

**THE MENTAL HEALTH EXPERT WITNESS IN COURT:**  
**ISSUES REGARDING MENTAL HEALTH PROFESSIONALS**  
**AND**  
**TRIAL PREPARATION AND TESTIMONY**

*Multidisciplinary Training*  
*KwaZulu Natal*  
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Presented by:

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**I. Pre-trial Preparation**

- 1. Consulting/Examining/Treating Professional**
  - a) What is your role/involvement?**
  - b) Differences in approach**
  - c) Why are you being called?**
  - d) What can you testify to?**
  - e) Fact Witness v. Expert Witness**
  
- 2. Expert's Opinion: How is it Formulated?**
  - a) History/Reporter of allegations**
  - b) How much do you need to know?**
  - c) When do you need to know it?**
  - d) Who do you get it from?**
  
- 3. Who can be a mental health expert?**
  - a) M.D.**
  - b) Ph.D.**
  - c) Masters in Social Work (MSW)**
  - d) Certified Social Worker (CSW)**

4. **Records/Notes**
  - a) What do you include?
  - b) What do you omit?
  - c) Issues of Confidentiality
  
5. **Personal background/bias/prejudice**
  - a) Your C.V.: In Order or Inaccurate?
  - b) Are you neutral and professional?
  
6. **Protocol- Is There One?**
  - a) What are they?
  - b) Which do you follow?
  
7. **Valid conflicting opinions**
  - a) How to handle valid professional disagreement
  
8. **Knowledge of the Literature**
  - a) how to present it
  - b) how not to present it
  
9. **Considering and documenting the possibility of Non-Abuse Explanations (See III.5)**

## **II. Preparation for Court**

1. **Review of depositions, trial testimony**
  - a) How much should you know about the case?
  - b) Where should you get your information from?
  
2. **Meeting with attorney to prep for trial**
  - a) preparing your testimony with the attorney calling you as a witness
  - b) What to do when contacted by the opposing attorney

- 3. Helping to educate the attorney/jury/judge**
  - a) Expert as teacher
  - b) **How to Effectively Explain Your Intervention**
- 4. Understanding the Justice system**
  - a) Criminal or Civil
  - b) Judge or jury

**III. Trial Issues regarding:**

- 1. Expert's Opinion: How best to Present it**
  - a) Effective Courtroom style
  - b) How to protect yourself in the witness box
- 2. Records/Notes: What to Bring to the Courthouse?**
- 3. How to Respond to a Subpoena**
  - a) Confidentiality Issues
  - b) What to do When You Get One
- 4. How to Handle the Issue of Your Fee/Compensation for Trial Testimony**
- 5. Consideration of "Non-abuse" causes of and explanations for behavior**
  - a) Parental Alienation Syndrome
  - b) Separation Anxiety
  - c) PTSD
  - d) Coaching/Brainwashing
  - e) Domestic Violence
  - f) Divorce/Separation
  - g) Children's Suggestibility/Credibility
- 6. DSM-IV: Does it apply?**

- 7. Interviewing Protocol- How to Present it**
- 8. Child Sexual Abuse Accommodation Syndrome:  
When is testimony regarding it relevant?**
- 9. Preparation of the child for Court:**
  - a) What should a therapist do?**
  - b) Prepare emotionally or factually?**
- 10. Professional Ethics (M.D., Ph.D., M.S.W.)**
  - a) Do you know what they are?**
  - b) Do you know where to find them?**
- 11. The Process of Disclosure**
- 12. Emotional and Behavioral Indicators: What Do They Prove?**
  - a) Preschool Children**
  - b) Latency-aged children**
  - c) Adolescents**
- 13. All or Nothing Explanations for Sexual Abuse:  
Can reasonable minds really differ?**

**IV. Favorite Cross Examination Questions and How To Handle Them**

- 1. Fee Inquiry**
- 2. Expertise of Witness**
- 3. Vary the Facts by Hypothetical Questions**
- 4. Attack on Credentials**
- 5. Concessions regarding facts and conclusions**