



Susan De Campo

Choosing the right experts. The dilemma that we face is most experts have a biased view of their position and their ability to treat and advise.

Susan De Campo who works mainly as a Counselor in the Family Court and Personal Injuries jurisdiction counseling people who have had traumatic injuries and giving evidence in relation to their needs and in particular the amount of care that they will need in the future.

She started life as a registered nurse some 30 years ago and has post graduate qualifications in the areas of critical care, forensic mental health, loss and grief counseling and in the health industry generally. She is not aligned with any group.

Susan is regularly used as a witness on occasions usually to describe the permanent disability sustained by plaintiff and to her estimate of the care that they are likely to need in the future.

THE MOST EXPERT EXPERTS

Not unreasonably, many health professionals view their particular area of expertise in their particular field as optimal and sufficient. It may be however, that there are other related practitioners whose training and skills are a more suited to the needs of the patient. Further, where litigation is concerned, those most suited to *treating* individuals may not be the person most suited to providing expert evidence.

Where giving evidence is concerned it is prudent to choose an expert who has extensive professional experience in their field, has experience with the type of injury the injured person has and is competent within a medico-legal context. Although there are fewer claims that progress to trial these days, experts that can negotiate the vagaries of legal proceedings and communicate confidently in the witness box, are likely to serve you better. Remember however, you are dealing with medical and ancillary health practitioners. It is your responsibility to ensure they meet your needs from a legal perspective. Health practitioners will be reluctant to participate in medico-legal matters if they find the process to be coercive (i.e., they feel pressured to make a particular finding) or they do not wish their professional credibility to be unduly challenged by a “non-peer” during Court proceedings.

Medical specialists have completed at least 8 years post-graduation training in their particular field. Despite the innumerable specialists that trauma victims may receive treatment from, there are several notable groups that are likely to be involved in personal injury matters.

MENTAL HEALTH PRACTITIONERS

Psychologists generally work with those who are either mentally healthy and seek strategies for functioning in more helpful ways. Some psychologists specialise in treating people with a mental illness who require support for a chronic or long-standing condition. Psychologists also undertake psychometric testing for mental illnesses, developmental disorders and behavioural problems. Psychologists may also specialise in a specific area of psychology such as neuropsychology, organisational psychology, sports psychology or forensic psychology.

Psychiatrists are fully qualified medical practitioners who have specialised in psychiatry. They mainly treat people with a mental illness, often in the acute phase, such as schizophrenia, psychotic disorders, dissociative disorders.

Counsellors utilise the therapeutic alliance and interpersonal relationships to enable people to develop understanding about themselves and to make changes in their lives. Psychotherapists and Counsellors work within a clearly contracted, principled relationship that enables individuals to obtain assistance in exploring and resolving issues of an interpersonal, intrapsychic, or personal nature. Counsellors are more likely to work in specific areas where specialised knowledge and method are needed (e.g. marital and family counselling, bereavement counselling, school counselling, addictions counselling, HIV/AIDS counselling).

Providing Evidence

Experienced, affiliated and appropriately trained individuals in any of the above modalities are sufficiently qualified to provide medico-legal evidence. Notwithstanding this, the Courts are generally more familiar with medically trained practitioners. A particularly challenging aspect of mental health is that the so-called experts can, will and do frequently disagree. Mental health is often subjective, the diagnostic tools (eg, the DSM IV) have a subjective component to them and these tools are not culture-specific. Expert mental health professionals should have experience in the area of court report preparation, including the quantification of deficits (if they are a medical practitioner).

OCCUPATIONAL THERAPIST

Occupational therapy is a profession concerned with promoting health and well being through occupation. The primary goal of occupational therapy is to enable people to participate in the activities of everyday life. Occupational therapists achieve this outcome by enabling people to do things that will enhance their ability to participate or by modifying the environment to better support participation. Occupational therapists have a broad education that equips them with skills and knowledge to work collaboratively with individuals or groups of people who have an impairment of body structure or function due to a health condition, and who experience barriers to participation. Occupational therapists believe that participation can be supported or restricted by physical, social, attitudinal and legislative environments. Therefore, occupational therapy practice may be directed to changing aspects of the environment to enhance participation.

Occupational therapy is practiced in a wide range of settings, including hospitals, health centres, homes, workplaces, schools, reform institutions and housing for seniors. Clients are actively involved in the therapeutic process, and outcomes of occupational therapy are diverse, client-driven and measured in terms of participation or satisfaction derived from participation.

Providing Evidence

As with other experts, it is critical that the OT has had experience in the area you require. It would be unwise, for example, to obtain an expert report from an OT regarding possible alternative occupations for a brain injured client, from an OT who has primarily worked with rehabilitating amputees.

PHYSIOTHERAPIST

Physiotherapy is a clinical health science and profession that aims to rehabilitate and improve people with movement disorders by using evidence-based, natural methods such as exercise, motivation, adapted equipment, education and advocacy.

Physiotherapists study medical science subjects such as anatomy, neuroscience and physiology to develop skills and attitudes necessary for health education and prevention, diagnosis, treatment and rehabilitation of patients with physical disorders and disabilities.

All physiotherapists in Australia are required to be registered by law. Registration as a physiotherapist is only possible after completion of a 4 year university degree in physiotherapy or health sciences with a physiotherapy course.

Providing Evidence

Expert evidence from a physio will largely be around treatment issues. There are also specifically trained physiotherapists who can make determinations around the long-term prognosis of individuals with disorders such as cerebral palsy, para/quadruplegia.

ORTHOPAEDIC SURGEON

Orthopaedics is a medical speciality that focuses on the diagnosis, care and treatment of patients with disorders of the bones, muscles, ligaments, tendons, nerves and skin. These are the components of the musculoskeletal system. The variety and breadth of areas covered include: fractures and dislocations, torn ligaments, sprains and strains, tendon injuries, ruptured discs, sciatic pain, scoliosis, arthritic conditions, knee joint disease and injuries, bone tumours, muscular dystrophy, cerebral palsy and abnormalities of the fingers, toes, limbs and other skeletal structures. About one third of orthopods describe themselves as generalists whilst the other two thirds would say they specialised in a particular area of orthopaedics.

Providing Evidence

It is important to determine the area of speciality of the orthopod and ensure that his/her testimony is in accordance with this particular expertise.

NEUROLOGIST

Neurology encompasses the study of the morphology (study of structure of organisms), physiology (study of the mechanical, physical, and biochemical functions of living organism), and pathology of the human nervous system. As researchers, neurologists carry on investigative and experimental work in such areas as conductivity, embryology, and the metabolism of nervous tissue. As practicing physicians, neurologists diagnose and treat diseases that involve the nervous system. Since the brain, spine, and eye are integral part of the nervous system, the domain of neurology overlaps that of psychiatry, orthopaedics and ophthalmology. Current research is directed toward spinal cord injuries, brain tumours, reattachment of severed limbs, and the treatment of conditions generated by repetitive motions.

Patients with musculoskeletal injuries may require treatment, investigation and review from an orthopod, neurologist and pain management specialist.

Neurologists often specialise in a particular area such as NCS and EMG studies. Nerve conduction studies (NCS) test how your nerve transmits these currents to give you sensation or muscle action. The EMG (Electromyography) tests whether your muscle is working normally and will tell us whether there is dysfunction of either the nerve going to it or the muscle itself. The EMG/NCS provide information about whether the nerves and muscles are functioning normally, and what the possible and likely causes of any malfunction are.

Neuropsychology is a branch of science concerned with the relationship between brain function and behaviour. Clinical Neuropsychologists assess the changes in thinking and behaviour that may arise from any form of brain dysfunction, such as head injury, epilepsy, neurological disease and stroke, drug and alcohol disorders, learning disabilities, Attention Deficit Hyperactivity Disorder, and developmental delays. This assessment can be used to aid diagnosis, to identify cognitive strengths and weaknesses, and to measure the degree of change attributable to brain dysfunction. This information is valuable in a wide range of settings, from academic (maximising potential), legal (personal injury and competence) and rehabilitation.

Providing Evidence

Again, it is important that the area of speciality is noted and the evidence provided pertains to their area of expertise. As noted above, **there is often a significant overlap with neurologists/neurosurgeons and orthopods. Obtaining expert reports from both is useful for comparison and parity in assessment.**

Apart from the above noted health practitioners, you may also require the advices of experts in the following areas: Allergy & Clinical Immunology, Cardio-thoracic surgery, Cardiology, Clinical Genetics, Clinical Haematology, Colorectal Surgery, Dermatology, Diagnostic Radiology, Ear Nose & Throat, Endocrinology, Gastroenterology, Geriatrics, Gynaecology, Haematology, Immunology, Infections Diseases, Obstetrics, Occupational and Environmental Medicine, Ophthalmology, Oral and Maxillofacial Surgery, Paediatric Medicine, Plastic and Reconstructive Surgery, Renal Medicine, Rheumatology, Sleep Disorders, Urology, Vascular Medicine & Surgery.

For further information please contact the writer.

SUSAN DE CAMPO
MHS^t BA BC RN MQCA MRCNA MPACFA
Director, LifeCare Consultancy Pty Ltd

MENTAL HEALTH PRACTITIONERS

Psychologists, psychiatrists and counsellors all work in the area of mental health, and often work together. Unlike other areas of wellbeing where appropriately trained practitioners can treat certain symptoms, it is critical that the patient or client feels that they have a strong rapport with a mental health practitioner. To achieve an optimal outcome therefore it may be that a client/patient will need to see more than one practitioner before finding one that is “right for them”. This is not an issue of being difficult or non-compliant, rather it is one of the most important considerations in mental health maintenance. There are some significant differences between the professions in the following areas.

Services provided:

Psychologists generally work with those who are either mentally healthy and seek strategies for functioning in more helpful ways. Some psychologists specialise in treating people with a mental illness who require support for a chronic or long-standing condition. Psychologists also undertake psychometric testing for mental illnesses, developmental disorders and behavioural problems. Psychologists may choose to specialise in a specific area of psychology such as organisational psychology, sports psychology or forensic psychology.

Psychiatrists mainly treat people with a mental illness, often in the acute phase, such as schizophrenia, psychotic disorders, dissociative disorders.

Counsellors utilise the therapeutic alliance and interpersonal relationships to enable people to develop understanding about themselves and to make changes in their lives. Professional Psychotherapists and Counsellors work within a clearly contracted, principled relationship that enables individuals to obtain assistance in exploring and resolving issues of an interpersonal, intrapsychic, or personal nature. Counsellors are more likely to work in specific areas where specialised knowledge and method are needed (e.g. marital and family Counselling, bereavement Counselling, school Counselling, addictions Counselling, HIV/AIDS Counselling).

Education and qualifications

Psychologists study human behaviour in their undergraduate and postgraduate degrees before undertaking supervised experience and gaining registration. They do not have a medical degree, however many study for a similar number of years to specialise in various aspects of psychology. For example, clinical psychologists study for at least six years to attain their qualifications. They may or may not become members of the APA.

Psychiatrists have a medical degree, which involves six years of studying general medicine, followed by further study to specialise in psychiatry.

Counsellors study human behaviour at both undergraduate and postgraduate level. At the present time, PACFA requires 750 client contact hours after completion of study to register with the organisation.

Prescribing medication

Psychologists and Counsellors cannot prescribe medication. Their treatments are based on changing behaviour without medication. There is a considerable amount of evidence showing non-pharmacological psychological treatments are effective.

Psychiatrists can prescribe medication. Some combine medication with other forms of therapy.

Providing Evidence

Experienced, affiliated and appropriately trained individuals in any of the above modalities are sufficiently qualified to provide medico-legal evidence. Notwithstanding this, the Courts are generally more familiar with medically trained practitioners. It is recommended that where a client receives treatment from a psychologist or counsellor that the practitioner has some experience in the area of court report preparation.

ORTHOPAEDIC SURGEON

Orthopaedics is a medical speciality that focuses on the diagnosis, care and treatment of patients with disorders of the bones, muscles, ligaments, tendons, nerves and skin. These are the components of the musculoskeletal system. The variety and breadth of areas covered include: fractures and dislocations, torn ligaments, sprains and strains, tendon injuries, ruptured discs, sciatic pain, scoliosis, arthritic conditions, knee joint disease and injuries, bone tumours, muscular dystrophy, cerebral palsy and abnormalities of the fingers, toes, limbs and other skeletal structures. About one third of orthopods describe themselves as generalists whilst the other two thirds would say they specialised in a particular area of orthopaedics.

Providing Evidence

It is important to determine the area of speciality of the orthoped and ensure that his/her testimony is in accordance with this particular expertise.

NEUROLOGIST

Neurology encompasses the study of the morphology, physiology, and pathology of the human nervous system. As researchers, neurologists carry on investigative and experimental work in such areas as conductivity, embryology, and the metabolism of nervous tissue. As practicing physicians, neurologists diagnose and treat diseases that involve the nervous system. Since the brain, spine, and eye are integral part of the nervous system, the domain of neurology overlaps that of psychiatry, orthopaedics and ophthalmology. Current research is directed toward spinal cord injuries, brain tumours, reattachment of severed limbs, and the treatment of conditions generated by repetitive motions.

Patients with musculoskeletal injuries may require treatment, investigation and review from an orthoped, neurologist and pain management specialist.

Neurologists often specialise in a particular area such as NCS and EMG studies. Nerve conduction studies (NCS) test how your nerve transmits these currents to give you sensation or muscle action.

The EMG (Electromyography) tests whether your muscle is working normally and will tell us whether there is dysfunction of either the nerve going to it or the muscle itself.

The EMG/NCS provide information about whether the nerves and muscles are functioning normally, and what the possible and likely causes of any malfunction are.

Neuropsychology is a branch of science concerned with the relationship between brain function and behaviour. Clinical Neuropsychologists assess the changes in thinking and behaviour that may arise from any form of brain dysfunction, such as head injury, epilepsy, neurological disease and stroke, drug and alcohol disorders, learning disabilities, Attention Deficit Hyperactivity Disorder, and developmental delays. This assessment can be used to aid diagnosis, to identify cognitive strengths and weaknesses, and to measure the degree of change attributable to brain dysfunction. This information is valuable in a wide range of settings, from academic (maximising potential), legal (personal injury and competence) and rehabilitation.

Providing Evidence

Again, it is important that the area of speciality is noted and the evidence provided pertains to their area of expertise.

OCCUPATIONAL THERAPIST

Occupational therapy is a profession concerned with promoting health and well being through occupation. The primary goal of occupational therapy is to enable people to participate in the activities of everyday life. Occupational therapists achieve this outcome by enabling people to do things that will enhance their ability to participate or by modifying the environment to better support participation.

Occupational therapists have a broad education that equips them with skills and knowledge to work collaboratively with individuals or groups of people who have an impairment of body structure or function due to a health condition, and who experience barriers to participation. Occupational therapists believe that participation can be supported or restricted by physical, social, attitudinal and legislative environments. Therefore, occupational therapy practice may be directed to changing aspects of the environment to enhance participation.

Occupational therapy is practiced in a wide range of settings, including hospitals, health centres, homes, workplaces, schools, reform institutions and housing for seniors. Clients are actively involved in the therapeutic process, and outcomes of occupational therapy are diverse, client-driven and measured in terms of participation or satisfaction derived from participation

REHABILITATION PHYSICIAN



Choosing Expert Experts

AILA Insurance Law Intensive. 2007

Susan De Campo. AILA. May 2007



The thing about experts ...

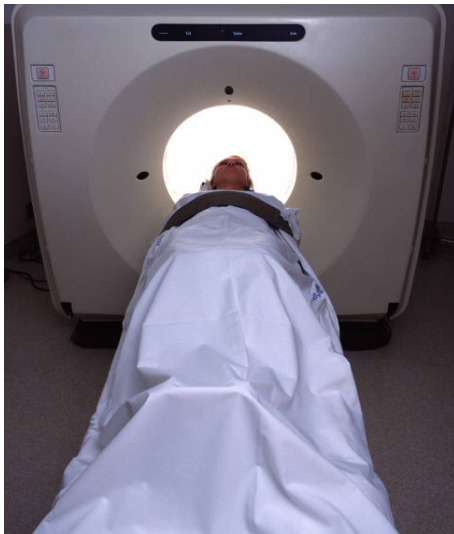
- *Every man gets a narrower and narrower field of knowledge in which he must be an expert in order to compete with other people. The specialist knows more and more about less and less and finally knows everything about nothing. (Konrad Lorenz)*
- *Even when the experts all agree, they may well be mistaken. (Bertrand Russell)*

Once upon a time, Bob the Builder was working away on Brisbane's 15th Desalination Plant ...



**BOB WAS
KNOCKED OUT
COLD WHEN HE
FELL FROM THE
THIRD FLOOR
ONTO THE TOP OF
A CEMENT MIXER.**

The following injuries were diagnosed by
Dr Jim Patella ...



- **Fractured right femur**
- **Compound fracture - right ulnar**
- **Closed Head Injury**
- **Ruptured spleen**
- **Crushed right testicle**
- **Right pneumothorax**
- **Penetrating bowel trauma**
- **Extensive facial lacerations**
- **Lacerated tongue**
- **Chipped teeth**

The treatment that Bob received at the Prince Albert Hospital was exceptional.

Bob was discharged home to the care of his wife. He received extensive rehab from the amazingly integrated discharge Health Services of Prince Albert.



Whilst semi conscious in hospital he was approached by solicitors from Milby Trisso who initiated a Personal Injury Claim on Bob's behalf. The following 2.5 years were filled with visits to various medical experts.

Bob's insurer, Mooncorp (who have unlimited investigative funds), sent him to their medical experts.



Let's review Mooncorp's company motto:

- *“He who cannot justify their opinion in a witness box, shalt not be asked to give an expert opinion”.*
- From a medico-legal perspective ideal experts are those with
 - Appropriate qualifications
 - Appropriate experience
 - Clinical expertise / highly regarded practitioners
 - Medico-legal experience
 - Professional integrity
 - Have a strong communication skills & ability to manage “court room stressors”

Bob complains of:

- Pain – TBP (total body pain – head to toe)
- Inability to focus or concentrate
- Inability to balance, run, hop, jump
- Social discomfort due to facial scarring
- Difficulty finding & pronouncing the correct word
- Difficulty breathing on exertion
- Impotence
- On-going diarrhoea & bloating
- Depression & anxiety



Bob may be assessed by:

- Orthopod
- Neurologist
- Neurosurgeon
- Gastroenterologist
- General surgeon
- Occupational therapist
- Plastic surgeon
- Psychiatrist/Psychologist
- Neuropsychologist
- Urologist
- Cardio-thoracic surgeon
- Pain Management Specialist
- Physiotherapist
- Nursing /In Home Care consultant
- Speech Pathologist
- Dentist

Who for What

<i>SYMPTOM</i>	<i>PRACTITIONER</i>
TBP / Movement difficulties	<ul style="list-style-type: none">● Neurologist● Physiotherapist● Orthopod● Pain Management Consultant● OT● Nursing Consultant
Neurological/Psychological Symptoms	<ul style="list-style-type: none">● Psychiatrist● Psychologist● Neuropsychologist● Neurologist● Nursing Consultant

Who for What

<i>SYMPTOM</i>	<i>PRACTITIONER</i>
Impotence	<ul style="list-style-type: none">● Urologist
Dyspnoea	<ul style="list-style-type: none">● Respiratory physician● Cardiologist
Dental / expressive difficulties	<ul style="list-style-type: none">● Dentist● Speech Pathologist / Therapist
Facial scarring	<ul style="list-style-type: none">● Plastic Surgeon
GIT symptoms	<ul style="list-style-type: none">● Gastro-enterologist● General Surgeon



Why more than one opinion?

- May alter recompensable status.
- Comparison & parity.
- The bigger the picture, the better – otherwise known as “covering one’s rear in the most comprehensive manner possible”
- Best practice mandates.



Final Words

- Know about the body
- Know about treatments
- Learn about health professionals
- Learn about new developments
- Learn about fostering positive relationships with experts
 - Effective communication
 - Timely and appropriate recompense
 - Be aware of incongruence in law & medicine.