



EXPERT WITNESSES- STRATEGICAL CONCERNS, SELECTION, PREPARATION, AND PRESENTATION

Tony Cobos
Sharp & Cobos, L.L.P.
11920 Jollyville Rd., Suite 220-N
Austin, Texas 78759
512-473-2265
tony@sharpcobos.com
www.sharpcobos.com

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Suggested preliminary “homework”:

- ▶ Talk to your client first:
 - ▶ Where does the allegation fit in terms of the “spectrum”? How many experts would agree?
 - ▶ Research the “spectrum”- academic sources, position statements, controversies
 - ▶ What are the strength and weaknesses of the care per the client?
 - ▶ What may be the budget/costs of defense?
Upfront costs versus SOAH

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Know the agency's experts:

- ▶ Internal/staff experts versus contract experts
- ▶ Open Records requests:
 - ▶ Expert Policies and Procedures; Budget
 - ▶ Forms required; qualifications to serve
 - ▶ Listing of experts
 - ▶ How much has the expert made for reviews? Actively practicing?

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EXPERTS- STRATEGICAL CONCERNS-

- ▶ When do you really need one?
 - High Risk v. Low Risk cases:
 - Adverse outcomes- major injuries, deaths, minors, elderly
 - Pending/anticipated malpractice claims
 - Aggressive complainants, other health care provider complaints
 - Peer review actions
 - New/controversial treatment modalities

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When do you really need one?

- Cosmetics- subjective versus objective standards
- Pain management/orthopedics/ob/gyn
- Pharmaceutical/DEA
- Billing- False Claims/Medicare/Medicaid
- Temporary Suspension possibility

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Strategical concerns as to NOT hiring an expert:

- ▶ Agency reviewers are not obligated to agree with a defense obtained opinion and may tend to think it is their duty to rebut a filed report and engage in patient advocacy of the allegations;
- ▶ Possibility the agency review process may not find any problems with the care- probable versus unlikely?

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Title search: Expert Witnesses- Strategical Concerns, Selection, Preparation, and Presentation

Also available as part of the eCourse

[Practice Tips and Strategies for Trying the Administrative Law Case](#)

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"Tips and Strategies for Working with Expert Witnesses"