

April 1956

Impartial Medical Testimony

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Recommended Citation

Walter R. DeForest M.D., *Impartial Medical Testimony*, 58 W. Va. L. Rev. (1956).

Available at: <https://researchrepository.wvu.edu/wvlr/vol58/iss3/21>

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IMPARTIAL MEDICAL TESTIMONY. A Report by a Special Committee of The Association of the Bar of the City of New York on the Medical Expert Testimony Project. New York: The MacMillan Company 1956. Pp. 188.

It appears to be axiomatic of life in America that a solution will sooner or later be found to any serious problem affecting the public welfare and that the application of that solution will eventually receive universal support before the problem can become permanently disastrous. This is demonstrated by what is happening in the Bar of the City of New York in clearing up the uncertainty, confusion, and waste of time resulting in the presentation of widely conflicting medical opinion in personal injury action that previously existed before the adoption of the basic principles of the Medical Expert Testimony Project by the Supreme Court of the State of New York, First Department.

The report is the account of a pilot project under which the services of independent and impartial medical experts have been enlisted in personal injury actions in the New York City Courts to aid the court in the better and quicker disposition of these cases.

From a medical as well as a legal viewpoint, here is a plan that has proven to be an effective way of dealing with the disputed medical aspects in personal injury actions which are most voluminous in the courts. The plan has advanced beyond the experimental stage and has been adopted as a regular part of the operation of the Supreme Court of the State of New York. The expense of operating the plan has been included in the court budget. The report is divided into three parts as follows:

Part I—the report of the committee on the Medical Expert Testimony Project detailing the adverse conditions that gave rise to the Project, the usual “battle of experts” that resulted, and the attendant court congestion. As the report is designed as a basic source book and practical guide in the setting up of this method, the various steps in the development of the Project have been detailed. For instance, it designates how cases are referred and selected, the conduct of impartial examination, the use of the reports and of testimony in the event of trial. It goes into the selection of type of medical claims to be referred to the impartial examiners, the fees involved, and the results that have been obtained, such as the increase in dispositions settled before trial and the lowering of costs in cases that did come to trial.

Part II was independently written, entirely from the medical point of view, by Doctor Irving S. Wright, Professor of Clinical Medicine at the Cornell University Medical College. Substantially identical conclusions were reached as in Part I, the legal point of view which was directed by Professor Delmar Karlen of the Institute of Judicial Administration of the New York University Law Center. The accomplishments may be listed as follows:

1. The Project has improved the process of finding medical facts in litigated cases.
2. It has helped to relieve court congestion.
3. It has had a wholesome prophylactic effect upon the formulation and presentation of medical testimony in court.
4. It has proved that the modest expenditure involved effects a large saving and economy in court operations.
5. It has pointed the way to better diagnosis in the field of traumatic medicine. Unlike the others listed above this accomplishment was an unexpected dividend which was not contemplated when the Project was initiated.

Part III, Exhibits for Medical Expert Testimony Project, gives essential details of the *modus operandi* and records and forms used in setting up the Project, sample fees, and a most valuable abbreviated analysis of case records with the solutions arrived at by the impartial medical panel. This section should be of great value to other bar associations and other legal organizations that would like to put a similar project in effect.

The Project is also a rather unique experience in medical-legal collaboration for the better administration of justice. It was of the essence to the Project that the panel members be physicians of the highest qualifications and standing selected solely on a professional basis. A joint committee of the New York Academy of Medicine and of the New York County Medical Society designated the panel members from the faculties of leading medical colleges and the staffs of large hospitals in the metropolitan area. Much of the success of the Project has been due to the fact that these men were indeed physicians of unusual attainments and prestige.

In general, the report shows that the Project is an excellent example of successful interprofessional cooperation. Doctors and lawyers, instead of bickering fruitlessly or merely talking about the need for cooperation, apparently worked together effectively in

solving common problems. The results in this case were better understanding among judges, lawyers, and doctors and mutual help. It was predicted that the long range effect would be increased public respect for both professions and increased public confidence in the administration of justice, besides the saving of much time and money.

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