

# STATE SPECIFIC RULES GOVERNING TESTIFYING AS AN EXPERT WITNESS IN MEDICAL MALPRACTICE CASES

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## \*\*\*About SEAK, Inc.\*\*\*

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**INTRODUCTION:** Many states have special requirements for physicians who testify as expert witnesses in medical malpractice cases. These requirements could include things such as:

- Board Certification
- Licensure
- Not being a full-time “Professional Witness”
- Current or recent clinical practice or teaching or research experience
- Same specialty as defendant
- Licensure from a state requiring same or greater qualifications of subject state
- Complete review of the pertinent medical records
- Being from same “community” as defendant or familiarizing self with standards and practices of a particular area
- Certain percentage of professional time devoted to active clinical practice
- Active practice in a similar community or locale under similar circumstances
- Graduate of an AMA or AOA accredited medical school
- Routinely treats or has treated the diagnosis or condition at issue
- No contingency fees
- Prior experience treating similar patients
- Unrestricted medical license
- Retired less than 5 years.
- Licensure from state in question or contiguous border state
- No license revocation or suspension in last year.

The below chart of expert witness rules for medical malpractice cases has been provided for informational purposes only. It is based upon research conducted in July 2014 and updated in March 2019 and is in no way meant to be comprehensive. Experts should check with retaining counsel or their own personal counsel regarding up-to-date and full requirements for serving as a medical malpractice expert witness in any particular jurisdiction.

State	Requirements To Testify as an Expert Witness in a Medical Malpractice Case
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Alabama</b>	<p>(1) “Similarly situated” healthcare provider.</p> <p><b>Specialists:</b> If the defendant is board-certified or practicing a specialty at the time of the incident, the expert must be certified by the same board in the same specialty. Ala. Code § 6-5-548(e)</p>

<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Alaska</b></p>	<p>(1) Licensed in any U.S. state or another country; (2) Trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to a matter at issue; (3) Certified by a board recognized by the state as having acknowledged expertise and training directly related to the particular field or matter at issue. These requirements do not apply if the state has not recognized a board that has certified the witness in the particular field or matter at issue. Alaska Stat. Ann. § 09.20.185 (West)</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Arizona</b></p>	<p>(1) Licensed as a health professional in any state; (2) During the year immediately preceding the incident, expert must have devoted a majority of his or her professional time to either or both of the following:</p> <ul style="list-style-type: none"> <li>• Active clinical practice of the same health profession as the defendant and, if the defendant is or claims to be a specialist, in the same specialty or claimed specialty.</li> <li>• The instruction of students in an accredited health professional school, accredited residency or clinical research program in the same health profession as the defendant and, if the defendant is or claims to be a specialist, in an accredited health professional school or accredited residency or clinical research program in the same specialty or claimed specialty.</li> </ul> <p>(3) No contingency fee</p> <p>(4) <b>Specialists:</b> If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist, the expert must specialize at the time of the incident in the same specialty or claimed specialty. If the party is or claims to be a board-certified specialist, the expert must be board-certified in that specialty.</p> <p>(5) <b>General Practitioners:</b> If the defendant is a general practitioner, the expert must have devoted a majority of his or her professional time in the year preceding the incident to either or both of the following:</p> <ul style="list-style-type: none"> <li>• Active clinical practice as a general practitioner</li> <li>• Instruction of students in an accredited health professional school, accredited residency or clinical research program in the same health profession as the defendant</li> </ul> <p>(6) If the defendant is a health care institution that employs a health professional against whom or on whose behalf the testimony is offered, the preceding provisions apply as if the health professional were the party or defendant against whom or on whose behalf the testimony is offered. Ariz. Rev. Stat. Ann. § 12-2604</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Arkansas</b></p>	<p>In 2012, the Supreme Court of Arkansas struck down the statute governing the qualification of expert witnesses, Ark. Code Ann. § 16-114-206 (West), as unconstitutional, holding that only the court has authority to decide who may testify and under what conditions pursuant to the separation of powers doctrine. <u>Broussard v. St. Edward Mercy Health Sys., Inc.</u>, 2012 Ark. 14 (2012). Therefore, Rule 702 of the Uniform Rules of Evidence governs the qualification of experts, which merely requires that the expert is qualified by knowledge, skill, experience, training, or education in the scientific, technical, or other specialized field. <u>See</u> Ark. Code Ann. § 16-114-207(1).</p>

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>California</b>	<p>(1) Professional knowledge, learning and skill of the issue sufficient to speak with authority on it such that the testimony will likely assist the jury. Cal. Evid. Code § 720 (West); (2) Familiarity with the standards of care required of health care providers under similar, or substantially similar, circumstances. <u>Pearce v. Linde</u> (App. 1952) 113 Cal.App.2d 627, 248 P.2d 506; <u>Evans v. Ohanesian</u> (App. 4 Dist. 1974) 112 Cal.Rptr. 236, 39 Cal.App.3d 121. <u>See also</u> 3 Cal. Med. Malprac. L. &amp; Prac. § 18:18 (2013 ed.)</p> <p><b>Emergency Rooms:</b> To qualify experts in emergency room medicine, the Legislature established criteria over and above those required qualify an ordinary medical expert. However, the claim must be for emergency room malpractice and not some other theory as, for example, direct hospital liability for an incapacity to assemble a complete surgical team promptly after an emergency arises. Cal. Health &amp; Safety Code § 1799.110(c) (West). (1) Substantial professional experience in the last 5 years while assigned to provide emergency medical coverage in a general acute care hospital emergency department (determined by the custom and practice of the manner in which emergency medical coverage is provided in general acute care hospital emergency departments in the same or similar localities where the incident occurred).</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Colorado</b>	<p>(1) Licensed physician; (2) As a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the action, the expert is substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the incident on the date of the incident.</p> <p><b>Specialists:</b> An expert in one medical subspecialty cannot testify against a physician in another subspecialty unless, in addition to a showing of substantial familiarity, there is a showing that the standards of care and practice in the two fields are similar. These requirements do not apply to experts testifying as to the degree or permanency of medical or physical impairment. Colo. Rev. Stat. Ann. § 13-64-401 (West). A “certificate of review” must be filed by the plaintiff in civil actions for negligence against licensed professionals where expert testimony is necessary to establish a <i>prima facie</i> case. Colo. Rev. Stat. Ann. §§ 13-20-601, 602 (West); <u>see also</u> 6 Colo. Prac., Civil Trial Practice § 9.21 (2d ed.)</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Connecticut</b>	<p>(1) “Similar healthcare provider”;(2) Licensed by the appropriate regulatory agency in Connecticut or another state requiring the same or greater qualifications; (3) Trained and experienced in the same discipline or school of practice; (4) Such training and experience was the result of the active involvement in the practice or teaching of medicine within the five-year period before the incident.</p> <p><b>Specialists:</b> If the defendant health care provider is certified by the appropriate American board as a specialist, is trained and experienced in a medical specialty, or claims to be a specialist, the expert must be:(1) Trained and experienced in the same specialty(2) is certified by the appropriate American board in the same specialty. If the defendant health care provider is providing treatment or diagnosis for a condition that is not within his specialty, a specialist trained in the treatment or diagnosis for that condition is considered a “similar health care provider.” However, if an expert does not meet the regular requirements or requirements for specialists, but possesses sufficient training, experience and knowledge as a result of practice or teaching in a related field of medicine, so as to be able to provide testimony as to the prevailing professional standard of care in a given field of medicine, to the satisfaction of the court, he may testify. Such training, experience or knowledge must be the result of active involvement in the practice or teaching of medicine within the five-year period before the incident. Conn. Gen. Stat. Ann. § 52-184c (West)</p>

<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Delaware</b></p>	<p>(1) Familiar with the degree of skill ordinarily employed in the field of medicine on which he or she will testify. Del. Code Ann. tit. 18, § 6854 (West). An affidavit stating that reasonable grounds exist for the action, signed by an expert, must accompany the complaint. To sign the affidavit, the expert must: (1) Be licensed to practice medicine as of the date of the affidavit; (2) In the 3 years immediately preceding the incident, has been engaged in the treatment of patients and/or in the teaching/academic side of medicine in the same or similar field of medicine as the defendant; (3) Be board certified in the same or similar field of medicine if the defendant is board certified (does not apply to an expert that began the practice of medicine prior to the existence of Board certification in the applicable specialty). Del. Code Ann. tit. 18, § 6853 (West)</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>The District of Columbia</b></p>	<p>In <i>Motorola Inc. v. Murray</i>, 147 A.3d 751, 752 (D.C. 2016), the District of Columbia Court of Appeals adopted Federal Rule of Evidence 702 to govern the admissibility of all expert testimony. An expert must therefore possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Florida</b></p>	<p>(1) Health care provider who holds an active and valid license; (2) Has conducted a complete review of the pertinent medical records</p> <p>(3) <b>Specialists:</b> If the party against whom or on whose behalf the testimony is offered is a specialist, the expert must:</p> <ul style="list-style-type: none"> <li>• Specialize in the same specialty; and</li> <li>• Have devoted professional time during the 3 years immediately preceding the incident to: <ul style="list-style-type: none"> <li>○ Active clinical practice of, or consulting with respect to, the same specialty;</li> <li>○ Instruction of students in an accredited health professional school, accredited residency or clinical research program in the same specialty; or</li> <li>○ Clinical research program affiliated with an accredited health professional school, accredited residency or clinical research program in the same specialty.</li> </ul> </li> </ul> <p>(4) <b>General Practitioners:</b> If the party against whom or on whose behalf the testimony is offered is a general practitioner, the expert must have devoted professional time during the 5 years immediately preceding the incident to:</p> <ul style="list-style-type: none"> <li>• Active clinical practice or consultation as a general practitioner;</li> <li>• Instruction of students in an accredited health professional school or accredited residency program in the general practice of medicine; or</li> <li>• Clinical research program affiliated with an accredited medical school or teaching hospital and that is in the general practice of medicine</li> </ul> <p>(5) <b>Other:</b> If the party against whom or on whose behalf the testimony is offered is a health care provider other than a specialist or a general practitioner, the expert must have devoted professional time during the 3 years immediately preceding the incident to:</p> <ul style="list-style-type: none"> <li>• Active clinical practice of, or consulting with respect to, the same or similar health profession as the party</li> </ul>

- Instruction of students in an accredited health professional school or accredited residency program in the same or similar health profession of the party
- Clinical research program affiliated with an accredited medical school or teaching hospital and that is in the same or similar health profession as the party

(6) No contingency fee

(7) The expert has not been found guilty of fraud or perjury in any jurisdiction (proffering attorney must certify to it)

**Support Staff:** Only licensed physicians who, by reason of active clinical practice or instruction of students, has knowledge of the applicable standard of care for nurses, nurse practitioners, certified registered nurse anesthetists, certified registered nurse midwives, physician assistants, or other medical support staff may give testimony with respect to the standard of care of such medical support staff.

**Administrative/Non-Clinical Issues:** Notwithstanding the previous requirements, in an action against a hospital, a health care facility, or medical facility, an expert may give testimony on the appropriate standard of care as to administrative and other nonclinical issues if the person has substantial knowledge, by virtue of his or her training and experience, concerning the standard of care among hospitals, health care facilities, or medical facilities of the same type as the hospital, health care facility, or medical facility whose acts or omissions are the subject of the testimony and which are located in the same or similar communities at the time of the incident.

**Physicians:** In an action against a physician (lists several types in statute), only physicians, osteopathic physicians, podiatric physicians, and chiropractic physicians who have had substantial professional experience within the preceding 5 years while assigned to provide emergency medical services in a hospital emergency department may provide expert testimony.

**Licensed Physicians/Dentists:** If a licensed physician or licensed dentist is the party against whom, or on whose behalf, expert testimony is offered, the expert must also be licensed or possess a valid expert witness certificate issued under § 458.3175, 459.0066, or 466.005.

“Substantial professional experience” shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in hospital emergency departments in the same or similar localities where the alleged negligence occurred.

If a health care provider is providing evaluation, treatment, or diagnosis for a condition that is not within his or her specialty, a specialist trained in the evaluation, treatment, or diagnosis for that condition shall be considered a similar health care provider. Fla. Stat. Ann. § 766.102(5)–(12) (West)

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in Georgia

(1) Licensed by the appropriate regulatory agency in the state in which such expert was practicing or teaching in the profession at the time of the incident; (2) Actual professional knowledge and experience in the area of practice or specialty in which the opinion is to be given from engagement in either: (A) Active practice of such area of specialty of his or her profession for at least 3 of the last 5 years, with sufficient frequency to establish an appropriate level of knowledge; (B) Teaching of his or her profession for at least 3 of the last 5

	<p>years as an employed member of the faculty of an educational institution accredited in the teaching of such profession, with sufficient frequency to establish an appropriate level of knowledge; or (C) Member of same profession; a medical doctor testifying as to the standard of care of a defendant who is a doctor of osteopathy; and a doctor of osteopathy testifying as to the standard of care of a defendant who is a medical doctor.</p> <p><b>Support Staff:</b> a physician who, as a result of having, during at least three of the last five years immediately preceding the incident, supervised, taught, or instructed nurses, nurse practitioners, certified registered nurse anesthetists, nurse midwives, physician assistants, physical therapists, occupational therapists, or medical support staff, and has knowledge of the standard of care of that health care provider under the circumstances at issue can testify as to the standard of that health care provider. However, a nurse, nurse practitioner, certified registered nurse anesthetist, nurse midwife, physician assistant, physical therapist, occupational therapist, or medical support staff cannot testify as to the standard of care of a physician. Ga. Code Ann. § 24-7-702 (West)</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Hawaii</b>	No specific requirements, only: knowledge, skill, experience, training, or education qualifying the expert to testify on the issue. Haw. Rev. Stat. § 626-1 (West).
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Idaho</b>	(1) Similarly trained and qualified healthcare providers of the same class in the same community, taking into account the party’s training, experience, and fields of medical specialization, if any. “Community” refers to that geographical area ordinarily served by the licensed hospital at or nearest to which such care was or allegedly should have been provided. Idaho Code Ann. § 6-1012 (West). However, this does not prohibit or otherwise preclude experts who reside elsewhere from familiarizing themselves with the standards and practices of a particular area. Idaho Code Ann. § 6-1013 (West)
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Illinois</b>	The court applies the following standards to determine whether an expert is qualified: (1) Relationship of the medical specialties of the witness to the medical problem(s) and the type of treatment administered in the case; (2) Whether the witness has devoted a substantial portion of his or her time to the practice of medicine, teaching or University-based research in relation to the medical care and type of treatment at issue; (3) Whether the witness is licensed in the same profession as the defendant; (4) In a case against a non-specialist, whether the expert can demonstrate a sufficient familiarity with the standard of care practiced in Illinois. 735 ILCS 5/8-2501
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Indiana</b>	No specific requirements. General qualifications for experts are governed by Ind. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue. <u>See also</u> 13 Ind. Law Encyc. Evidence § 169
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Iowa</b>	(1) Expert is licensed to practice in a substantially similar field as the defendant, maintains good standing in every state of licensure, and has not had a license in any state revoked or suspended within the 5 years preceding the act in question; (2) Expert actively practiced or was a university instructor in a substantially similar field within the 5 years preceding the act in question; (3) Expert is board certified in a substantially similar field; and (4) If defendant is a licensed osteopathic or podiatric physician, expert is similarly licensed. Iowa Code Ann. § 147.139. These requirements went into effect in Iowa in July 2017 as part of medical malpractice tort reform.

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Kansas</b>	At least 50% of the expert’s professional time within the 2-year period preceding the incident was devoted to actual clinical practice in the same profession in which the defendant is licensed. Kan. Stat. Ann. § 60-3412 (West)
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Kentucky</b>	No specific requirements. General qualifications for experts are governed by Ky. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Louisiana</b>	If the action is based on the negligence of a licensed physician, dentist, optometrist, or chiropractic physician, the expert must: (1) Have the degree of knowledge or skill possessed or the degree of care ordinarily exercised by physicians, dentists, optometrists, or chiropractic licensed in the state of Louisiana; (2) Be actively practicing in a similar community or locale and under similar circumstances.  <b>Physicians:</b> In a medical malpractice action against a physician licensed in Louisiana, the expert must: (1) Be practicing medicine at the time such testimony is given or was practicing medicine at the time the claim arose; (2) Have knowledge of accepted standards of medical care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim; (3) Be qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of care (the court will consider whether, at the time the testimony is given or the claim arose, the expert is board-certified or has other substantial training or experience in an area of medical practice relevant to the claim and is actively practicing in that area); (4) Be licensed to practice medicine in Louisiana or any other state have graduated from a medical school accredited by the American Medical Association’s Liaison Committee on Medical Education or the American Osteopathic Association. “Practicing medicine” or “medical practice” includes but is not limited to: training residents or students at an accredited school of medicine or osteopathy or serving as a consulting physician to other physicians who provide direct patient care upon the request of such other physicians. These requirements are not construed to prohibit a physician from qualifying as an expert solely because he is a defendant in a medical malpractice claim. La. Rev. Stat. Ann. § 9:2794
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Maine</b>	No specific requirements. General qualifications for experts are governed by Me. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Maryland</b>	(1) Clinical experience, provided consultation relating to clinical practice, or taught medicine in the defendant’s specialty or a related field of health care, or in the field of health care in which the defendant provided care or treatment to the plaintiff, within 5 years of the incident; (2) If the defendant is board-certified in a specialty, the expert must be board certified in the same or a related specialty (does not apply if (A) the defendant was providing care or treatment to the plaintiff unrelated to the area in which the defendant is board certified or (B) the health care provider taught medicine in the defendant’s specialty or a related field of health care). Md. Code Ann., Cts. & Jud. Proc. § 3-2A-02 (West). <u>See also</u> 10 M.L.E. Evidence § 177
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Massachusetts</b>	No specific requirements. General qualifications for experts are governed by Ma. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.

<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Michigan</b></p>	<p>(1) Licensed as a health professional in any state; (2) During the year immediately preceding the incident, expert must have devoted a majority of his or her professional time to either or both of the following:</p> <ul style="list-style-type: none"> <li>• Active clinical practice of the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed and, if that party is a specialist, active clinical practice of that specialty.</li> <li>• Instruction of students in an accredited health professional school, accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed and, if that party is a specialist, an accredited health professional school or accredited residency or clinical research program in that specialty.</li> </ul> <p>(3) No contingency fee</p> <p><b>Specialists:</b> If the party against whom or on whose behalf the testimony is offered is a specialist, the expert must specialize, at the time of the incident, in the same specialty as the party. If the party is or claims to be a specialist who is board certified, the expert witness must be board-certified in that specialty.</p> <p><b>General Practitioners:</b> If the party against whom or on whose behalf the testimony is offered is a general practitioner, the expert witness, during the year immediately preceding the incident, must have devoted a majority of his or her professional time to either or both of the following:</p> <ul style="list-style-type: none"> <li>• Active clinical practice as a general practitioner.</li> <li>• Instruction of students in an accredited health professional school, accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed.</li> </ul> <p>Mich. Comp. Laws Ann. § 600.2169 (West)</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Minnesota</b></p>	<p>No specific requirements. General qualifications for experts are governed by Minn. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Mississippi</b></p>	<p>If the action (contract or tort) is against a physician, an expert must be licensed by any state as a doctor of medicine. Miss. Code. Ann. § 11-1-61 (West).</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Missouri</b></p>	<p>No specific requirements. General qualifications for experts are governed by Mo. Ann. Stat. § 490.065 (West). An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.</p>

<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Montana</b></p>	<p>(1) Licensed by a health care provider in at least one state; (2) Routinely treats or has routinely treated within the previous 5 years the diagnosis or condition or provides the type of treatment that is the subject of the claim or is or was within the previous 5 years an instructor of students in an accredited health professional school or accredited residency or clinical research program relating to the diagnosis or condition or the type of treatment that is the subject of the claim; (3) Competent evidence shows that, as a result of education, training, knowledge, and experience in the evaluation, diagnosis, or treatment of the disease or injury, the person is thoroughly familiar with the standards of care and practice as they related to the act or omission that is the subject matter of the malpractice claim on the date of the incident.</p> <p><b>Physicians:</b> If the malpractice claim involves treatment that is recommended or provided by a physician (defined in § MCA 37-3-102), an expert may not testify to standards of care unless they are also a physician.</p> <p><b>Specialists:</b> A person qualified as an expert in one medical specialty is not qualified to testify to another medical specialty unless there is a showing that the standards of care and practice in the two specialty fields are substantially similar. This does not apply, however, if the malpractice claim is unrelated to the relevant specialty. Mont. Code Ann. § 26-2-601</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Nebraska</b></p>	<p>No specific requirements. General qualifications for experts are governed by Neb. Rev. Stat. § 27-702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Nevada</b></p>	<p>Practices or has practiced in an area that is substantially similar to the practice engaged in at the time of the alleged negligence. Nev. Rev. Stat. Ann. § 41A.100</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>New Hampshire</b></p>	<p>(1) Competent and duly qualified to render or supervise equivalent care to that which is alleged to have caused the medical injury at the time that such care was rendered. N.H. Rev. Stat. Ann. § 507-C:3. The statute remains on the books as of 2019, but the New Hampshire Supreme Court has previously declared it unconstitutional. <u>Carson v. Maurer</u>, 120 N.H. 925, 934, 424 A.2d 825, 832 (1980) <u>overruled</u> by <u>Cnty. Res. for Justice, Inc. v. City of Manchester</u>, 154 N.H. 748 (2007) (to the extent that Carson did not employ the middle tier scrutiny standard).</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>New Jersey</b></p>	<p>(1) Licensed as a physician or other health care professional in the United States; (2) No contingency fee.</p> <p><b>Specialists:</b> If the party against whom or on whose behalf the testimony is offered is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association and the care or treatment at issue involves that specialty or subspecialty, the expert must have specialized at the time of the incident in the same specialty or subspecialty, the party against whom or on whose behalf the testimony is offered.</p> <p><b>Board Certification:</b> If the person against whom or on whose behalf the testimony is being offered is board-certified and the care or treatment at issue involves that board specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, the expert must be: (1) A physician credentialed by a hospital to treat patients for the medical condition, or to perform the procedure, that is the basis for the claim; OR (2) A specialist or subspecialist recognized by the American Board of Medical</p>

	<p>Specialties or the American Osteopathic Association who is board certified in the same specialty or subspecialty AND during the year immediately preceding the incident, devoted a majority of his professional time to either: (a) Active clinical practice of the same health care profession in which the defendant is licensed, and, if the defendant is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association, the active clinical practice of that specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association; OR (b) Instruction of students in an accredited medical school, other accredited health professional school or accredited residency or clinical research program in the same health care profession in which the defendant is licensed, and, if that party is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association, an accredited medical school, health professional school or accredited residency or clinical research program in the same specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association; OR (3) Both.</p> <p><b>General Practitioner:</b> If the party against whom or on whose behalf the testimony is offered is a general practitioner: (2) During the year immediately preceding the date of the incident, devoted majority of professional time to: (a) Active clinical practice as a general practitioner or active clinical practice that encompasses the medical condition, or includes performance of the procedure, that is the basis of the claim; OR (b) Instruction of students in an accredited medical school, health professional school, or accredited residency or clinical research program in the same health care profession in which the party against whom or on whose behalf the testimony is licensed; OR (c) Both</p> <p><b>Waiver:</b> A court may waive the same specialty and board certification requirements of this section upon motion by the party seeking a waiver, if: (1) The moving party has made a good faith effort to identify an expert in the same specialty or subspecialty; (2) The expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in, or full-time teaching of, medicine in the applicable area of practice or a related field of medicine.</p> <p><b>Civil Penalty for Adverse Action:</b> An individual or entity who takes or threatens to take adverse action against an expert in retaliation for providing or agreeing to testify, that relates to the expert’s employment, accreditation, certification, credentialing or licensure, is liable to a civil penalty not to exceed \$10,000 and other damages incurred by the expert and the party for whom the expert was testifying. N.J. Stat. Ann. § 2A:53A-41 (West)</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>New Mexico</b></p>	<p>Physician qualified in the field of medicine involved, who will consult with, assist in trial preparation and testify on behalf of the patient, upon his payment of a reasonable fee as if the physician had been engaged originally by the patient. N.M. Stat. Ann. § 41-5-23 (West)</p>
<p>Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>New York</b></p>	<p>No specific requirements.</p>

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in North Carolina

(1) Licensed health care provider in the U.S.; (2) During the year immediately preceding the date of the incident, must have devoted a majority of professional time to either or both of the following: (a) Active clinical practice of the same health profession in which the party against whom or on whose behalf the testimony is offered; OR (b) Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered; (3) No contingency fee

**Specialists:** If the party against whom or on whose behalf the testimony is offered is a specialist: (1) Must specialize in the same specialty or in a similar specialty that includes the performance of the procedure that is the subject of the claim; (2) Have prior experience treating similar patients.(3) During the year immediately preceding the date of the incident, one or both of the following: (a) Active clinical practice of the same specialty or a similar specialty that includes the procedure that is the subject of claim; (b) Instruction of students at an accredited health professional school or accredited residency or clinical research program in the same specialty  
**General Practitioners:** During the year immediately preceding the incident, devoted a majority of professional time to either or both of the following:

(1) Active clinical practice as a general practitioner; or

(2) Instruction of students in an accredited health professional school or accredited residency or clinical research program in the general practice of medicine

**Support Staff:** A physician who qualifies as an expert and, by reason of active clinical practice or instruction of students, has knowledge of the applicable standard of care for nurses, nurse practitioners, certified registered nurse anesthetists, certified registered nurse midwives, physician assistants, or other medical support staff may give testify as to their standard of care.

**Waiver:** Upon motion by either party, a judge may allow expert testimony on the appropriate standard of health care by a witness who does not meet the requirements, but who is otherwise qualified as an expert witness, upon a showing of extraordinary circumstances and a determination that the motion serves the interest of justice.

**Administrative:** In an action against a hospital, or other health care or medical facility, an expert can only give testimony on the appropriate standard of care as to administrative or other nonclinical issues if the expert has substantial knowledge, by virtue of his or her training and experience, about the standard of care among hospitals, or health care or medical facilities, of the same type as the hospital, or health care or medical facility, whose actions or inactions are the subject of the testimony situated in the same or similar communities at the time of the incident.

N.C. R. Evid. § 8C-1,8C-1702

N.C. Gen. Stat. Ann. § 8C-1,§ 8C-1,8C-1 Rule 702

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>North Dakota</b>	No specific requirements. General qualifications for experts are governed by N.D. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Ohio</b>	<p>(1) Licensed to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery by the state medical board or by the licensing authority of any state; (2) Devotes three-fourths of their professional time to the active clinical practice of medicine or surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, or to its instruction in an accredited university; (3) Practices in the same or a substantially similar specialty as the defendant (an expert in one medical specialty cannot testify against a health care provider in another medical specialty unless the expert shows both that the standards of care and practice in the two specialties are similar and that the expert has substantial familiarity between the specialties).</p> <p><b>Specialists:</b> If the person is certified in a specialty, the person must be certified by a board recognized by the American board of medical specialties or the American board of osteopathic specialties in a specialty having acknowledged expertise and training directly related to the particular health care matter at issue. Ohio Rev. Code Ann. § 2743.43 (West)</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Oklahoma</b>	To determine whether an expert is qualified, the court considers whether, at the time the claim arose or at the time the testimony is given, the expert: (1) Is licensed to practice medicine OR has other substantial training or experience, in any area of health care relevant to the claim; (2) Is actively practicing or retired from practicing health care in any area of health care services relevant to the claim. The court may depart from these criteria if, under the circumstances, if there is good reason to admit the expert’s testimony. Okla. Stat. Ann. tit. 63, § 1-1708.1i
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Oregon</b>	No specific requirements. General qualifications for experts are governed by Or. Rev. Stat. Ann. § 40.410 (West). An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Pennsylvania</b>	<p>(1) Possess an unrestricted physician’s license to practice medicine in any state or the District of Columbia; (2) Be engaged in or retired within the previous 5 years from active clinical practice or teaching.</p> <p><b>Physician’s Standard of Care:</b> In addition to the previous 2 requirements, an expert testifying as to a physician’s standard of care must also: (1) Be substantially familiar with the applicable standard of care; (2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except that the court may waive this requirement for an expert testifying on the standard of care for the diagnosis or treatment of a condition if: (a) the expert is trained in the diagnosis or treatment of the condition or (b) the defendant physician provided care for that condition and such care was not within the physician’s specialty or competence; (3) If the defendant physician is certified by an approved board, the expert must be board certified by the same or a similar approved board, except that a court may waive the requirement if the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of: (a) Active involvement in or full-time teaching of medicine in the applicable subspecialty or (b) A related field of medicine within the previous five-year time period.</p> <p><b>Waiver:</b> If the court determines that the expert is otherwise competent to testify about medical or scientific issues by virtue of education, training or experience. 40 Pa. Stat. Ann. § 1303.512 (West)</p>

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Rhode Island</b>	(1) Qualified by knowledge, skill, experience, training, or education as an expert in the field of the alleged malpractice R.I. Gen. Laws Ann. § 9-19-41 (West)
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>South Carolina</b>	<p>(1) Licensed by an appropriate regulatory agency to practice his or her profession in the location in which the expert practices or teaches; (2) Either: (a) Board-certified by a national or international association or academy which administers written and oral examinations for certification in the area of practice or specialty about which the opinion on the standard of care is offered; OR (b) Has professional knowledge and experience in the area of practice or specialty in which the opinion is to be given as the result of having been regularly engaged in either: (i) Active practice of the area of specialty for at least three of the last five years immediately preceding the opinion, (ii) Teaching of the area of practice or specialty for at least half of his or her professional time as an employed member of the faculty of an educational institution which is accredited in the teaching of his or her profession for at least three of the last five years immediately preceding the opinion; or (iii) Any combination of the active practice or teaching that meets the requirements of (i) and (ii) for at least three of the last five years immediately preceding the opinion.</p> <p>However, if the expert does not meet these requirements, the court may allow him or her to testify if the expert has scientific, technical, or other specialized knowledge which may assist the trier of fact in understanding the evidence and determining a fact or issue in the case, by reason of the expert’s study, experience, or both. The statute specifically lists professions that it applies to, including architects, attorneys, doctors, etc. <u>See</u> S.C. Code 1976 § 15-36-100 (G).</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>South Dakota</b>	No specific requirements. General qualifications for experts are governed by S.D.C.L. § 19-15-2. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Tennessee</b>	<p>(1) Licensed to practice in Tennessee or a contiguous bordering state; (2) In a profession or specialty which would make the testimony relevant to the issues in the case; (3) If the expert is testifying for the defendant as a rebuttal witness, the expert must have practiced his or her profession or specialty in Tennessee or a contiguous bordering state during the year preceding the incident.</p> <p><b>Waiver:</b> The court may waive these requirements when it determines that an appropriate witness is not available. Tenn. Code Ann. § 29-26-115 (West)</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Texas</b>	<p><b>Testimony Regarding Whether a Physician Departed from the Accepted Standard of Care:</b> (1) Physician, meaning either: (a) Licensed to practice medicine in any U.S. state; or (b) Graduate of a medical school accredited by the Liaison Committee on Medical Education or the American Osteopathic Association (but only if the expert is testifying for the defendant and his or her testimony relates to that defendant’s standard of care, the alleged departure from that standard of care, or the causal relationship between the alleged departure from that standard of care and the injury, harm, or damages).</p> <p>(2) Practicing medicine at the time of the testimony or was practicing medicine at the time the claim arose. “Practicing” includes, but is not limited to: (a) Training residents or students at an accredited school of medicine or osteopathy; (b) Serving as a consulting physician to other physicians who provide direct patient care.</p>

(3) Has knowledge of accepted standards of medical care for the diagnosis, care, or treatment of the illness, injury, or condition involved. In making this determination. The court will consider: (a) Board certification or other substantial training or experience in an area related to the claim; (b) Actively practicing medicine relevant to the claim.

(4) Qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of care.

The court may depart from these requirements if, under the circumstances, there is a good reason to admit the expert's testimony. Tex. Civ. Prac. & Rem. Code Ann. § 74.401 (West)

**Testimony Regarding Whether a Healthcare Provider Departed from the Accepted Standards of Care**

(1) Practicing health care in a field of practice that involves the same type of care or treatment, if the defendant health care provider is an individual, at the time the testimony is given or at the time the claim arose

(2) Has knowledge of accepted standards of care for health care providers for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim

(3) Qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of health care. The court will consider whether at the time of the testimony or the time the claim arose, the expert: (a) Is certified by a licensing agency of one or more U.S. states or a national professional certifying agency, or has other substantial training or experience, in the area of health care relevant to the claim; and (b) Is actively practicing health care in rendering health care services relevant to the claim.

The court may depart from these requirements if, under the circumstances, there is a good reason to admit the expert's testimony. Tex. Civ. Prac. & Rem. Code Ann. § 74.402 (West)

**Testimony About the Causal Relationship Between the Injury, Harm, or Damages Claimed**

(1) In a suit against a physician or health care provider, the expert must be a physician

(2) In a suit against a dentist, the expert must be a dentist or physician

(3) In a suit against a podiatrist, the expert must be a podiatrist or physician. Tex. Civ. Prac. & Rem. Code Ann. § 74.403 (West)

**Requirements To Testify as an Expert Witness in a Medical Malpractice Case in Utah**

A healthcare provider who signs the required affidavit of merit must: (1) Hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state in the same specialty or of the same class of license as the respondents (unless they are a licensed physician); (2) If one respondent is a licensed physician or osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state to practice medicine. Utah Code Ann. § 78B-3-423 (West):

Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Vermont</b>	No specific requirements. General qualifications for experts are governed by Vt. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Virginia</b>	<p>(1) Physician or nurse licensed to practice in Virginia; (2) Knows the statewide standard of care in the specialty or field of medicine in which he or she is qualified and certified. The standard of care in the locality where the alleged act or omission occurred may be applied if it is shown to be more appropriate than a statewide standard. Physicians and nurses licensed in Virginia are presumed to know the standard. This presumption also applies to: (a) Physicians licensed in any other U.S. state, provided that they meet the educational and examination requirements for licensure in Virginia and (b) Nurses licensed in any other U.S. state participating in the Nurse Licensure Compact; (3) Active clinical practice in either the defendant's specialty or a related field of medicine within one year of the date of the alleged act or omission.</p> <p>These requirements apply to experts testifying on the standard of care as it relates to professional services in nursing homes. Each party can call no more than 2 expert witnesses per medical discipline, but the court may allow additional witnesses if good cause is shown. Va. Code Ann. § 8.01-581.20 (West)</p>
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Washington</b>	No specific requirements. General qualifications for experts are governed by Wash. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>West Virginia</b>	(1) Possesses professional knowledge and expertise as well as knowledge of the applicable standard of care; (2) Maintains a current license to practice medicine with the appropriate licensing authority in any U.S. state; (3) License has not been revoked or suspended in the past year in any state; (4) Engaged or qualified in a medical field in which the expert has experience and/or training in diagnosing or treating injuries or conditions similar to those of the patient; (5) Devoted, at the time of the incident, 60% of his or her professional time annually to either:(a) Active clinical practice in his or her medical field or specialty or (b) Teaching in his or her medical field or specialty in an accredited university. These requirements create a rebuttable presumption of qualification. W. Va. Code Ann. § 55-7B-7 (West)
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Wisconsin</b>	No specific requirements. General qualifications for experts are governed by Wis. Stat. Ann. § 907.02 (West). An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.
Requirements To Testify as an Expert Witness in a Medical Malpractice Case in <b>Wyoming</b>	No specific requirements. General qualifications for experts are governed by Wyo. R. Evid. 702. An expert must possess scientific, technical, or other specialized knowledge that will help the trier of fact to understand the evidence or to determine a fact in issue.

**\*\*\*About SEAK, Inc.\*\*\***

SEAK is [The Expert Witness Training Company](#). We have trained many thousands of expert witnesses since 1990. Our services include:

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- Interactive, hands-on [expert witness training seminars](#).
- [Onsite customized expert witness training](#) for clients such as the FBI, IRS, SEC, FAA, Secret Service, NYPD and Department of Defense as well as Fortune 500 Companies and numerous Boutique Consulting Firms.
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