

What Do Lawyers Look for in a Vocational Expert Witness? A Comprehensive Examination of the Literature

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An overabundance of general information is available on the roles and functions of forensic expert witnesses participating in civil litigation cases. Similarly, literature exists that specifically examines the most important skills and attributes for an expert in a variety of fields retained in legal cases and specifics designated by attorneys sought when hiring experts to provide forensic testimony. However, the literature does not currently address what lawyers are looking for when they retain experts in the field of vocational rehabilitation counseling in particular as forensic witnesses. Therefore, research is needed to help rehabilitation professionals, rehabilitation counseling students, and counselor educators better understand the vocational qualifications that attorneys specifically seek when hiring forensic rehabilitation counselors to serve in complex civil litigation matters. This article addressed not only prior research that has examined this limited topic, but also forwards a prospective agenda to explore this topic further.

Rehabilitation counselors are tasked with assisting individuals that have physical, psychological, or emotional disabilities with a goal to become or remain self-sufficient, independent, and gainfully employed. Both nationally and internationally, rehabilitation counselors perform a wide range of job duties and are often employed in a variety of human service positions, with job titles ranging from Counselor, to Job Placement Specialist, Substance Abuse Counselor, Vocational Rehabilitation Consultant, Independent Living Specialist, Case Manager, Return To Work Coordinator, Disability Management Specialist, and Forensic Vocational Rehabilitation Expert, to name a few. The practice settings of these professionals may also be differentiated between the private and public sectors. This review focused on rehabilitation counselors employed in the private sector that have been retained by attorneys to offer expert consultation and forensic testimony in civil litigation cases.

In the private domain, lawyers are responsible for selecting Vocational Rehabilitation Counselors to serve as expert forensic consultants. (However, in some states, Rehabilitation Counselors may be selected by the insurance carrier or third party administrator, which will be discussed later.) Rehabilitation counselors function as vocational experts to assist in medical malpractice, personal injury, wrongful death, sexual harassment, wrongful employment termination, and

discrimination suits, among others. For instance, counsel might seek a Rehabilitation Counselor in a civil suit to determine a claimant's employment and earning capacity, monetary losses, job accommodation issues and potential reemployment needs resulting from an incident that caused a permanent disability. Forensic Vocational Rehabilitation Counselors are also retained to determine the employability and earning capacity and future vocational training needs of persons receiving spousal support to assess income replacement parameters in marital dissolution cases. While the state and federal courts have determined the basic qualifications for expert witnesses, the attorney will ultimately pre-qualify and retain the services of the most qualified vocational Rehabilitation Counselor to serve as a civil litigation expert.

Vocational experts can also be retained by insurance adjusters and employer administrators in worker's compensation matters, such as those regarding the employability and earning capacity of a worker who has sustained a permanent disability resulting from an on the job accident. Counselors also serve as vocational experts when providing testimony to the Social Security Administration to offer evidence as to whether or not a social security disability claimant is capable of working in the United States economy. In the majority of these types of cases, the Social Security Administration retains the vocational consultant

directly; however, attorneys representing the claimant may also retain a vocational expert to counter evidence produced by the Social Security Administration's hired expert.

The Literature — A Comprehensive Review

According to Beveridge et al.,

Forensic rehabilitation counseling is a distinct area of rehabilitation counseling that requires specialized training, above and beyond the standard graduate level rehabilitation counseling curricula. Despite the rapid growth of forensic rehabilitation counseling, there exists a paucity of research specifically related to this area of practice and even less research exploring how to train competent and skilled forensic rehabilitation counselors. As such, there is an imperative need within the field to start a conversation about how to provide the unique training necessary for work as a qualified forensic rehabilitation expert witness. (Beveridge, Karpen, Hadjiyane, Weiss, & Liu, 2014, p. 149)

In contributing to this “conversation,” the purpose of this research was to learn directly from attorneys what matters to them most when making the decision to retain a Rehabilitation Counselor to serve as a vocational expert.

The American Board of Vocational Experts Code of Ethics (2007) defines a vocational expert as follows: “A person who by reason of education or specialized training possesses knowledge of a particular subject area in greater depth than the public at large. The vocational expert witnesses’ role is to provide assistance to the trier of fact in identifying the effect of injury or other event on an individual’s capacity to work, earn money, and/or to maintain a quality of life” (p. 5). Therefore, the researchers hoped to compile relevant information that would accomplish the following:

- (1) Help Vocational Rehabilitation Counselors (experienced professionals and emerging students) understand the key essential qualifications and attributes needed to access this private practice specialization in forensic litigation services;
- (2) Shed light on the essential qualifications and unique characteristics required of vocational experts to help graduate rehabilitation counseling programs and counselor educators better prepare future students wishing to enter the growing field of forensic rehabilitation services.

Thirty-three citations from the literature published between the years 1978 and 2014 related to the topic of this study were discovered. Fifteen citations were generated by rehabilitation counseling professionals and the remaining 18 were from professionals outside

the field of rehabilitation and those in the legal profession. The researchers expected to find relevant information in the literature on what attorneys specifically look for when hiring vocational experts. However, after an exhaustive search, a very limited amount of information on this topic was uncovered, particularly from the attorney’s perspective.

Our literature review findings revealed that there are three components of information that need to be included in this discussion:

- (1) What rehabilitation counselors, vocational experts, professors, educators, and professionals outside of the field of rehabilitation counseling believe are important criteria for experts to possess when providing forensic vocational testimony;
- (2) What attorneys say are important criteria when hiring professionals outside the field of vocational rehabilitation, such as psychologist experts;
- (3) What the desired characteristics of forensic vocational experts are as perceived by both attorneys and vocational experts themselves.

This third topic was examined in a dissertation completed by a rehabilitation counseling doctoral student 22 years ago. In view of the late date of its publication, more current and relevant data from attorneys are clearly needed.

Literature Review Process

Our review of relevant literature for articles on this topic has been exhaustive. The researchers have poured through many databases, journals, and book sources to find information that speaks to the question of what precisely attorneys (in both civil litigation and outside of the civil litigation legal specialties) are looking for when retaining Vocational Rehabilitation Counselors.

The library databases searched to locate scholarly articles were PsycINFO (EBSCO), Academic Search Complete (EBSCO), and LexisNexis Academic Universe, to name just a few. The Professional journals surveyed included *The Rehabilitation Professional* (“Rehab Pro”), a publication by the International Association of Rehabilitation Professionals (IARP); *The Journal of Forensic Vocational Analysis*, a publication of the American Board of Vocational Experts (ABVE); *The Rehabilitation Counseling Bulletin*, a publication of the American Rehabilitation Counseling Association (ARCA); *The Journal of Rehabilitation*, a publication of the National Rehabilitation Association (NRA); and *Rehabilitation Research, Policy, and Education*, a journal of the National Council on Rehabilitation Education (NCRE). Journals outside the rehabilitation counseling field—in law, economics, life care planning, disability management, psychology, and counseling—were also reviewed.

Other sources of material were found using key words and subject index topics in Google Scholar and Google Search. The authors also reviewed the references and citations of any related or remotely related articles in the hope of finding scholarly work on this topic.

Literature Review Results

In the world of civil litigation, there exists a demonstrated need for competent rehabilitation professionals who can offer expert witness testimony on behalf of the court (Johnston, 2005; Williger, 1995). Given this need, the researchers for this study hoped to learn what attorneys are looking for when employing rehabilitation counselors—that is, what qualities, characteristics, credentials, experiences, and/or practices the attorneys deem necessary for this particular line of expert testimony.

While the literature on attorney perceptions of vocational expert witness qualifications proved sparse, abundant information exists on what professionals who are not attorneys have to say on the topic of what contributes to making someone an effective expert witness, including rehabilitation counselors, professors, and practitioners outside of the field of rehabilitation counseling (Andersen, 1979; Brodsky, Neal, Cramer, & Ziemke, 2009; Field, 2011; Field, 2014; Field, Choppa, Johnson, Fountaine, & Jayne, 2007; Field, McCroskey, Sink, & Wattenbarger, 1978; Janikowski, 1999; Johnston, 2005; la Forge & Henderson, 1990; McGaughey, 1998; Sleister, 2000; Weikel, 1986; Wolf, 1993; Younger, 2005). There also exists a breadth of information on what attorneys themselves say about the most important qualifications for certain types of expert witnesses to have, but these are experts in fields other than vocational rehabilitation (Browne, 2005; Commons, Gutheil, & Hilliard, 2010; Dattilio, Commons, Adams, Gutheil, & Sadoff, 2006; Dobrish, 2005; Fried, 2013; Riley, 2012; Sapir, 2007; Taylor, 2004; Tirella, 2006; Williger, 1995).

Only one study has been found on this topic. In his 1993 dissertation, Wolf gathered information via questionnaires from both attorneys and vocational experts on the most desirable characteristics of forensic vocational experts (Wolf, 1993). However, there is a need to collect more recent data on this topic, and Wolf, in his recommendations for further research, pointed to the need to survey more attorneys in different parts of the country, rather than just those practicing in New Jersey (Wolf, 1993).

The domains of literature delineated below were found to be most significant to the topic.

Professional perceptions of the qualifications needed to be an expert witness. The literature surveyed in this section was primarily harvested from rehabilitation counseling professionals who provided

their opinions regarding the necessary qualifications for an effective forensic vocational expert witness. Additional commentary supporting this section was obtained from professionals outside the field of rehabilitation counseling, as noted below.

The rehabilitation professional who is preparing to serve as a vocational expert must first and foremost complete a foundational level of education and training before entering the field (Field et al., 2007). Usually, this consists of at least a Master's degree (Johnston, 2005), and often a doctorate. In addition to education, there are certifications available that highlight an expert's skills in a given specialty. These, such as the more popular CRC (Certified Rehabilitation Counselor) certificate, which exists as "a way to confirm the minimally required knowledge, skills and abilities of the professional," guarantee the trier that the professional has the necessary training and at least some level of competency in the area (Field et al., 2007, p. 13). The credentials that Janikowski recommends most highly for vocational experts are the Diplomate and Fellow certifications, each of which are offered by the American Board of Vocational Experts (Janikowski, 1999). Therefore, the professional "must be qualified as an expert witness" by way of education and certification "before rendering an opinion on a case" (la Forge & Henderson, 1990, p. 457).

However, no matter how qualified or credentialed an expert may appear, it is not always the length of the Curriculum Vitae that matters most. "No certification by itself establishes the credibility of an individual purporting to be an expert," Field wrote (2007, p. 14). There is also the need to "be cautious about offering opinions outside [the expert's] sphere of competence or expertise" (Field, 2014, p. 35). An expert may know everything there is to know about a field, but if that expert testifies in the margins outside of his or her field, the testimony will no longer be considered a valid expert opinion because it is not what the person was brought into court to testify about. Weikel warns expert witnesses, therefore, to use "extreme care not to try to answer questions outside of your domain of expertise" (Weikel, 1986, p. 524).

Field (2014) has also mentioned the importance of professional associations. Membership in professional organizations, such as the International Association of Rehabilitation Professionals and the American Board of Vocational Experts, "have helped provide specialized training" through conferences and workshops, and have guided the development "of ethics and activity standards" for vocational experts (Field, 2014, p. 5). It is equally important that the professional serving as an expert keep up to date on emerging case decisions and research in the field. For example, one author concluded, "It is ideal if the expert has impressive credentials, including extensive research in the pertinent field" (Imwinkelried, 2001, p. 112).

“Generally speaking, an individual’s education, training, or experience” will prepare “the foundation for the admission of testimony” (Andersen, 1979, p. 40). However, once that groundwork has been laid, there are many more factors necessary for the expert to expect. For this reason, “A given set of criteria established by regulation . . . is still unlikely to offer a set of descriptors that can assure the ethical behavior of the expert.” The attorney, therefore, must survey the quality, characteristics, and personality of the expert (McGaughey, 1998, p. 228).

According to Field (2014), “In addition to the necessary credentials and experience, an expert “should be assessed on how well he/she speaks, appears, and is able to deliver a sense of expertise” (p. 37). Perhaps for this reason, “The [attorney] ought to seek a witness who, first and foremost, is an effective teacher” (Imwinkelried, 2001, p. 112). Indeed, a pivotally important strength for the vocational expert to display is that of communication skills, which means, in this context, “delivering persuasive messages to the audience” (Cooper & Neuhaus, 2000, p. 150). This is because “the purpose of expert testimony, as identified by law, is to present data to the trier of fact” (Andersen, 1979, p. 39). Since “technical jargon may confuse the [trier of fact]; the counselor-witness’ job is to translate knowledge based on expertise into terms the layperson can readily grasp” (la Forge & Henderson, 1990, p. 457). The professional must, therefore, know how to adapt complex ideas into a vocabulary in such a way that the trier of fact knows what the expert is saying.

Persuasion skills, the result of a combination of speaking, teaching, and presenting skills, may influence the trier of fact, so this set of skills can be a powerful force for the expert to wield. Experts “can have considerable education and advanced degrees, but if they are not seen as believable, they will not be considered effective” (Younger, 2005, p. 135). Therefore, “Vocational expert witnesses who can write and speak in a manner that is understood by the trier of fact will have more persuasion than experts who speak and write in ways that are above the understanding of the trier of fact” (Younger, 2005, p. 31).

However, it is imperative that the vocational expert be a credible source of unbiased information. The expert is not there to win the case, but to truthfully offer a professional perspective on the case information to assist the trier of fact in their decision (Imwinkelried, 2001; Johnston, 2005; la Forge & Henderson, 1990). It would be unethical for an expert to steer the ruling toward the attorney who hired them for the sole purpose of winning a case. Experts that demonstrate this type of performance are sometimes known as “hired guns,” who attorneys use to out-argue, out-do, or out-debate the competition. Since the “expert’s high credentials and high pay” can often make that person “seem like a

hired gun,” or “someone who will testify for the highest bidder” (Cooper & Neuhaus, 2000, p. 168), it may often be more favorable for an expert not to charge an exorbitant amount. Regardless of what side or party is retaining the expert, this witness “must be 100% objective and honest. They are there only to state the facts and can do nothing to ‘help’ the client or attorney who has retained them” (Weikel, 1986, p. 523).

Credibility, a necessary strength for the expert to exhibit, is also influenced by whether their total cases are proportionally divided between plaintiffs and defendants. “Typically, credibility is challenged by questions of bias (e.g., the split of the expert’s work between plaintiff and defense) and the fees charged for services” (Sleister, 2000, p. 123). If an expert is always favoring one side, that professional may appear biased toward that side, which may damage their credibility in the courtroom. Thus, “Vocational expert witnesses who present testimony for both plaintiffs and defendants are more credible than vocational expert witnesses who present testimony for only one side” (Younger, 2005, p. 36). As la Forge and Henderson emphasized, “It is important to go to court as educator rather than as client advocate” (la Forge & Henderson, 1990, p. 458).

An expert, upon completion of training and education, can never just idly sit by and assume expertise on a subject since, according to Field (2014), “Much more credibility is given to the expert who is in a constant state of preparation, i.e., researching, writing, and [partaking in] relevant professional activities” (p. 35). It is also important to “have a well-rounded, up-to-date knowledge of, and experience with, industrial and occupational trends and local market conditions” (Field et al., 1978, p. 20). At the same time, the humility of accepting that one does not know everything and the continued pursuit of learning may boost the level of trustworthiness of the professional.

Credibility may also be established by the expert’s character, which is displayed in the expert’s demeanor, attitude, and appearance in the courtroom. In their study of juror perceptions of experts, Brodsky, et al. (2009) discussed the importance of likability in terms of the expert’s “degree of smiling, use of we or us in reference to groups, absence of arrogant responses, and maintenance of good eye contact” (p. 527). In addition, triers want witnesses who remain “cool, relaxed, and comfortable throughout the proceedings,” being sure to “look at the attorney asking the question and then turn and look at the [trier of fact] while responding” (la Forge & Henderson, 1990, p. 458). The trier of fact will feel more included when the expert addresses testimony to them. This helps establish trust, conveying that the testimony is not just a verbal exchange between the expert and the attorney.

In 2005, Younger summarized 20 common traits associated with effective expert witnesses found in the lit-

erature, as noted by rehabilitation counselors and other professionals, as follows:

Knowledge, education, and training;

- Experience;
- Investigative abilities;
- Ability to render an objective opinion;
- Credibility;
- Ability to provide consistent testimony;
- Education, certifications, and licensure;
- Continuing education;
- Practical work experience;
- Communication skills;
- Professional credibility;
- Ability to conduct a vocational evaluation;
- Ability to provide case management;
- Knowledge of the psychosocial aspects of disability;
- Provide job development and job placement, vocational and therapeutic counseling, and consultation;

Knowledge of the *Dictionary of Occupational Titles* (1991) and its supplements, with particular emphasis on job requirements, job duties, occupational skills, physical demands, working conditions, and occupationally significant characteristics;

- Knowledge of transferability of skills and worker traits and functions;
- Ability to observe and evaluate personal characteristics, educational level, and past relevant work;
- Current knowledge of industrial and occupational trends and local labor market conditions and experience in these areas;
- Ability to present client information and conclusions in written and oral form so that various parties can obtain a clear understanding of the client's vocational status (Younger, 2005).

Younger (2005) further listed responses from 346 vocational experts surveyed who ranked the most important traits of "Effective Rehabilitation Experts" in order of importance as follows:

- Credibility
- Objectivity
- Honesty
- Integrity
- Preparation before Trial
- Analytical Ability
- Prior Experience

- Consistency in Testimony
- Ability to Persuade Others
- Education
- Teaching Ability
- Investigative Ability
- Public Speaking Ability
- Writing Ability
- Physical Attractiveness

The foregoing list of important traits generated by rehabilitation counselors in 2005 offers excellent insight relating to this topic. However, the absence of attorney input concerning forensic rehabilitation counselor's qualifications and the fact that this study was conducted 10 years ago is cause for further investigation.

Attorney perceptions in qualifying expert witnesses in general. Our extensive review of the literature produced no current information about what attorneys seek when selecting rehabilitation counselors as expert witnesses. The 22-year-old dissertation study relating to this topic will be discussed in greater detail below. The authors did find abundant information about attorney perceptions when hiring expert witnesses in general for retention purposes. The attorney literature paralleled some of the professional/Rehabilitation Counselor perceptions of the qualifications needed to be an expert, such as having the proper education, training, experience, credibility, and communication skills. In the attorney literature, "teaching skills" were also emphasized as an ingredient needed for expert testimony success.

The authors in the legal professions shared a preference for foundational qualities. For instance, "To testify as an expert, the witness must be 'qualified'; that is, the court must be convinced that the witness possesses knowledge, skill, experience, training, or education that will assist the trier of fact to understand the evidence" (Williger, 1995, p. 141). While presentation skills are required, without the necessary qualifications, they are of little use. An expert witness is a witness who possesses specialized "knowledge, skill, practical experience, training, education, or a combination of these factors" beyond that of the average person, and the witness must know "underlying methodology and procedures employed and relied upon as a basis for the opinion" (Sapir, 2007, p. 3). The expert can expect that this information will be requested by the attorney during a routine examination (Commons et al., 2010).

Upon examination, the expert must resist the temptation to exaggerate professional qualifications. A trustworthy response, in other words, is more important than an overly impressive curriculum vita. "A 'harmless' embellishment of qualifications might help sell a

current engagement but will set up problems later” (Taylor, 2004, p. 28). For this reason, “experts should never stretch their expertise” (Browne, 2005, p. 62). If an expert includes a small exaggeration in a resume, that professional may also allow for some exaggeration in court. An opposing attorney can build an argument on this sort of event, and it can also lead to the expert’s dismissal from trial. An honest answer lends character and credibility, which is why, in some cases, it may be more important than credentials.

Attorneys, like professionals in the field of forensic vocational rehabilitation, also place much emphasis on credibility – or what Cambron calls believability. “An attorney selecting an expert must make sure that all potential biases are explored prior to finalizing the hiring of the expert. While all factors that contribute to the believability of the expert are important, the factor of impartiality is the most critical” (Cambron, 2011, p. 178). As Dobrish (2005) noted, “the reputation of any [expert] is the key factor in expert selection. The same is true of attorneys. We must all maintain our integrity . . .” (p. 20).

Attorneys also warn about the “hired gun” problem, in which expert witnesses are believed by judges, as well as juries, to be “completely non-objective and to testify to almost anything the client asks” (Browne, 2005, p. 41). As previously discussed, since an expert who has testified in hundreds of cases for one side may be made to appear partial toward that type of party in that type of case (Cambron, 2011; Dattilio et al., 2006), it is important, even when this is falsely assumed, that experts testify for a variety of positions in cases that touch on their area of expertise.

Tirella (2006), a senior attorney from Tampa, FL, offered four criteria that he feels would make an individual a competent expert witness when retained by an attorney. These criteria include the following: (a) be a practitioner in the field, as an occupation, profession, or technique; (b) be published in periodicals or books; (c) be a professor; and (d) have presentation skills (Tirella, 2006). First, Tirella explained, it is crucial that the expert witness be a practitioner in the field in which they are testifying. That is, the individual should have practical first-hand experience so that they know what they are talking about. “Expert witnesses who possess practitioner experience have an advantage in testifying before a jury because they routinely perform the very procedure or practice that is being questioned in the litigation” (Tirella, 2006, p. 65). While education is essential as a foundation for establishing expertise, some knowledge should also “come from practical, working experience in the field—not merely knowledge drawn from education” (Riley, 2012, p. 4). However, the attorney must consider more than the experience of experts. “Selecting a testifying expert requires evaluation of not only the

expert’s knowledge and skills, but also the expert’s witness potential” (Fried, 2013, p. 9).

In addition to education and experience, attorneys suggested that experts strengthen their professional identity through publishing. According to Tirella’s second suggestion, one who has published “peer review[ed] professional journal articles, chapters in texts, or books will have a strong working knowledge of all published opinions and counter opinions on the area in question,” lending “authority and veracity” to their testimony (Tirella, 2006, p. 65). Publications “may reveal an expert’s knowledge in a particular subject area” (Fried, 2013, p. 17) and may also get the name of the expert out to attorneys who are searching journal databases for knowledgeable experts to potentially hire for their cases (Cambron, 2011).

The third domain on which Tirella places importance is that of teaching, particularly as a professor. “Such a witness” with teaching experience “will be able to explain [relevant] issues and opinions in a clear and concise manner that is ideally suited for a courtroom presentation” (Tirella, 2006, p. 65). Since an expert witness is retained in order to “teach” the jury and/or judge, Tirella says that a professor will naturally have the advantage of knowing how to educate a group on a specific topic. “Remember the expert’s ultimate role is to objectively educate the court and the attorney’s goal is to win” (Taylor, 2004, p. 28).

Lastly, Tirella calls for presentation skills. This is an area that much of the literature agrees is a significant attribute of an expert witness, and, in many cases, it may be the deciding factor in choosing the expert. It has been suggested that even “the best credentialed expert may not be the best choice” in all cases (Williger, 1995, p. 143), and it may even be that “the most important quality to look for in a testifying expert is someone who presents well” (Riley, 2012, p. 3). Presentation may influence believability, likeability, and even trustworthiness. “Some of the best expert witnesses are those who can teach a complex and often technical subject to laypeople” (Williger, 1995, p. 143). Presentation skills include being “comfortable communicating on the stand without pausing or stammering and [using] straightforward terms to show the expert’s degree of certainty” (Browne, 2005, p. 61).

Complementing Tirella’s four domains, other attorneys have assembled lists of criteria that the expert witness should display. Williger suggests that experts should have “credentials, presentation, availability, endurance, sensitivity, consistency, and sincerity” (Williger, 1995, p. 143). Taylor recommends that they should be “skilled on the topic of testimony” (Taylor, 2004, p. 26). Fried suggests the need for careful consideration of “not only the expert’s qualifications and background, but also the expert’s demeanor, credibility, and ability to communicate” (Fried, 2013, p. 16).

Other sources also underscored consideration of physical attractiveness and appearance. In a study of lawyers and experts from Dallas, Texas, survey results listed qualifications/expertise, appearance/demeanor, and honesty/integrity as the three most sought after qualities of an expert witness (Champagne, 1991). "Attractiveness" includes self-presentation. As Wachtel (2012) noted in *PsychLaw Journal*, "many studies have confirmed that people in the courtroom (jurors, judges, and attorneys) considered 'professional attire' to be important in their determination of the credibility of an expert witness" (p. 1). The author continued that while "professional attire" was not specifically defined, it was safe to assume that it "means a conservative suit and tie for men and a suit for women. It seems that the best rule of thumb would be to dress like an attorney" (p. 1).

A closer "match" to rehabilitation counselors, i.e. those who are engaged in human services, was described in the dissertation completed by Browne (2005), who surveyed attorneys on what they desire in psychologists as good expert witnesses. Wachtel (2012) summarized Browne's conclusions, which were that attorneys generally ranked the following qualities as most important in order of importance:

1. Good demeanor and appearance on the stand.
2. Personal attributes of the witness.
3. Knowing the case well and being prepared.
4. Appearing objective and honest.
5. Being able to work well with the attorney.
6. Good communication skills.

Browne determined the following qualities to be most important (in order of importance):

1. Knowing the case well and being prepared,
2. Appearing objective and honest,
3. Having good integrity and a good reputation,
4. Good demeanor and appearance on the stand, and
5. Good communication skills.

Wachtel, reflecting on Browne's 2005 findings, wrote,

I find it fascinating that 'good communication skills' are important, but not as important as a number of other qualities. It seems that the data strongly supports 'being prepared' as one of the most important qualities a psychologist as an expert witness can bring to the courtroom. Being objective, prepared, working well with the attorney, and having integrity all seem to be just as (if not more) important as having good communication skills. And, apparently, attorneys may place a little too much emphasis on the appearance of the witness—although appearing is important, the data seemed to show that there are many other

qualities that are more important than what the expert witness looks like. (Wachtel, 2012, p. 7)

The literature outside the field of rehabilitation counseling has affirmed what attorneys are generally looking for when retaining expert witnesses. This leads us to the third section of our literature review, a 22-year-old study that examined this topic as it specifically related to vocational experts.

1993 Doctoral Dissertation Study

The literature confirms that the most desirable expert characteristics are some combination of professional identity, education, experience, and communication/presentation skills, but "there has been little empirical research in support of the importance of forensic vocational expert characteristics" (Wolf, 1993, p. 5). It is important in research not to explore only hearsay and secondary opinions, but to collect raw data itself, which is what Wolf set out to do in his 1992 study on attorneys and rehabilitation professionals' perceptions of vocational expert witnesses.

To determine the desired characteristics of forensic vocational experts, Wolf surveyed two groups. Both groups, 331 vocational experts registered with the American Board of Vocational Experts and 871 attorneys from the New Jersey Bar Association, were mailed a 29-item questionnaire on the various characteristics of vocational expert witnesses. The characteristics were divided into six major content areas: personal, education, specific areas of knowledge, communication, experience, and professional activities.

Wolf found that "very important" criteria for forensic vocational experts were as follows: excellent oral and written skills; doctorate degree with relevant license and/or certification; specific areas of knowledge in vocational rehabilitation, vocational evaluation, job skill transfer, and local labor market knowledge; excellent general appearance; and ability to take on a neutral/educator role before the trier of fact (Wolf, 1993). Listed as "moderately important" criteria were the following: a combination of courtroom and non-courtroom experience; professional activities of teaching, publishing, and holding professional memberships; and being of an age over forty years old. Listed as relatively unimportant was "sex." Wolf concluded, "The sex of a vocational expert is apparently relatively unimportant, with the male sex preferred over the female sex. Of all the characteristics, the female sex received the lowest mean ratings" (Wolf, 1993, p. 98).

Wolf then provided recommendations for program development in the graduate training of rehabilitation counselors seeking to work as forensic experts. He offered the following suggestions:

1. Course work in vocational rehabilitation for graduate school curricula should emphasize methods of assessing job skill transfer, techniques for vocational

evaluation, and procedures for gathering local labor market information about jobs and earnings. Additionally, non-traditional courses or seminars in labor economics and legal proceedings should be offered, possibly in association with local law schools. Knowledge and skills in these areas, accompanied by actual experience, are necessary to ensure proper forensic vocational assessment, and training programs must consider the multi-disciplinary nature of the practicing forensic vocational expert, according to Wolf.

2. Oral communication skills should be emphasized in appropriate graduate courses with a specific focus on the neutral/educator role and a powerful speech style to enhance persuasiveness. For example, in courses related to vocational counseling theory, vocational testing, and methods of vocational evaluation, students should be required to orally present the results of their assignments and be assessed on their oral presentation techniques.

3. Vocational in-service training seminars and/or graduate courses should include mock trials where vocational experts can observe and practice methods for presenting findings in neutral/educator roles and gain exposure to methods of direct and cross examination in order to improve their oral communication skills.

4. Improving the characteristics of vocational experts through formal education and in-service training to meet one of the goals of professional vocational education: that of developing competencies critical for occupational success in order to enhance career and professional development.

5. Vocational experts should obtain all relevant licenses and certifications, including certified rehabilitation counselor, certified vocational evaluator, certified insurance rehabilitation specialist, and national certified counselor.

6. Based on the increased use of forensic vocational experts and the growth of private sector rehabilitation, Wolf suggested that graduate schools should offer internships in forensic settings within the private for-profit sector of vocational rehabilitation.

7. When marketing their services to attorneys, vocational experts should emphasize those characteristics that attorneys have determined to be important, such as doctoral education, licensure and certification, teaching experience, and publications (Wolf, 1993).

Lastly, Wolf (1993) recommended further research in the following areas:

1. Civil court judges and workers' compensation referees should be investigated to understand their perceptions of desirable vocational expert characteristics.

2. Research should be conducted with jurors after trials in federal and state courts and rural and urban areas for their input on vocational expert characteristics.

3. Attorneys in other areas of the country should be surveyed to provide data on their opinions regarding vocational expert characteristics.

4. The desirable characteristics for other types of forensic experts—economists, social workers, and neuropsychologists—should also be surveyed.

5. Further research should be conducted to sample vocational experts who are not members of the American Board of Vocational Experts, such as members of the National Association of Rehabilitation Professionals in the private sector (which has been renamed, International Association of Rehabilitation Professionals).

6. Finally, research should be conducted on desired areas of knowledge pertinent to specific types of cases, such as personal injury, wrongful death, and wrongful termination.

Since the time of Wolf's 1993 dissertation, very little information has been generated concerning what lawyers specifically look for when retaining a vocational expert witness. Wolf offered excellent suggestions for further research, and these areas have received little attention over the last 22 years.

Conclusion

The strength of the available literature provides excellent foundational research and provides a broad-brush stroke to show what lawyers are generally seeking when they set out to retain an expert witness. It also provides useful information from practicing rehabilitation professionals and other specialties as to their opinions and perceptions of what attorneys are looking for when seeking forensic services.

General themes that repeatedly surfaced included the following: excellent oral and written skills; education, preferably a doctorate degree with relevant certification/licensure; specific areas of knowledge related to the expert's practical skills; generally attractive appearance (particularly with regard to grooming and dress) and a good demeanor on the witness stand; the ability to maintain a neutral educator/teacher stance before the trier of fact; courtroom experience; professional activities of teaching and publishing; honesty, integrity, and a good reputation; and holding professional memberships.

It is interesting to note that Wolf found in his 1993 study that being over the age of 40 was moderately important. Meanwhile, even though "sex" was listed as relatively unimportant, the male sex was preferred over the female sex. These criteria certainly need to be readdressed in today's marketplace of private forensic rehabilitation services.

Other obvious weaknesses in the available literature include the sparse information available concerning

what lawyers specifically look for in vocational expert witnesses and the staleness of the available data.

We did find, however, many suggestions on what might produce a great forensic expert, and reviewed the types of criteria that a Rehabilitation Counselor seeking to become an expert witness in order to be retained by an attorney is likely to be expected to meet. However, these suggestions are in need of further confirmation and investigation, especially from the lawyer viewpoint.

The authors agree with Beveridge, et al.'s 2014 findings that, "Despite the rapid growth of forensic rehabilitation counseling, there exists a paucity of research specifically related to this area of practice and even less research exploring how to train competent and skilled forensic rehabilitation counselors" (Beveridge, Karpen, Hadjiyane, Weiss, & Liu, 2014, p. 149).

This comprehensive review of the literature has established that relevant research is needed to help rehabilitation professionals, rehabilitation counseling students, and counselor educators better understand the vocational qualifications that attorneys specifically seek when hiring forensic rehabilitation counselors to serve in complex civil litigation matters. There is much further work to be done to address this distinct and emerging practice area of private rehabilitation counseling services.

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