1.1 Principles of Courtroom Testimony
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Learning Objectives

At the end of the presentation, participants will be able to:

1. Explain the pre-testimony preparatory procedures and activities.
2. Describe the sequence of events that constitute oral testimony.
3. Describe and explain the purpose of each of the three (3) component steps of oral testimony (examination-in-chief, cross-examination and re-examination).

Abstract

Forensic medicine training is non-existent in most modern medical curricula. For many medical graduates, there was no formal training on the structure and function of the judicial system and courts. Generally, no courtroom testimony training is provided for undergraduate medical students, interns and post-internship doctors, even at postgraduate level, although some medical disciplines place the practitioner at a greater risk of being called to court as a witness (either professional or expert witness) such as forensic pathologists, child protection pediatricians, surgeons, emergency medicine physicians and psychiatrists. Possessing a medical degree does not automatically confer the ability for doctors to write excellent medicolegal reports and appear in court as excellent witnesses who can deliver valid, credible and judicially beneficial oral testimony to assist the trier of fact (judge or jury) in their deliberations.

Most medical doctors are clueless as to their expected role as either a professional or expert witness in a judicial proceeding when called to testify. However, it is generally assumed that doctors are intelligent enough to deliver appropriate oral testimony in legal proceedings to the same high standard that is expected in their clinical practice but this is a fallacy. Most doctors become petrified at the thought of having to testify in a legal proceeding, be it an inquest, preliminary hearing, criminal trial, civil litigation matter or otherwise. Their anxiety and mental anguish increase exponentially when that
doctor’s professional conduct or clinical expertise is the subject of the legal proceeding as can occur in their defence of civil suits against them.

This presentation will (i) review the types of scenarios and courts where the delivery of oral testimony can be required of doctors, (ii) enumerate the reasons why formal courtroom testimony training for medical doctors is necessary and (iii) review the classification of witnesses, evidence types, burden and standard of proof and (iv) provide an overview on the format of courtroom training that the presenter has developed, introduced and delivered successfully for postgraduate residents in anatomical pathology and various faculty members of the Faculty of Medicine, University of Ottawa, with expansion to other professionals such as staff of the St Lucia Forensic Science Laboratory.

The principles of courtroom testimony training which will be presented are applicable to any medical practitioner and other categories of professionals who can be called to testify either as professional or expert witnesses.