



American Academy of Health Physics
American Board of Health Physics

Corner

Nancy M. Daugherty

Address contributions for "CHP Corner" or *CHP News* to:

NANCY M DAUGHERTY CHP
EDITOR *CHP NEWS*
511 N BERMONT
LAFAYETTE CO 80026

Home: 303-673-0283

The CHP in a Court of Law
AAHP-Sponsored Technical Session
Seattle, Washington
Wednesday, 24 July 1996
8:30 a.m.

Carol D. Berger, CHP
Past President, AAHP

And You Thought the Technical Work Was All That Mattered!

About ten years ago, I was asked to prepare an "expert report," assessing the maximum possible radiation exposure that could have been incurred by plaintiffs in a lawsuit. The dose assessments and the report writing were straightforward. As I recall, the entire process took about a week, including the time for a colleague to give my conclusions a good technical review and the time for the word processing department to prepare a flashy presentation.

What came next was truly unexpected . . . at least by me. My subsequent involvement in the case seemed to have little to do with science. When I was deposed by the attorneys for the plaintiffs, for example, little was made of the technical merits of my report. Instead, my relationship with my current employer was discussed in great detail, as was my billing rate and the fact that I was clearly an industry representative (read "hired gun") with a biased point of view. I was prepared to defend the findings in my report; I was surprised by the personal attack.

If you are asked to participate in a legal wrangling, like me, you may not know what to expect. This shouldn't keep you from participating; attorneys need health physicists to assist them in radiation-related litigation. But there is a clear advantage to learning about the legal arena before one joins in battle.

A Chance to Prepare for the Courtroom:

An excellent opportunity to learn about what it takes to swim with the lawyers is coming up in the AAHP-Sponsored Technical Session at the Seattle meeting of the Health Physics Society. The session is titled "The CHP in

a Court of Law." For this program, we are fortunate to have four excellent speakers—all of whom will provide valuable tools for practicing health physicists.

First will be Perry D. Robinson, Esq., an attorney with the law firm of Winston & Strawn. Mr. Robinson has a health physics background, in addition to law, and will provide us with insights into how to prepare for court long before the court date arrives. Mr. Robinson's presentation, "Pre-litigation Strategies," will convince us that the "wait and see" approach to gathering evidence is not well advised.

Following Mr. Robinson will be Dr. David S. Gooden, a Certified Health Physicist and an attorney who works at St. Francis Hospital, Tulsa, Oklahoma. Dr. Gooden has been there, done that when it comes to participating in the legal process. His presentation, "The CHP as an Expert in the Legal Process," will be filled with lessons learned and valuable advice, such as how and when to commit your opinions to writing, changing your opinion, and how to avoid having an attorney form an opinion for you.

After Dr. Gooden comes Michael McGarry, Esq., also from Winston & Strawn. Mr. McGarry is a distinguished litigator who will take us through the process of preparing expert reports, assisting attorneys in their own preparations, and participating in direct and cross-examination. His presentation is titled "Serving as an Expert Witness: Pre-trial and Trial Matters." He will discuss how to promote an effective health physicist-attorney working relationship.

Mr. Raymond H. Johnson, Jr., of Communication Science Institute, one of the Academy's most qualified communicators, will be the final speaker, since communications are critical in all steps of the legal process. The health physicist provides technical information to attorneys for both sides, as well as to fact witnesses, judges, and a jury. Communicating health physics concepts to lay audiences is perhaps the HP's greatest challenge. Mr. Johnson's presentation, "Communicating with Lawyers and the Jury," will help us meet that challenge.

Following the formal presentations will be a panel discussion wherein our speakers will share additional personal insights, field questions from the floor, and perhaps even ask us some questions or pose some hypothetical situations. Audience participation will be encouraged. Many of you may have specific legal issues or additional examples for discussion by the panel.

While the AAHP-Sponsored Technical Session won't prepare us fully for our day in court, it will show us what to expect. The session is open to all and promises to be well attended. Come early for a good seat! ■