

## Expert Testimony in Child Abuse Cases

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School of Government, UNC-Chapel Hill

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### Typical cases involving experts

- Sexual assault
- Assault
- Child abuse
- Homicide

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### Types of experts

- Pediatric medicine
- Medicine with a specialty in pediatrics
- Child physical and sexual abuse
- Child psychiatry or psychology
- Pediatric gynecology
- Counseling behavior of sexually abused children
- Detection of child abuse and trauma

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### Types of expert testimony

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### Types of expert testimony

- Credibility or believability of the child

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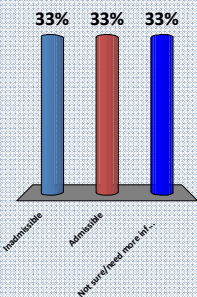
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### Problem 1

1. Inadmissible
2. Admissible
3. Not sure/need more information



Category	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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### Types of expert testimony

- Credibility or believability of the child

An expert may not offer opinion testimony concerning the child's credibility or believability.

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### Types of expert testimony

- Credibility or believability of the child

An expert may not offer opinion testimony concerning the child's credibility or believability.

Expert testifies that Child is a "truthful person."  
 Child psychologist testified that Child "had not been untruthful with her."  
 Dr. expressed the opinion that Child was "believable."

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### Types of expert testimony

- Credibility or believability of the child

An expert may not offer opinion testimony concerning the child's credibility or believability.

✗ Expert testifies that Child is a "truthful person."  
 ✗ Child psychologist testified that Child "had not been untruthful with her."  
 ✗ Dr. expressed the opinion that Child was "believable."

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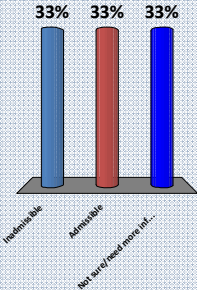
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### Problem 2

1. Inadmissible
2. Admissible
3. Not sure/need more information



Category	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info	33%

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### Types of expert testimony

- Credibility or believability of the child

An expert may not offer opinion testimony concerning the child's credibility or believability.

✓ Expert testifies that a child doesn't have a condition that would cause the child to fantasize about abuse generally.

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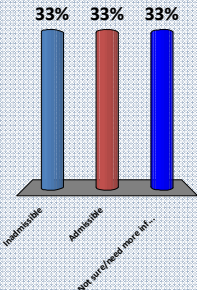
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### Problem 3

1. Inadmissible
2. Admissible
3. Not sure/need more information



Category	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info	33%

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### Types of expert testimony

- Credibility or believability of the child

Expert may not offer opinion testimony concerning child's credibility or believability.

But, evidence as to credibility may be allowed if the other side opens the door by addressing the issue on cross-examination.

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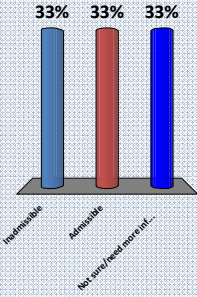
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### Problem 4

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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### Types of expert testimony

- Credibility or believability of the child

Expert may not offer opinion testimony concerning the child's credibility or believability.

But evidence as to credibility may be allowed if the other side opens the door by addressing the issue on cross-examination.

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### Types of expert testimony

- Testimony that sexual abuse in fact occurred

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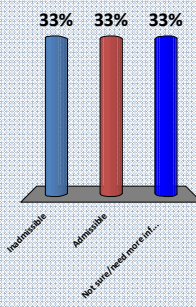
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### Problem 5

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info...	33%

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### Types of expert testimony

- Testimony that sexual abuse in fact occurred

Expert may testify that sexual abuse occurred only if a proper foundation is laid.

To lay the foundation, there must be physical evidence consistent with abuse.

Without that evidence, the testimony is an impermissible opinion regarding child's credibility.

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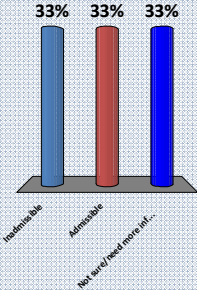
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### Problem 6

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response Option	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more information	33%

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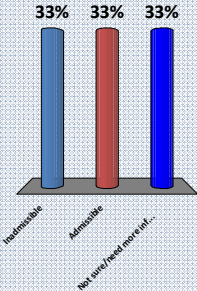
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### Problem 7

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response Option	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more information	33%

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### Types of expert testimony

- Testimony that sexual abuse in fact occurred

Expert may testify that sexual abuse occurred only if a proper foundation is laid.

To lay the foundation, there must be **physical evidence consistent with abuse.**

Without that evidence, the testimony is an impermissible opinion regarding the victim's credibility.

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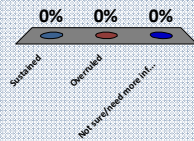
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### Problem 8

1. Inadmissible
2. Admissible
3. Not sure/need more information




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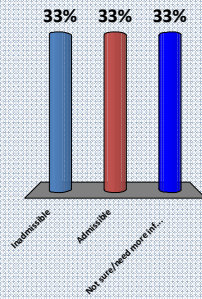
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### Problem 9

1. Inadmissible
2. Admissible
3. Not sure/need more information




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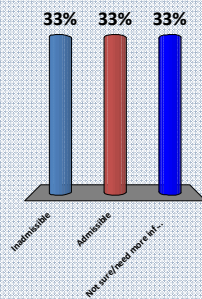
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### Problem 10

1. Inadmissible
2. Admissible
3. Not sure/need more information




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### Types of expert testimony

- Testimony that sexual abuse in fact occurred

Expert may testify that sexual abuse occurred only if a proper foundation is laid.

To lay the foundation, there must be physical evidence consistent with abuse.

Without that evidence, the testimony is an impermissible opinion regarding the child's credibility.

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### Types of expert testimony

- Testimony that sexual abuse in fact occurred

Expert may testify that sexual abuse occurred only if a proper foundation is laid.

To lay the foundation, there must be physical evidence → consistent with abuse.

Without that evidence, the testimony is an impermissible opinion regarding the child's credibility.

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### Types of expert testimony

- Testimony that sexual abuse in fact occurred
  - Evidence of physical trauma -- OK
  - Hymen not intact -- ?
  - Sexually transmitted disease -- ?
  - Behavioral manifestations -- ?

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### Types of expert testimony

- Profiles of Abused Children

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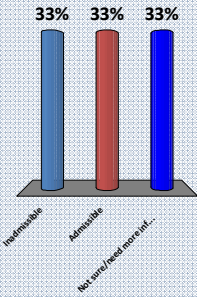
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### Problem 11

1. Inadmissible
2. Admissible
3. Not sure/need more information



Category	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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### Types of expert testimony

- Profiles of Abused Children

An expert may testify regarding the profiles of sexually abused children.

An expert may testify that child's symptoms & characteristics are consistent with those profiles.

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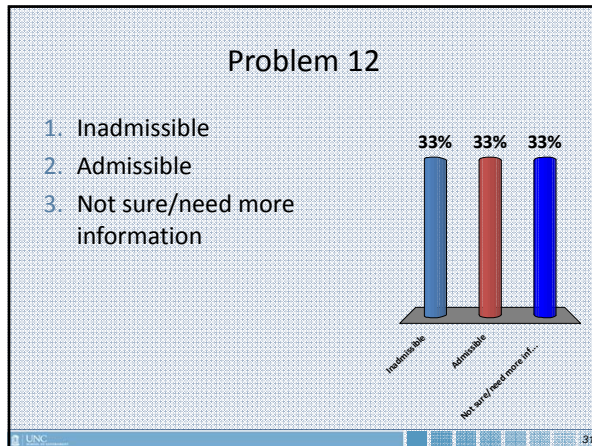
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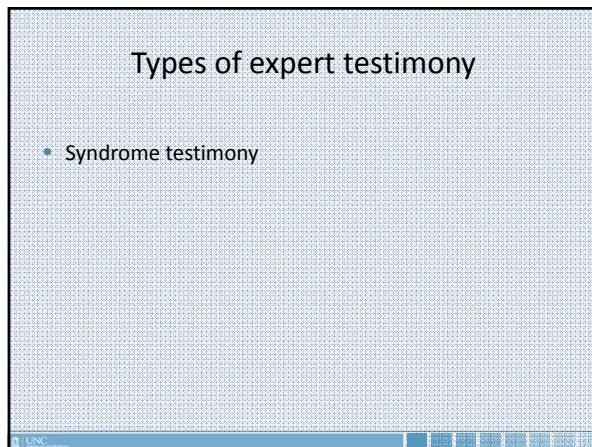
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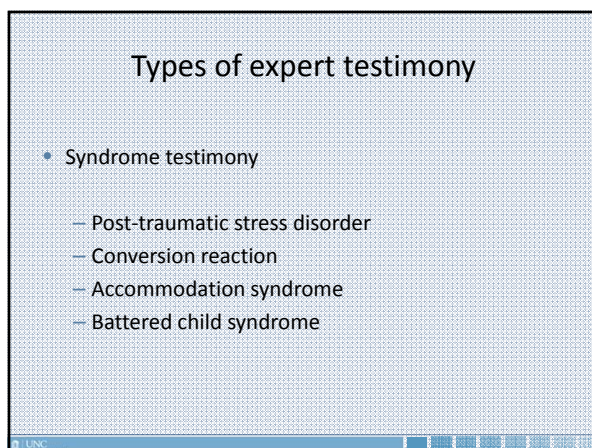
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### Types of expert testimony

- Syndrome testimony
  - Post-traumatic stress disorder
  - Conversion reaction
  - Accommodation syndrome
  - **Battered child syndrome**

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### Types of expert testimony

- Syndrome testimony
  - **Post-traumatic stress disorder**
  - **Conversion reaction**
  - **Accommodation syndrome**
  - Battered child syndrome

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### Problem 13

1. Inadmissible
2. Admissible
3. Not sure/need more information

Response Option	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more information	33%

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### Types of expert testimony

- Syndrome testimony

Evidence that child suffers from post-traumatic stress syndrome, conversion disorder, or accommodation syndrome may not be admitted for the substantive purpose of proving that abuse has occurred.

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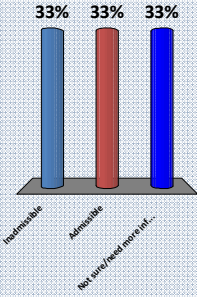
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### Problem 14

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more information	33%

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### Types of expert testimony

- Syndrome testimony

Evidence that child suffers from post-traumatic stress syndrome, conversion disorder, or accommodation syndrome may not be admitted for the substantive purpose of proving that abuse has occurred.

However, the evidence may be admitted for other purposes such as corroborating child's story, explaining delays in reporting the crime, or refuting the defense of consent.

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### Types of expert testimony

- Syndrome testimony
  - Post-traumatic stress disorder
  - Conversion reaction
  - Accommodation syndrome
  - **Battered child syndrome**

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### Types of expert testimony

- Cause of injuries

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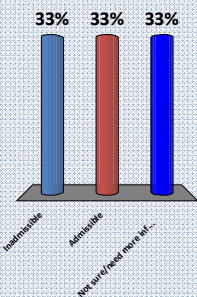
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### Problem 15

1. Inadmissible
2. Admissible
3. Not sure/need more information



Category	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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### Types of expert testimony

- Cause of injuries

An expert may give an opinion about the cause of injuries.

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### Types of expert testimony

- Cause of injuries

An expert may give an opinion about the cause of injuries.

Inconsistent with self-mutilation  
Not accidental  
Caused by a male penis  
Caused by vaginal penetration  
Caused by a foreign object

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### Types of expert testimony

- Identifying a person as the one who committed the abuse

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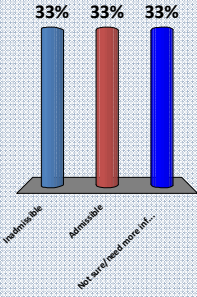
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### Problem 16

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response Option	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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### Types of expert testimony

- Identifying a person as the one who committed the abuse

Medical experts & experts in clinical psychology may not state an opinion about the identity of the perpetrator.

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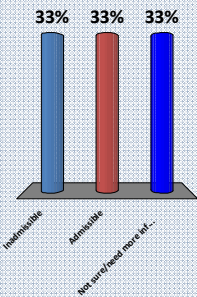
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### Problem 17

1. Inadmissible
2. Admissible
3. Not sure/need more information



Response Option	Percentage
Inadmissible	33%
Admissible	33%
Not sure/need more info.	33%

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