xv}

States are moving more away from “laundry lists” and item specific job descriptions leaving those decisions to the physician based on the education, training and experience of the physician assistant.. As the healthcare environment has evolved so have the rules regulating physician assistant scope of practice. The era of one physician being authorized to supervise only two physician assistants has been modified in some states.

Graduates of accredited physician assistant programs have the opportunity of attending post graduate/fellowship programs. Montofiore Medical Center became the first hospital to use PAs as house officers when it began its surgical residency program in 1971.^{xvi}

According to the Association of Postgraduate Physician Assistant Programs (APPAP) there are presently forty-three fellowship/ post graduate educational programs in sixteen different medical specialities.^{xvii} The Association of PAs in Cardiothoracic Surgery (APACVS) has begun offering fellow membership status, making it the second PA speciality organization to offer speciality recognition to it's members.^{xviii} These programs offer fellowship training in areas such as cardiothoracic surgery, dermatology, critical care medicine, hospitalist, neonatology and psychiatry

to name a few. There are presently three programs accredited by the ARC-PA and many others are in the application process. There is one program offering a Masters degree and another with the option of pursuing a degree.

The NCCPA is currently seeking “to create and develop appropriate eligibility criteria and necessary mechanisms for speciality recognition”.^{xix} There is still much debate among the profession concerning speciality recognition and what role it will play in the future of the profession. For now the NCCPA is exploring speciality recognition and this indicates a proactive and keen understanding of the professions future and the need for continued academic speciality stature.

Although the physician assistant profession was envisioned as a profession to assist the busy family practitioner, statistically less physician assistant graduates are entering primary practice upon graduation. In 1993 44% of all clinical PAs were practicing in primary care areas.^{xx}

According to the Physician Assistant Education Association (PAEA) Annual Report for 2005-2006 of the programs that responded to the survey (81.3%) reported that 65% of their graduates had entered non-primary care fields only 35% entered primary care.^{xxi} In 2001 the percentage of PA graduates entering primary care was 38%.^{xxii}

Rapid growth of the PA profession has been accompanied by an expanding scope of practice.

Analysts note that PA activities are increasingly overlapping with those of physicians.^{xxiii} Various studies have been done to evaluate the performance of physician assistants as compared with physicians and residents. Such areas as mammogram interpretation by physician assistants,^{xxiv} the

role of physician assistants in dialysis units and nephrology,^{xxv} ultrasound-assisted percutaneous liver biopsy performed by a physician assistant^{xxvi} and diagnostic cardiac catheterization with coronary angiography performed by trained and supervised physician assistants^{xxvii} have been studied all with favorable outcomes.

Public Acceptance of the Physician Assistant

In April 2007, the AAPA Board of Directors retained Fleishman-Hillard, an international communications company which also conducts the CNN polls, to conduct a public relations project concerning the public's awareness and general knowledge of the PA profession. The results revealed that two out of three adults responding to the nation-wide poll said they were aware of the PA profession. They reported that 80% of the respondents would be willing to be seen by a PA if their primary doctor was unavailable. Of those previously treated by a PA 90% would be willing to see a PA again.^{xxviii} Data from the Kaiser Northwest membership survey indicated high levels of satisfaction with the care provided by PAs and NPs comparable to similar measures of satisfaction with the care provided by physicians in the areas of family practice, internal medicine and pediatrics.^{xxix} The Advisory Group on Physician Assistants and the work force (AGPAW) concluded in its report that a high level of patient acceptance of PA services had been a consistent finding in many of the health service research reports published in the years after PAs were introduced into clinical practice. "In a number of these studies, the proportion of patients reporting acceptable to high levels of satisfaction with the health care services delivered by PAs averaged from 80 to 90 percent among individuals not previously exposed to PA care, subsequently rising to 90 percent and over 95 percent among patients surveyed after receiving care from a PA."^{xxx}

Medical Malpractice And The Physician Assistant

In 1990 two malpractice cases involving PAs were reported to the National Practitioner Data Bank (with 17,500 practicing physician assistants). In 1995 thirty eight cases were reported (with 25,360 practicing physician assistants). The most recent statistics from the National Practitioner Data Bank reveal that physician assistants accounted for less than one percent of all medical malpractice payment reports. Physician assistants have been responsible for only 1,130 malpractice payments since the opening of the data bank (0.38% of all payments). Both cumulatively and during 2006, diagnosis-related problems were involved in about half of all physician assistant malpractice payments (56.0 % cumulatively and 57.5 percent in 2006). Treatment-related payments were the second largest category both cumulatively and in 2006 (24.7% and 29.2%, respectively).^{xxxii}

The Physician Assistant Expert Witness

The role of the expert witness is to establish a standard of care and render an opinion as to whether that standard has been met. A generally accepted definition of the standard of care is what an ordinary, reasonable and prudent person would exercise in a similar situation. However, the precise definition of the standard of care varies from state to state.^{xxxiii}

The exact method an attorney utilizes in determining his or her selection of a physician assistant as an expert witness is individualized. Attorneys may choose only experts within their locale, others prefer experts with limited medicolegal experience while others prefer experts familiar with the process and many consult colleagues for recommendations on experts they have utilized.

Real expertise involves experience combined with knowledge ultimately translated into being

credible to a jury, clear in guidelines for the judge, and able to truly advise the retained counsel.^{xxxiii}

Of equal importance in retaining an expert is the ability to provide the attorney with a timely review, commitment to a thorough review and the ability to communicate effectively during deposition and trial testimony.

The physician assistant profession has significantly changed and evolved to the point where retaining a PA expert has become more involved. In years past the majority of PAs were employed in outpatient primary care in a physician's office and speciality employment was rare. Retaining a generalist physician assistant would fulfill the legal definition for an expert witness. However, today with the advent of post graduate physician assistant residencies and the expansion of the physician assistant into every speciality in medicine the attorney may need to specifically look for a PA specializing in a specific discipline.

An independent poll of five firms listing physician assistants on the internet found firms listing between two and twenty PAs. Many confirmed that the need for physician assistant experts in all areas of medicine was increasing at a yearly rate and that their attorney clients were requesting PAs who practice in specific areas as pediatrics, pulmonology, cardiology, critical care, emergency medicine and neurosurgery to name a few.

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