Expert Testimony in Child Abuse Cases

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Typical cases involving experts
• Sexual assault
• Assault
• Child abuse
• Homicide

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
Types of expert testimony

- Credibility or believability of the child

Problem 1

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

Inadmissible: 33%
Admissible: 33%
Not sure/need more information: 33%
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 a child doesn’t have a condition that would cause the child to fantasize about abuse generally.

Problem 2

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

33% 33% 33%

Problem 3

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

33% 33% 33%
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.

Problem 4

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

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.
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.
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.
Problem 8
1. Inadmissible
2. Admissible
3. Not sure/need more information

Problem 9
1. Inadmissible
2. Admissible
3. Not sure/need more information

Problem 10
1. Inadmissible
2. Admissible
3. Not sure/need more information
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.

<table>
<thead>
<tr>
<th>Types of expert testimony</th>
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<tr>
<td>- Evidence of physical trauma – OK</td>
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<tr>
<td>- Hymen not intact – ?</td>
</tr>
<tr>
<td>- Sexually transmitted disease – ?</td>
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<tr>
<td>- Behavioral manifestations – ?</td>
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</table>
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.

Problem 11

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

[Bar chart showing 33% for each category]
Problem 12

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

Types of expert testimony

- Syndrome testimony
  
  - Post-traumatic stress disorder
  - Conversion reaction
  - Accommodation syndrome
  - Battered child syndrome
Types of expert testimony

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

Problem 13

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

- Problem 14

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

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.
Types of expert testimony

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

Types of expert testimony

- Cause of injuries

Problem 15

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

33% 33% 33%
Types of expert testimony

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

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

Types of expert testimony

- Identifying a person as the one who committed the abuse
Problem 16

1. Inadmissible (33%)
2. Admissible (33%)
3. Not sure/need more information (33%)

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.

Problem 17

1. Inadmissible (33%)
2. Admissible (33%)
3. Not sure/need more information (33%)