

Integrative Medicine Consortium Expert Witness Project
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Physicians practicing integrative medicine, particularly those incorporating emerging or alternative methods of care, are at heightened risk for medical board discipline. Not only is this very damaging to these doctors and their patients, but it discourages participation by the wider medical community in useful approaches, perpetuates the minority status of IM forms of care, chills wider participation that would enhance clinical development, and encourages defense adherence to narrow, “cookbook” approaches to medicine.

Medical board cases often hinge on a debate between competing medical experts. The IM field has many highly qualified experts but it has been difficult for physicians to find and retain willing experts with the level of skill and specific backgrounds needed to prevail at hearings.

There are many reasons for this difficulty, including:

- Lack of a resource to match physicians under investigation with expert witnesses
- Lack of awareness on the part of many qualified physicians of the both the individual and community need for their services, inadequate understanding of the nature of the task
- The complexity of providing expert opinion where IM approaches overlay specialty care
- Concerns by physicians, particularly those with visible profiles, that it is risky to support physicians that state boards have identified as problem physicians
- Difficulty financing experts

Resolving these issues, and providing a wide and deep pool of capable experts, could create the following advantages:

- Assist physicians in mounting adequate defenses and help resolve individual cases; curtail costs by assessing case strength and weakness, and where possible, demonstrating a basis to encourage dismissal or settlement
- Educate state boards and raise the costs and risks of prosecution and thus accelerate the gradual improvement in the view taken by state boards of IM
- Discourage actions by sending a message that the community has matured to the point that it has organized its ability to defend itself
- Support insurance companies managing the costs of defense

This project would ideally develop into, and along with the following:

- As the expert witness project matures, ideally in collaboration with CACHIM or other credible organization, the expert pool can be offered to state boards as a source for contracted peer review in IM cases. Particularly given the development of the ABOIM/AAPS certification, the maturity of the field and the credibility of a desire for self-regulation could be particularly credible at this point
- Ideally, the expert witness pool would be combined with improved physician preventive legal education to avoid mistakes that result in board complaints and help prepare to defend board investigations, along with significant adoption of Fairways administrative defense coverage.

The foursome of preventive legal education, an expert witness pool, administrative defense coverage, and contracting experts to state boards has the potential to alter the legal landscape, and thus the nature of clinical practice.

Project development requires addressing the following:

Expert Recruitment

- Develop conference brochures/materials, FAQs, and video for recruitment and fundraising from target audience; reasons to enroll, the need for a broad and deep pool of experts; the nature, risks and benefits of expert testimony.
- Develop survey/brochure targeting possible sources of experts (IMC and CACHIM members, IM training programs, etc.)
- Work with IMC member and other professional organizations to recruit experts
- Work with attorney colleagues to identify experts used in previous cases
- Survey physicians with board history to collect their recommended experts
- Survey educational and institutional resources for possible experts
- Work with TASA and other expert witness resources; allow greater expert exposure and allow experts to accumulate experience and credibility working on both sides of cases
- Co-market Fairway Admin Defense policy and expert recruitment and fundraising

Expert Training

- Determine available training materials for expert consulting, testimony
- Develop training materials and FAQs specific for IM expert witnesses
- Provide training in person or on-line
- Tap physicians with expert witness experience to train, along with attorneys, experts in successful case assessment, report writing, testimony, and management of expert consulting as a side business

Expert Matching/Access

- Finalize format for expert listings (content, nature of web access, etc.)
- Finalize methods of publicizing expert pool and means of facilitating matches
- Draft listing agreement between expert and IMC to protect IMC from direct or vicarious liabilities for expert conduct

Publicity about Availability of Expert Pool

- Determine sensitivity about and means of publicizing expert pool
- Inform attorneys, professional organizations, others about pool

Budgeting/Funding

- Develop proposed budgets for the near-term, mid-term, and fully operational budget
- Obtain “internal” funding from member organizations and physician members
- Possible funding (matching grants?) from vendors, individuals, organizations
- Possible listing fees to experts and (voluntary?) access fees to consumers?

Fairway Relationship

- Agreement about funding/contributions based on admin defense sales
- Conference presentations sponsorships
- Collaboration on expert and preventive legal training

Relationships with Other Stakeholders and Resources

- Consider role for other attorneys in IM field
- Obtain participation of CACHIM, other organizations and institutions
- Address differences in practice philosophy and clinical approaches that could create barriers to participation and collaboration

Project Management

- Manage legal aspects of project (Dumoff)
- Manage IT aspects
- Manage expert retention, listing and access other aspects of program

Web/IT Support for Project

- Portal access for expert pool
- Portal access for training

Future Development and Collateral Projects

- Virtual meeting/sharing among experts and community to respond to clinical issues
- Contracting source for professional board review
- Preventive legal training for physicians

Dumoff Services and Payments

I see my role as the principal author of proposals adapted to various audiences and training materials. I see my role as also working with IMC principals, Nita and others on the budget, work with stakeholders and resources to develop the project, agreements with Fairway, contacts with other expert listing services, potential experts and similar activities as needed. I see others as taking primary responsibility for implementing and moving some of these activities forward, web and data development, listing experts, and so forth. I hope to minimize travel, so hope to do recruitment and deliver training either by (private portal?) webcasts or through others.

Proposed IMC Project Funding

In order to move past the Catch-22 imposed by the need to raise initial funds to cover fundraising efforts, the Expert Witness ad hoc committee is proposing that IMC fund the following effort. In addition to accelerating fundraising directly with IMC individual members via their

organizations, a modest investment would allow the completion of project proposals for Fairway and other funders as well as recruitment of additional listed experts.

Beginning as of July 1, 2014:

Month 1 Development of a full proposal targeting Fairway, IMC member organizations and individual donors - Alan Dumoff (Nita will assist) \$2500

Month 2 Development of conference materials including brochures, handouts and video to both educate and market the program to attract expert witness participants. Alan and committee (Nita will assist) \$1500

Month 3 Develop initial training materials, written and video, for the Expert Witness program for recruited participants. \$1000