AAOS
American Association of Orthopaedic Surgeons

Standards of Professionalism

Orthopaedic Expert Opinion and Testimony

Adopted April 18, 2005; Amended May 12, 2010 (effective for expert opinions offered on or after May 12, 2010; expert witness opinions rendered prior to May 12, 2010 are governed by the original Standards of Professionalism for Orthopaedic Expert Witness Testimony, adopted April 18, 2005)

AAOS Standards of Professionalism (SOPs) establish the minimum standards of acceptable conduct for orthopaedic surgeons. Violations of any SOP may result in professional compliance actions against an AAOS Fellow or Member found in violation. Not prepared using a systematic review, SOPs are developed through a consensus process and are ultimately adopted as official AAOS statements by the two-thirds vote of the AAOS Fellowship casting ballots.

Orthopaedic surgeons are frequently called upon to provide oral or written medical testimony or expert medical opinions in legal or administrative proceedings. It is in the public interest for orthopaedic testimony and medical opinions to be readily available, knowledgeable and objective. As a member of the orthopaedic profession, an orthopaedic surgeon must recognize a responsibility to provide testimony and expert medical opinions that are truthful, scientifically correct and appropriate for the context of the issues being considered. All Fellows and Members of the American Academy of Orthopaedic Surgeons and the American Association of Orthopaedic Surgeons ("AAOS") are required to accept this responsibility. For purposes of these SOPs, all Fellows and Members of the AAOS are considered to be "orthopaedic surgeons," regardless of whether they perform surgery. In recognition to this responsibility, the AAOS has adopted these Standards of Professionalism.

These Standards of Professionalism draw from the aspirational Code of Medical Ethics and Professionalism that appears in bold italics. The statements that follow the aspirational Code establish the minimum standard of acceptable conduct for AAOS Fellows and Members. Violations of these minimum standards may serve as grounds for formal complaint to and action by the AAOS as outlined in the AAOS Bylaws Article V.

These Standards of Professionalism apply to all AAOS Fellows or Members who provide oral or written expert opinions, testimony and other services to attorneys, litigants, administrative agencies or the judiciary in the context of administrative, civil or criminal matters and include but are not limited to writing expert opinions, signing certificates or affidavits of merit, reviewing medical records, and providing sworn testimony. Only an AAOS Fellow or Member may file a grievance about alleged violation of these Standards of Professionalism against another AAOS Fellow or Member.

A. IMPARTIAL TESTIMONY

Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, V. C.:
Orthopaedic surgeons are frequently called upon to provide expert medical opinions or testimony. In providing opinions, the orthopaedic surgeon should ensure that the opinion provided is non-partisan, scientifically correct, and clinically accurate.

Mandatory Standards:

1. An orthopaedic surgeon shall not knowingly provide oral or written medical testimony or expert medical opinions that are false.

2. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall provide these statements in a fair and impartial manner.

3. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall have knowledge and experience regarding the standard of care and shall evaluate the medical condition and care in light of generally accepted practice standards at the time, place and in the context of care delivered.

4. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall neither condemn performance that falls within generally accepted practice standards nor endorse or condone performance that falls outside of these standards.

5. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall be prepared to explain the basis of his or her statements. If these statements vary from generally accepted practice standards, he or she shall indicate how and why they vary and whether they are supported by personal experience, specific clinical and/or scientific evidence.

6. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall seek and review all pertinent medical records and applicable legal documents, including relevant prior depositions, before rendering any statement or opinion on the medical or surgical management of the patient.

B. SUBJECT MATTER KNOWLEDGE

Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, V. C.:

Orthopaedic surgeons are frequently called upon to provide expert medical opinions or testimony. In providing opinions, the orthopaedic surgeon should ensure that the opinion provided is non-partisan, scientifically correct, and clinically accurate.

Mandatory Standard:

7. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall provide statements only about subject matters in which he or she has relevant clinical experience and specific orthopaedic knowledge in the areas of medicine that are the subject of the proceeding.

C. QUALIFICATIONS

Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, V. C.:
The orthopaedic surgeon should not offer opinions concerning matters about which the orthopaedic surgeon is not knowledgeable.

Mandatory Standards:

8. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall have a current, valid, and unrestricted license to practice medicine in one or more U.S. states or territories.

9. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall maintain a current certificate from the American Board of Orthopaedic Surgery (ABOS), the American Osteopathic Board of Orthopaedic Surgery (AOBOS), or the certifying body, if any, in the country in which the orthopaedic surgeon took his or her training.

10. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall be engaged in the active practice of orthopaedic surgery or demonstrate enough familiarity with present practices to warrant designation as an expert on the subject matter of the inquiry.

11. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall accurately represent his or her credentials, qualifications, experience or background.

D. COMPENSATION

Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, V. C.:
It is unethical for an orthopaedic surgeon to accept compensation that is contingent upon the outcome of litigation.

Mandatory Standards:

12. An orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall not agree to or accept a fee that is contingent upon the outcome of the matter.

13. Compensation for an orthopaedic surgeon who provides oral or written medical testimony or expert medical opinions shall be reasonable and commensurate with expertise and the time and effort necessary to address the issues raised.

