



Testifying: Qualifying a Clinician as an Expert

The prosecutor can call a clinician to testify as a fact or an expert witness. If a clinician is called as a fact witness, the prosecutor will only ask questions about patient care and treatment provided. However, clinicians will typically be called and qualified as expert witnesses because they have specialized training and have significant experience performing exams.

Some jurisdictions may require the attorney to establish the clinician's expertise at a pre-trial hearing or outside the presence of the jury. As part of preparation for testimony, clinicians should ask the attorney about the process for qualifying them as an expert.

For TeleSAFE examinations, both the clinician performing the exam and the supervising clinician may be called to testify. Typically, the supervising clinician will be qualified as an expert witness to offer an opinion. The clinician performing the exam may also be qualified as an expert but will more likely testify about the victim-patient's statements and demeanor as well as about chain of custody of the evidence, i.e., evidence collection.

Establishing a clinician's expertise allows an attorney to ask the clinician's opinions, such as the significance and relevance of getting patient history, why they performed each aspect of the exam, why they did or did not attempt to collect certain evidence, the significance of the presence or absence of injury or semen, their general expertise as a forensic nurse examiner as it relates to the alleged crime, and the meaning of medical terminology. Clinicians may also testify about the victim's demeanor and some or most of the victim's statements made during the exam, though clinicians need not be qualified as an expert to do so.

To qualify as a clinician as an expert, prosecutors will ask questions that illustrate the clinician's expertise to the jury. This includes questions about SANE certification, education, experience conducting exams, and whether a clinician has been qualified as an expert before. Note that a clinician can be qualified as an expert, even if they have not been qualified as an expert in the past.



Prosecutors will typically ask questions that look like this:

- Are you certified to do the work of a Sexual Assault Nurse Examiner?
- Please describe what coursework and testing is involved in this process, including hours of coursework and clinical component.
- Is an examination administered? Is a passing score required?
- Did you successfully complete this process and obtain certification?
- Is certification required to perform your work and care for your patient as a medical professional?
- Is certification required to reach a diagnostic impression based on the medical history, history of the assault, and conduct a physical examination of the patient?
- Have you ever testified as an expert before? If so, how many times?
- How long have you worked in your position? Please describe your responsibilities.
- Have you been published in any medical journals or in other resources on topics related to your field? If so, how many times? Please tell us the titles and dates of published articles.
- What if any tests or procedures did you perform for your patient – including the collection of any samples? Are those tests and procedures standard within your profession?