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Introduction

There are numerous well-established ways for physicians to leverage their training and experience to supplement their clinical incomes. This white paper will discuss seven such areas in which SEAK, Inc. provides training and support:

- 1. Expert witnessing,
- 2. Consulting,
- 3. Writing,
- 4. File/disability reviews,
- 5. Independent medical examinations (IMEs),
- 6. Inventing, and
- 7. Life care planning.

The advantages of these endeavors are impressive and include:

- Lucrative¹
- Low start-up costs
- Low Overhead
- Relatively low risk as compared to clinical medicine²
- The ability to be home-based
- Flexible hours
- Can get up to speed fairly quickly.³

About SEAK, Inc. SEAK is an ACCME accredited continuing education company which specializes in assisting physicians who would like to supplement their clinical income or transition to a non-clinical career. For more information visit www.seak.com, www.supplementalincomeforphysicians, and www.nonclinicacareers.com, call 508-457-111 or send an email to mail@seak.com.

¹ Earning potentials are as following, **Physician expert witnesses:** Board Certified actively practicing physicians typically earn \$500 or more per hour. At 4 hours per week this is six figures. **Disability/file review consultants:** \$85–\$200 or more per hour with potential through volume for six figures. **Physician Consultants:** Varies widely depending on your niche, but a good ballpark range is \$300–\$600 per hour with a potential for high volume.

Physician Life Care Planners: Typical fees are \$300–\$500 or more per hour. These are typically time consuming assignments which can routinely result in five figure fees. **Writing:** Traditional and Self-Publishing varies widely from a nominal amount to seven figures. Freelance \$125+ per hour. **IMES:** Average exam is \$1500, physicians often perform multiple exams/day. **Inventing:** The sky's the limit.

² Professional negligence suits in these areas are rare.

³ The amount of training required to excel in these areas is nothing like the massive commitment to becoming a clinician. Usually a few days of training, not several years.

1. Expert Witnessing

Introduction: Expert witnesses are an important part of the American system of justice. The role of the expert witness is to help the judge or jury understand the evidence in the case. What this means is that, essentially, an expert witness is a teacher.

Advantages of Expert Witnessing: Expert witnessing can be extremely lucrative. Physician expert witnesses, depending upon their expertise and experience earn from a low of around \$500/hour to over \$1,000/hour. Many physician experts can earn over \$100,000 per year by devoting just one day a week to this endeavor. Top medical experts can earn over \$1,000,000 per year working part time. Expert witnessing can be challenging and fun. It is also a great learning experience. Most of the work can usually be done from a home office.

Disadvantages of Expert Witnessing: Expert witnesses will typically have their credibility, motives, integrity, and qualifications challenged by opposing parties in a case. They can be subjected to pointed questions at deposition and trial. As such, expert witnessing is not appropriate for the thin-skinned. Expert witness work is also deadline driven, so you must be comfortable working under a deadline. Travel for trials may be required if you accept cases in distant locations.

What Expert Witnesses Do: The typical things expert witnesses will be asked to do include:

- a. Reviewing medical records, depositions, and other documents
- b. Potentially examine the person in question
- c. Perform research
- d. Forming an opinion
- e. Drafting a report
- f. Consulting with retaining counsel
- g. Giving a sworn deposition
- h. Testifying at trial.

What Is Needed to Get Started in Expert Witnessing? One of the great things about expert witnessing is that you generally only need two things to get started:

- a. A Curriculum Vitae (CV) This should be drafted very carefully. Keep in mind that opposing parties will try to use against you the language you utilized in your CV to present your qualifications, experience, education, etc.
- b. Retention Contract A well drafted retention contract will prevent innumerable potential problems and make sure that you get paid. See for example <u>SEAK's Expert Witness Retention</u> <u>Contract</u> which is in use by over 2,000 experts.

The Single Most Important Key to Being a Successful Expert Witness: Expert witnessing is a reputation driven field. Word-of-mouth and repeat business results is the most important source of expert witness referrals. Successful physician expert witnesses are those who generate positive word-of-mouth. In order to generate positive word-of-mouth, an expert must excel and be responsive and easy to deal with. This includes:

- a. Exceeding the Expectations of Retaining Counsel.
- b. Answering Your Phone and Emails and Being Responsive.
- c. Being Available.
- d. Being Dependable.
- e. Having no Credibility Issues.
- f. Forming Defensible Opinions.
- g. Writing Superior Reports.
- h. Excelling at Deposition and Trial.

Getting the Word Out: There are a number of proven ways for expert witnesses to get cases (in addition to word of mouth). These include:

- a. Positioning themselves in a lucrative, growing, and underserved niche.
- b. Networking.
- c. Listing themselves in expert witness directories such as the SEAK Expert Witness Directory (www.seakexperts.com).
- d. Leveraging professional social media such as Linkedin.
- e. Speaking.
- f. Publishing.
- g. A search engine optimized website.
- h. Blogging.
- i. Directly reaching out to attorneys via email or mail.
- j. Using third party brokers or referral services such as TASA or ForensisGroup.
- k. Demonstrating leadership in a field.

The Biggest Mistakes Made in Starting an Expert Witness Practice:

a. Thinking you are not qualified because you didn't go to Harvard, haven't published a ton of articles, and your CV is only one page long. This is a common fallacy that is simply not true. Expert witnesses are judged by their experience, performance, testifying skills and street smarts as well as their

- academic background.
- b. Thinking that you are too young or too old. You don't need to wait until your 50s or 60s to get started as a Board Certified Physician you have undergone a tremendous amount of training. "Expert" for purposes of expert witnessing doesn't mean you are the most knowledgeable person in the world, it means that you have specialized knowledge that can help a jury of lay persons decide the case (see Federal Rule of Evidence 702). At the other end of the spectrum, many successful experts keep doing this work into their 80s and even beyond.
- c. Promoting a wide range of areas of expertise. Attorneys don't want a jack of all trades master of none. Casting too wide a net is often counterproductive. Consider focusing on narrower niches.
- d. Charging too little. A low ball fee may scare away clients as the client may assume there is something wrong with you if you charge too low of a fee.
- e. Not devoting enough time to your CV. An expert's CV needs to be perfect. Spend whatever time necessary and get whatever help you need to make it so.
- f. Not devoting enough time to your web presence. The first thing an attorney looking to hire you will do is to Google you. Google yourself and take a hard look at what's out there. Try to fix anything that would reflect badly on you.
- g. Thinking that there is something wrong or unseemly about advertising. This will cost you a lot of money as advertising can be a very cost-effective way of getting business. It's not the fact of advertising that gets experts in trouble, it's when experts place ill-considered language in their ads.
- h. *Crib death.* Starting to serve as an expert without getting proper training. This can lead to serious preventable mistakes that can tarnish your reputation and kill your expert witness career before if even gets off the ground.

Frequently Asked Questions about Physicians Serving as Expert Witnesses:

Q. Do I need to be a medical school professor or to have graduated from an Ivy League Medical School in order to be a successful medical expert witness?

A. Absolutely not. The vast majority of successful medical expert witnesses are neither academicians nor Ivy League graduates.

Q. What are attorneys looking for in a physician expert witness?

A. A knowledgeable professional who is responsive, easy to deal with, and can communicate well both in writing and orally.

Q. Will I have to say something I don't believe in?

A. No. The way it works is that you will be sent a chart to review and be paid to review it. If

you cannot support the position the attorney is looking for (a common occurrence) you tell the attorney that and that will generally be the end of the assignment.

Q. I only want to testify for defendants, can I do that?

A. You can, but this would make you vulnerable to attack on cross-examination as being potentially biased. The most credible and successful medical expert witnesses call cases like they see them and are available to both plaintiffs and defendants.

Q. Do I need to keep practicing or can I do medical expert witness work full time?

A. That depends. If you would like to testify in medical malpractice cases it is best that you maintain at least a part- time practice. This may be a legal requirement in many jurisdictions.

Q. Do I need to be board certified?

A. The vast majority of successful physician expert witnesses are board certified.

Q. Do I need an active medical license?

A. Generally speaking, yes.

Q. I don't want to do medical malpractice work, are there other opportunities available to me?

A. Yes, but these would depend on your specialty. For example, many physicians testify in workers' compensation and personal injury cases. There are other examples of non-medical malpractice niches as well, such as life expectancy, life care planning, product liability, and patent cases.

Getting Started with SEAK – What's at Stake: Expert witnessing can be an immensely lucrative endeavor. The physician experts SEAK works with commonly charge \$500-\$1,000/hour and often can see their earnings grow to several hundred thousand dollars per year. **Over the course of an expert's career, this can easily amount to millions of dollars in potential earnings.** This is even more impressive given that the work is often part time and work from home.

Expert witnessing is a field where your reputation is all important. Your reputation will be based on the quality of your work product (reports, testimony, etc.) as well as how easy you are to deal with. Experts who develop excellent reputations often see their practices grow exponentially. On the other hand, experts who make avoidable mistakes can destroy their reputation and kill the proverbial golden goose.

With so much money on the line it is critical that experts do a superb job and develop the reputation of a "go to" expert witness. That's where SEAK can help. We have shown thousands of physician experts how to do this work at the highest level and avoid career ending hidden pitfalls. Please see some of the testimonials we have received by <u>clicking here</u>.

Getting Started with SEAK – Recommended First Steps: To get started working with SEAK we highly recommend attending our signature "How to Start, Build and Run a Successful Expert Witness Practice" seminar - which we offer live in person or stream on demand.

For a list of upcoming expert witness training seminars, please click here.

To stream "How to Start, Build and Run a Successful Expert Witness Practice" on demand, please click here.

We recommend this program even for experts who have been doing expert witness work for some time. Numerous highly experienced experts have taken "How to Start, Build and Run a Successful Expert Witness Practice" Seminar and they universally have found it to be highly helpful.

At the end of this two-day program you will be ready to start accepting expert witness assignments.

Conclusion: The earning potential of a physician expert witness is commonly in the millions of dollars over the course of his/her career. Experts who take this endeavor seriously, do outstanding work (and gather glowing word of mouth), think long term, and maintain their moral compass are best positioned to succeed.

2. Consulting

Introduction: Consulting is a professional activity in which a physician is paid to help his/her clients solve problems. Consulting is a natural fit for physicians who are of course highly trained and experienced at problem solving. Deliverables could include teaching, training, and or advising in writing or verbally.

There are many advantages for you as a physician consultant, including:

- Lucrative You will now have the opportunity to be paid what you are actually worth⁴ instead of what some reimbursement schedule says you can charge for your knowledge, effort, training, experience and results.
- Work from Home Most physician consultants are home based.

⁴ When paid by the hour physician consultants often earn \$300-\$600/hour per hour or more. They can also be paid by the project which can translate into even higher hourly fees.

- Active Clinical Practice Not Required Depending on your niche(s), an active clinical practice is probably not required.
- Board Certification/License Not Required Depending on your niche(s), you may not even require a license or Board certification. In fact, many if not most of the physicians working at top consulting firms do not have board certification.
- **Intellectually Challenging** You will have the opportunity to work with smart, highly motivated individuals who value results and will reward you accordingly.
- **Low Overhead** One of the many great benefits of consulting is that the overhead is extremely low (maybe a cell phone, computer, home office, and maybe Errors and Omission (E & O) Insurance) so that well over 90% of your income is net to you.
- **Diversification** Having a portfolio of clients helps hedge against risk.
- Test the Waters to Transition Consulting is often an excellent way to position yourself to eventually reduce or leave your clinical practice if and when you are ready to do so. Your consulting practice may even lead to full time non-clinical employment for example a job offer by a client.

Potential disadvantages of serving as a physician consultant include:

- You need to be a self-starter You will have to promote yourself and obtain consulting assignments. There is no guaranteed income you are paid for the business you can win and bring in.
- **Feast or Famine** There are times when consultants have more work than they would prefer and others when they don't have enough work.
- You will need to find a niche for yourself Your niche can be any area where a client would be willing to pay for your assistance. There are numerous niches that physicians have consulted in. ⁵ The best niche is something you enjoy, feel passionate about and where you can add value to clients who have financial means.

⁵ Examples of some consulting niches physicians are active in are: 24 Hour Medical Monitoring; Advanced Medical Diagnostics, Affordable Care Act (ACA), Ambulatory Surgery Centers, Biopharmaceutical, Bundled Care, Business Consulting (Startups), Capital Budgeting and Planning, Care Delivery and Management, Career Coaching, Case Management, Clinical Development, Clinical Documentation, Clinical Integration, Clinical Trials, Coding, Compliance, Continuity of Care, Contracting, Cost Reduction, Credentialing, Denial Management, Disease Management, Due Diligence, Disability Consulting, E Visits, Expert Witnessing, Fair Market Value (FMV) Opinions: Health Enterprise, HIPAA, Human Resources, IMEs Informatics, Integrated Care Management, Leadership Development, Long-term Care Facilities, Marketing, Medical Affairs Consulting, Medical Devices, Medical Writing,

- You need to get comfortable asking for money, billing, and collecting your fee This can sometimes be a difficult transition as clinical physicians in the US are typically paid not by their patients, but by third party payers.
- **Sensitivity to recessions** Clients often cut back on their use of consultants during recessions.

Frequently Asked Questions about Serving as a Physician Consultant:

Q. What should I consult in/what will be my consulting niche?

A. Many successful physician consultants select a consulting niche to practice in. Any area that you bring value and help solve the problems of the clients can be your consulting niche. There are hundreds of consulting niches and many physicians actually develop new niches for themselves. Physicians traditionally select their niche based on one or more of the following factors:

- * What are they really good at
- * A niche that is aligned with their clinical expertise but also their non-medical interests, experience and expertise (e.g. hobbies)
- * An area that they are passionate about
- * A niche that helps businesses, companies, and individuals deal with/solve their problems
- * Problems that clients are willing to pay money for physicians to help solve
- * A niche in which you can get repeat business and referrals
- * A niche which permits you to meet and in some cases exceed the expectations of the client

Physicians who initially do not "know their niche" should not be discouraged from pursuing consulting. With some reflection, research, and training most physicians can find an enjoyable, successful and lucrative niche to practice in. In fact, many physicians start looking at problems they encounter in their workplace as opportunities to come up with excellent niches they truly enjoy practicing in.

Q. How will I get paid?

Medicare Compliance, Online Member Portals, Patient Access, Patient Safety, Payer Analytics and Reporting, Pharmacovigilance, Physician Benefit Management, Physician Collaborative, Physician Compensation, Physician Documentation, Physician Hospital Relations, Population Health, Practice, Procurement, Publication Planning, RAC and

A. By the job or the hour. Your fee will be 100% based upon what you negotiate with the client and will not be set by the government or an insurance company. In other words, you will be paid what you are worth.

Q. What are the startup costs?

A. Startup costs are negligible. Some business cards, a web site, and if you choose, errors and omissions liability insurance. Being able to work from home without employees or equipment beyond a computer and cell phone makes consulting a very low barrier to entry endeavor.

Q. If the consulting takes off, can I give up clinical practice all together and just do the consulting?

A. Yes, as long as your niche does not require current clinical skills.

Q. How much money can I make?

A. Physician consultants often earn more through consulting than they do through practicing as a physician. Remember that the overhead for consulting is extremely low and you are not artificially limited in charging for what you are actually worth.

Q. What is the biggest challenges facing physician consultants?

A. To be successful you need to select the right niche or niches and then be a self-starter who can go out and promote yourself and earn business. You will then need to do an excellent job to obtain repeat assignments.

Q. Can serving as a physician consultant help me transition to a full time non-clinical career?

A. Yes. The skills you learn consulting make you more valuable to employers. In addition, consulting is an excellent and low risk way to test the waters in a field before taking the plunge and leaving the practice of medicine all together.

Q. Do I need an active clinical practice?

A. No, not unless your niche requires current clinical skills.

Q. Do I need to be board certified?

A. No, not unless your niche requires specialized clinical expertise.

Q. Do I need an active medical license?

A. No, unless for some reason your clients require this.

How SEAK can help you develop a successful physician consulting practice:

We teach the following skills to help you succeed:

- How to identify the right niche(s) for your background and passions, including how to think outside of the box.
- How to turn telephone and email inquiries (nibbles) into paid assignments.
- How to build your consulting brand.
- How to find and land your first clients.
- How to properly set the scope of your assignment and achievable goals.
- How to manage client expectations.
- How to set and collect your fee.
- How to promote yourself and make rain.
- How to earn repeat and word of mouth business.

SEAK has trained many hundreds of physician consultants. We offer an annual 2-day seminar, "How to Start, Build, and Run a Successful Physician Consulting Practice." For a schedule of SEAK's upcoming live seminars for physicians, please <u>click here</u>. "How to Start, Build, and Run a Successful Physician Consulting Practice" is also <u>available to stream on demand</u>.

For questions please call 508-457-1111 or email to mail@seak.com.

3. Writing

Introduction: Writing can be a low stress and enjoyable way to earn extra money from home on your own schedule. Writing does not typically require boards, an active practice, or even a medical license. What you learn from writing can often make you a better clinician. In addition, writing can raise your profile. This can in turn help your career and lead to lucrative consulting and teaching opportunities.

There are many options to earn money as a physician writer, including:

• Freelance Technical Writing – Work for hire projects where the physician writer typically charges either by the hour or by the project. These projects are most commonly done for medical communications and biopharmaceutical companies, but there are a wide

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⁶ i.e. where the client will own the copyright to the work you produce.

variety of potential clients willing to pay for medical writing. Deliverables could include abstracts, posters, marketing materials, CME material, training material, patient education, scripts, regulatory documents, slide decks, web content and much more. Hourly fees can be \$125-\$250/hour depending on the work. There is a lot of work out there for qualified physician writers. Many MDs and DOs do this work full time and earn more than what a primary care physician often makes in full time clinical practice.

- Non-Fiction Writing Given the training, education, and knowledge of physicians and the fact that health is a relevant topic to everyone, physicians are very well positioned to publish non-fiction. There are many routes to being published including the "big 5" NY publishers⁷, smaller presses, academic presses, and self-publishing. Physicians can make money from sales of their book. Even more importantly, an "author" automatically becomes an "authority" in an area. Being an authority in an area can lead to highly lucrative consulting and teaching gigs⁸ and other career and financial benefits. Working with larger traditional publishers requires first obtaining a literary agent to represent you the big publishers do not deal directly with authors.
- •Fiction Writing Successful physician writers like former SEAK faculty members the late Michael Palmer, MD and Tess Gerritsen, MD can earn seven figure incomes. It is hard to make it big writing fiction, but can be great fun trying. Medical thrillers⁹ are an established genre, but physicians can and do write any type of fiction. To make it you will need an agent, patience, persistence, and an ability to write fiction people are willing to pay for. The big publishing houses require your obtaining a literary agent. Many authors start off today self-publishing e-books and hone their skills/build their brand that way.
- •Writing Articles You can get paid to write articles. This can be a great way to build your writing portfolio, increase your skills and establish yourself as an authority in an area.
- •Screenwriting Medical topics are popular on TV and physician screenwriters are often involved in script development.

Frequently asked questions about earning money as a physician writer.

Q. Do I need to have an agent to make money through writing?

⁷ Hachette, HarperCollins, Macmillan, Penguin Random House and Simon & Schuster.

⁸ For example, former SEAK Faculty member, the late Ken Cohn, MD who wrote a short book on hospital-staff relations thereby establishing himself as an authority in this area, and then developed a six figure consulting business to hospitals to help them with their staff relations.

⁹ Coma, The Andromeda Strain, Extreme Measures, etc.

¹⁰ Tess Gerritsen actually started her career writing romances for Harlequin.

A. Absolutely not. One of the key advantages of technical writing and self-publishing is that you do not need to secure an agent to represent you. Also, academic and some smaller presses typically don't require that you have an agent.

Q. Is self-publishing a viable option?

A. Yes. The publishing industry is undergoing a revolutionary transformation. With the rise of the internet, digital publishing technology and e-books and the rapid demise of brick and mortar booksellers, self-publishing is now a very viable alternative to earning money as a physician writer.

Q. Can I self-publish without breaking the bank?

A. Yes, although you will want to make sure that your final product is polished and professional and reflects well on you.

Q. How much can I make?

A. It depends. A successful technical writer can earn more per hour from writing than from practicing medicine. There is enough business out there to make freelance technical writing a full-time job. Successful mass market physician writers like former SEAK Faculty members Michael Palmer, MD and Tess Gerritsen, MD have earned millions of dollars from writing.

Q. Do I need an active medical license to make money as a physician writer.

A. No.

Q. Do I need an active clinical practice to make money as a physician writer.

A. No.

Q. Do I need to be board certified to make money as a physician writer.

A. No.

Q. Are there other financial advantages to writing?

A. Yes. Writing and publishing can establish you as a thought leader and lead to lucrative teaching and consulting opportunities. In addition, writing can lead to offers of full time non-clinical employment and/or help advance your clinical career.

Q. What types of projects can freelance physician technical writers be called upon to assist with?

A. Many different types of projects including: abstracts, posters, marketing materials, editing, CME material, training material, presentations/slides, proposals, regulatory documents, scripts, web content, news articles, materials for the pharmaceutical industry, and white papers.

Q. What can I write about and get paid to do so?

A. Anything that people are willing to pay for. This runs the gamut from technical writing for the pharmaceutical industry to self-help books for the general public to romance novels or thrillers.

How SEAK can help you earn money as a physician writer:

SEAK has been offering writing courses for physicians since 2000. Several thousand physicians have attended our writing training. Topics offered include "How to Earn Money as a Physician Writer," "Fiction Writing for Physicians," and "Screenwriting for Physicians." "How to Earn Money as a Physician Writer" and "Screenwriting for Physicians" are available to stream on-demand.

We teach the following skills to help you succeed as a physician writer:

- How to select non-fiction topics that you can leverage into lucrative consulting and teaching gigs.
- How to find and land the right literary agent and draft a killer query letter.
- Whether self or traditional publishing is best for you.
- How to promote yourself and your writing.
- How to determine what sells and what doesn't.
- How to get freelance writing gigs and develop a lucrative practice.
- How to be a better fiction writer, including your "what if?", hook sentences, finding your voice, character development, dialogue, and story structure.
- How to write screenplays that sell; including storytelling, the three act structure, the unified format, and story analysis.

For a schedule of upcoming in-person physician training programs please click here.

For questions please call 508-457-1111 or email to mail@seak.com.

4. File/Disability Reviews

Introduction: Reviewing charts for health and disability insurance companies (and their intermediaries such as Independent Review Organizations (IROs)) can be a great way to make extra money from home. As part of your chart review for health insurance companies, you will generally be commenting on the medical necessity for a particular treatment. For disability work, your opinions will involve whether a claimant's medical condition meets the definition of disability under the applicable policy language.

Advantages of file and disability review work: There are many advantages to this work. File reviews may be performed from home or wherever you have access to a computer and telephone. What you learn performing file reviews will make you a better clinician. Physicians who build up a loyal client base can earn \$85-\$200 (or more) per hour and over \$100,000 per year depending on the volume of the work they produce. If you get good at this work you may be able to well position yourself for full time employment with full benefits. In addition, physicians who perform file reviews are almost never called to testify to defend their opinions. Also, unlike an IME (Independent Medical Examination) you don't need to physically see and examine the person you are opining on.

Disadvantages of file and disability review work: On a per hour basis, file review work pays substantially less than expert witnessing. You may be asked to call the provider in question who may disagree with your opinion regarding medical necessity. Some of the intermediary referral sources will look for the doctor which is willing to accept the least amount of money to do the work. There could be tight deadlines to get files turned around which may involve nights and weekend. This is not a good fit for physicians without Boards. Also, some referral sources may require that you maintain an active clinical practice.

Sampling of the types of assignments you may get:

- Disability Reviews: Determining eligibility for short-term disability (STD) or long-term disability (LTD.)
- Chart Reviews: Determining medical necessity/appropriateness of changes.
- **Pre-Authorizations**: Determining appropriateness of treatment.

Physicians who want to succeed as a disability file reviewer will want to familiarize themselves with:

- Disability issues facing reviewers which include diagnosis, impairment, disability, functional ability, and ability to work.
- What the standard disability contractual provisions are, as you will be working within this framework.

- How to deal with the impact of medications, side effects, and dosage on the ability of the claimant to work.
- Diagnostic challenges: here you will be called on to use your clinical skills to determine the
 appropriate diagnosis, treatment, and functional impairment documented in the file you have
 been asked to review.

Writing High Quality File and Disability Reviews: As a physician file reviewer your clients will judge you and make decisions about rehiring you based on the quality of your written reviews. Depending on the size of the file and the complexity of the questions posed, the reports may be one page for simple questions (e.g. Q. Does the claimant qualify for Botox treatment for her migraines?) to lengthy reports for more complex questions (e.g. Q. Does the claimant qualify for a kidney transplant, or in-patient drug detoxification, or other costly treatment?).

Here are some suggestions on how to produce a well-written review.

- State things clearly and directly
- Do not speculate or guess
- Avoid boilerplate language
- Avoid the use of absolute words (e.g., "always" & "never")
- The review should not be vague, equivocal or uncertain
- Avoid emphatic language, exclamation points, boldface, underlining, italics and capital letters to emphasize points or conclusions
- Use active voice
- Use precise language
- Use confident language that avoids hedge words (e.g., "it seems," "could," "apparently," and "I believe")
- Define technical terms, jargon and abbreviations
- Make sure the report is internally consistent and consistent with any previous reviews of the file
- Avoid evidence of bias
- Citations should be detailed (title, author, edition, publisher & year published)

Specialties:

Physicians of most recognized ABMS specialties are used by insurance companies, file review companies, and others. How much work an individual file reviewer will obtain depends on several variables:

- Specialty some specialties are a better fit than others.¹¹
- Experience and qualifications
- Ability to write high quality reviews in a timely fashion i.e. your reputation as a file reviewer.
- Exposure of the physician to the hiring companies
- Your ability

Frequently asked questions about Disability and File Review Consulting:

Q. What work do physician file reviewers do?

A. Physicians who perform file reviews are sent files electronically by file review companies, insurance companies, etc. In essence, they review the charts and answer (in writing) the questions asked of them by the referral source.

Q. How large is the demand for file reviews?

A. Enormous and growing. Physicians are needed to perform millions of file reviews per year.

Q. Which work is more lucrative, disability or health insurance reviews?

A. The disability work generally pays more per hour as the stakes can be exponentially higher and the reviews are more time consuming. ¹² With a high volume any type of review work can be lucrative.

Q. Why is SEAK's file review course and directory¹³ so popular?

A. This work can be done at home, is low stress, does not require any patient contact or travel and almost never results in having to testify. In addition, performing file reviews is an excellent way to stay current on the latest medical developments (thus making you a better clinician) while at the same time, being compensated for your time.

Q. How much will I be paid?

¹¹ For example, a forensic pathologist probably wouldn't be a good fit on a health insurance review and a pediatrician probably wouldn't be a good fit on a disability insurance review.

¹² For example, putting a physician on disability for \$300,000/year for 15 years versus authorizing a \$1500 medical procedure.

¹³ www.filereviewconsultants.com

A. \$85-\$200 or more per hour depending upon your specialty. 14

Q. Do I need to have an active medical license?

A. Yes.

Q. Do I need to be board certified?

A. Generally yes, this will be a requirement of most clients or will be required by law.

Q. Do I need to maintain an active medical practice?

A. This depends upon the type of reviews you do, how well you perform the reviews and the requirements of your client. ¹⁵ Interestingly, physicians who do this work full time inhouse for disability and health insurance companies generally no longer practice clinical medicine.

Q. What types of referral sources typically request file reviews?

A. Independent Review Organizations (IROs), Health Insurers, Disability Insurers, Life Insurers, Casualty Insurers, Workers' Compensation Insurers, Self-Insureds, Life Insurance Settlement Organizations, Medical Management Companies, Utilization Review Companies, Third Party Administrators, and Hospitals.

Q. How can I start getting referrals?

A. The quickest and easiest way to get started doing file review is to join the <u>SEAK National</u> Directory of Medical File Review Consultants.

Q. What types of assignments do medical file reviewers typically work on?

A. Medical file reviews, Utilization reviews, Coding reviews, Chart reviews, Peer reviews, Second opinions, Underwriting reports, Medical Necessity Determinations, Concurrent and Retrospective reviews, Disability opinions, Pre-authorizations, etc.

Q. How can I succeed and earn repeat business from clients?

A. Perform high quality reviews on a timely basis.

Q. Are there full-time positions available for physician file reviewers?

¹⁴ Some disability insurers will pay over \$200/hour for this work to the right clinician.

¹⁵ If an active medical practice is required, how difficult it is to meet this requirement may vary. Low hour, part time clinical work, teaching and volunteering may qualify, it all depends on what the particular jurisdiction or referral source requires.

A. Yes, there are numerous employment positions with competitive compensation packages and benefits and many offer work from home possibilities. The key to landing these jobs is gaining experience and learning how to deliver excellent reviews starting with your first assignment.

How SEAK can assist physicians looking to perform disability and file reviews.

SEAK runs an annual training program on **How to Start, Build, and Run a Successful Disability and File Review Consulting Practice**. This annual 2 day training course is for physicians who want to truly excel at writing excellent reviews and build a successful, lucrative file review practice. At the course you will learn all aspects of the practice from report writing to marketing and billing. You will also be given leads to jump start your practice. This course is now available to <u>stream on-demand</u>. For a list of upcoming SEAK in-person seminars for physicians, please <u>click here</u>.

SEAK publishes the National Directory of Medical File Review Consultants

<u>www.FileReviewConsultants.com</u> This is a print directory of physicians who are looking for file review work and is sent out to companies hiring physicians. At no additional charge, physicians are also listed in the online directory. SEAK's National Directory of Medical File Review Consultants is the most cost-efficient way to get your file review practice jump started.

One-on-One File Review Consultation

For those physicians who do not want to wait for the annual training course, SEAK offers a comprehensive one-on-one consultation tracking the training course. The fee is \$2,500. For additional questions about the above, please contact Steven Babitsky, Esq. at 508-548-9443 or stevenbabitsky@seak.com.

Conclusion: Disability and file reviews are a billion dollar industry that is growing rapidly. Clients will judge you on the quality of your written, review so it is crucially important that you hit the ground running with excellent reviews. Clients will likely only give you one chance to succeed before they move on to another physician file reviewer.

5. Independent Medical Examinations (IMEs)

Introduction-What is an IME? An IME is an abbreviation for Independent Medical Examination or Independent Medical Evaluation. Some jurisdictions may refer to IMEs as Compulsory Medical Examinations or use other terminology. Whatever the name, for the evaluating physician the IME process typically involves four steps:

1. Reviewing all available (or at least provided) medical records and diagnostic studies,

- 2. Taking a history,
- 3. Conducting a physical examination, and
- 4. Drafting a written report.

"Independent" implies that the examiner is neither treating the examinee, nor an employee of whomever requested the IME. However, the adjective can also be misleading since in most cases the evaluation is paid for by a party at interest in the case. While examiners are generally independent contractors, because the vast majority of IMEs are requested by the defense (e.g. an insurance adjuster, case manager, or defense attorney), and paid for by an insurance company or self-insured employer/defendant, claimant or plaintiff attorneys sometimes refer to IMEs as Defense Medical Examinations (DMEs).

What are the biggest advantages of performing IMEs?

- Significant, often six-figure, earning potential.
- No call.
- No nights or weekends. IMEs are typically conducted during regular business hours.
- Relatively little legal risk. Compared to practicing clinical medicine, the legal risk involved in performing IMEs is minimal.
- Paid for no-shows.
- Very low overhead required.
- Minimal equipment needed in general.
- The intellectual challenge of doing something a little different for a change.
- Low start-up costs.
- Fairly easy to get trained and up-to-speed.

What are the disadvantages and problems associated with performing IMEs?

- It can be stressful. The examinees you deal with may be angry, uncooperative, dysfunctional, etc. and will often view you as an adversary.
- It can be adversarial. You will be deposed in a number of your cases and you can expect opposing counsel to accuse you of being less than honest.
- You may feel pressure to produce favorable opinions/reports.
- Some referral sources will not pay you commensurate with the first class job you are doing.
- Because of the adversarial nature of IMEs, examiners not uncommonly have complaints filed against them by disgruntled examinees. Most of these complaints are baseless and are summarily disposed of, but this is something you should expect.

• You are no longer helping patients get better. You are instead supporting the legal system, which may be less satisfying.

In what contexts are IMEs typically ordered? IMEs are most commonly ordered in Workers' Compensation and tort cases. Tort cases most often involve motor vehicle collisions or general liability cases such as slip and falls. Issues the physician examiner is commonly asked to address are diagnosis, causation of the injury or illness in question, apportionment if there are two or more causes, appropriateness of past medical treatment, need for further evaluation and treatment, disability, including necessity of any past time loss and current work capacity/restrictions, maximum medical improvement (medically stability), impairment rating, and prognosis.

Who typically orders IMEs? IMEs are typically ordered by adjusters, case or claims managers, third party administrators, employers, administrative law judges, and attorneys.

How much work is available? A lot. One of the nation's leading IME experts, based on extensive research, estimates that the overall market size is between \$3.5 and \$4.0 billion annually.

What specialties have the greatest opportunity to perform IMEs? The specialists that perform the vast majority of IMEs are clinicians who deal with injured persons such as physiatrists, psychiatrists, psychologists, neurologists, neurosurgeons, orthopedists, specialists in pain medicine, chiropractors, and occupational medicine physicians. However, there is work available for just about any specialty that deals with the medical issues in the particular matter at hand.

What are clients typically looking for when selecting an IME physician? The clients may look for:

- Excellent reputation
- Availability
- Qualifications
- Effectiveness in writing reports and in testifying
- Timely responsiveness
- A physician still treating patients, sometimes called "active practice"

How much can I charge for each exam? It depends. Many states' workers' compensation systems have fee schedules which dictate how much independent medical examiners may charge. In the tort system, there is generally no hard rule on how much you can bill. The fees in the tort system are controlled by market forces including the complexity of the case, the amount of money at stake, your skills, how much the lawyer is willing to invest and your reputation.

¹⁶ An active clinical practice is often not a requirement – it varies based on jurisdiction, type of case and client preference. Many older surgeons perform IMEs as a lucrative part time or full time career extender after they stop performing surgeries.

The market for IMEs is somewhat bifurcated. Some referral sources are price sensitive and will search for a low-priced IME¹⁷, others will pay for quality. According to SEAK's most recent survey of IME fees the average reported fee was around \$1500. On one end of the spectrum we have had clients report being offered only a few hundred dollars for an IME. At the other end of the spectrum we recently worked with a physician client on a complex case with over 10,000 pages of records. The fee in that matter was over \$30,000, not counting the subsequent deposition.

How much money can I expect to make? There are numerous IME doctors who perform IMEs one or two days a week, and make a six-figure income. Some doctors perform IMEs full time and make as much or more than practicing surgeons.¹⁸

IME practices typically also generate related income. A percentage of cases will lead to depositions and court testimony. Physicians routinely charge at least \$500/hour or more for their time associated with expert testimony, so this aspect of IMEs enhances earnings. IME physicians also routinely charge for no-shows, meaning they often get paid even if the examinee doesn't show up.

How do I get referrals? SEAK's National Directory of Independent Medical Examiners (www.imedirectory.com) goes out to 30,000 referral sources nationwide and is an excellent marketing tool.

You can list yourself with one or more IME Brokers or companies or referral services. These firms provide IMEs for employers, insurers, claims managers, third party administrators, employers and attorneys. The IME industry is greatly fragmented and there may be numerous IME brokers or referral organizations operating in your geographic location.

For workers' compensation IMEs, many states maintain lists of examiners who are approved to do workers compensation IMEs. Contact your state's workers' compensation agency and get yourself placed on the list.

You can directly contact local defense firms, insurance companies, employers and third party administrators and let them know you are available for this work. To find defense firms, try the legal reference Martindale Hubbell, which can be found at www.martindale.com. You'd be looking for insurance defense, personal injury defense, and workers' compensation defense firms and lawyers.

What are the keys to success? That's simple. Do a superb job and generate word of mouth referrals and repeat business. Top quality IME physicians often experience exponential growth in their practices once the word gets out.

¹⁷ We call these "commodity" IMEs.

¹⁸ One of our clients is a disabled surgeon who works on IMEs 3-4 days a week and earns \$300,000+.

What equipment, overhead do I need? The overhead and equipment required is typically minimal, but will of course be specialty specific. Office space can be rented on an as needed basis. Contractors can be used for transcription. Often times IME companies will provide the office space and transcription services for you. ¹⁹ Medical equipment required is generally very basic. Depending on the issues at hand you may need basic equipment such as:

- Finger goniometer
- Inclinometers (two)
- Grip and pinch strength measuring devices, e.g., a Jamar dynamometer
- Tongue blades
- Stethoscope and blood pressure cuff
- Goniometers
- Pen light
- Tape measure
- Reflex hammer
- Purdue pegboard
- Tuning fork
- Cotton balls
- Two-point discrimination measuring device
- Applicable Edition of AMA's Guides to the Evaluation of Permanent Impairment"

Do you need to become certified in IMEs to perform IMEs? Generally no, but possibly for workers' compensation IMEs depending on the jurisdiction. Exactly what "certification" requires in each jurisdiction also varies.

Do I need to be Board Certified? This may be a legal requirement in certain jurisdictions. More importantly, even if allowed by law, it will be an uphill struggle to get this work, especially the most lucrative assignments, if you are not board certified.

How often will I have to testify? If you abhor confrontation and are unwilling to testify, IMEs are not for you. You can expect that approximately 1 in 20 exams will result in your having to give testimony. Since most physicians charge at least \$500/hour for their time testifying, fees for testifying can be a lucrative supplement to fees for IMEs.

What is the "typical" IME practice like? It varies. Some practices are high volume, low cost. A physician may do 10-15 IMEs in a day. Some practices are low volume, high cost. The focus here would be on high end cases that pay \$5,000 or more. Many physicians start doing IMEs in their 50s

¹⁹ This is not "free" in that you will be paid less than if you had obtained the IME directly from the requesting attorney or insurance company.

and 60s to plan ahead for the future and make their schedules more manageable. Gradually they keep cutting down on the clinical work, but maintain a respectable income with predictable hours doing IMEs. Many physicians start performing IMEs mid-career to supplement their income, diversify their practice, and position themselves for the future. Some physicians get into IMEs as a near full time practice early on as it can be a lucrative practice with predictable hours. Many physically disabled physicians do IMEs when they can no longer perform surgery. Some IME practices take cases from IME brokers, others do not. Some IME practices take workers' compensation cases²⁰, other do not.

Is an IME practice a right fit for me? Only you can decide this. Truly successful IME physicians are usually those who are not thin skinned, do not unduly fear confrontation, and who understand the importance of learning how to perform IMEs at a high level and deliver a quality product.

How do I give myself the best chance of success performing IMEs? The "secret sauce" is to learn how to do this work at a very high level of quality and thus earn repeat and word of mouth business.

How can SEAK help me develop my IME practice? SEAK has been assisting IME physicians since the mid-1990s. The best way to get started is to take our annual "How to Start, Build, and Run a Successful IME Practice" two-day seminar. For a list of upcoming IME training programs, please click here. "How to Start, Build, and Run a Successful IME Practice" is also offered to stream on demand.

SEAK's National Directory of Independent Medical Examiners (www.imedirectory.com) goes out to 30,000 referral sources nationwide and is an excellent marketing tool.

For a full list of SEAK's products and services for independent medical examiners please click here.

Conclusion: Performing IMEs is a proven way to diversify your revenue sources, earn extra money, and/or extend a career post retirement or disability. The work can be highly lucrative. Performing IMEs is relatively low risk with low overhead and start-up costs. As is a common theme, the physicians that tend to do the best are those that take their work seriously and learn how to deliver extremely high-quality reports and client service.

²⁰ Depending on the jurisdiction, there may be limits on fees for these types of cases this making them less lucrative.

6. Inventing

Introduction: Physicians who want to be a successful inventor can start by asking themselves two simple questions:

- 1. Do you see problems as opportunities for inventions?
- 2. Can you look at the same problems others look at and see something different?

If the answers to these questions are yes, you may possess the characteristics you need to succeed as a physician inventor.

The Good News for Physician Inventors:

- Many very successful and lucrative²¹ inventions such as the balloon expandable stent came from physicians.
- In healthcare, physicians are very well positioned to come up with groundbreaking inventions.
- You can use your medical credentials to obtain cutting edge information from your colleagues and others not available to the general public.
- With your inherent credibility and gravitas, you will be the best salesperson for your ideas and inventions.

How Do You Recognize Good Opportunities for Inventions?

- Look for a problem or need in the field of medicine.
- Ask yourself: Can I solve the problem or fill the need with an invention?
- Determine if your invention will work and can be produced cost-effectively.
- Is there a market for your invention and if so, how big is the market?
- Can your invention be marketed cost effectively?

Once you have answered these questions you are ready to move onto the next steps (i.e. turning your idea into an invention.)

An Idea is Only the First Step: Your great idea for your invention is only the first step you need to succeed as a physician inventor. You will also need to:

- Make sure it is something new and hasn't already been patented.
- Do research and perform studies to make sure it is viable and works.
- Develop the invention into a model or prototype or have someone else do it for you.

²¹ A breakthrough medical invention by a physician can be worth as much as hundreds of millions of dollars.

• Confirm that your idea is practical, functional, and solves the problem or advances the available science.

Protecting Your Idea

All physician inventors should be rightfully concerned about protecting their ideas and inventions. How do you best protect them?

- Get a patent: Under the new patent statute first to file is the law of the land.
- Get a patent attorney or patent agent to assist you getting started with a provisional patent application.
- Consider licensing your invention instead of trying to build your own company.
- Have realistic expectations as companies prefer to buy into your idea and invention when they can provide smaller upfront payments and a reasonable royalty.
- Royalties for inventions can range from 3% to 7% of sales. Given the cost of medical equipment and devices, such a royalty can rapidly add up.

Develop a Business Plan for Your Invention:

- The plan should be detailed and thoroughly researched.
- Address market size, potential revenue, compensation, and what your invention brings to the table.

Develop a Prototype: To successfully approach companies about licensing your invention you ideally will have a working prototype to show them. There are many companies which, for a fee, will help you build your prototype.

Get a Good Patent Attorney: It is advisable to retain an experienced patent attorney with a track record of success as early on in the process as possible. Counsel will be able to guide you through the process, help you avoid pitfalls and protect your rights by negotiating a solid license and contract.

How SEAK can help you become a successful physician inventor: To help physicians get started on the road to success as a physician inventor, SEAK has developed a 2 day training course "How to Become a Successful Physician Inventor: Bringing Your Ideas to Market" which is available so stream on-demand.

Conclusion: Inventing a medical device can both make a physician money (sometimes a huge amount) and improve the health of many people. Often times the best inventions offer a simple and elegant solution to a seemingly vexing problem. The first step to becoming a successful physician inventor is to think outside of the box and see problems as opportunities. You will then need the ambition, drive and persistence to turn your idea into reality.

7. Life Care Planning

Introduction: Life care planning is a form of expert witnessing where the expert opines on what it will take to take care of an injured person for the rest of the injured person's life and what this will cost. Life care planners are typically engaged in high stakes cases where the plaintiff is alleging serious and permanent injuries. Because the assignments are time consuming and there is usually much at stake in the litigation in question, physician life care planning assignments can be quite lucrative.

Advantages of life care planning by physicians:

- Lucrative these are typically time-consuming assignments where the physician life care planner is billing \$300-\$500/hour or more for their time.
- Work from home Most of the work involves reviewing medical records, research, and drafting a detailed written life care plan, all of this can typically be done at home.
- Less scrutiny/pushback from your peers life care planners only address damages, not liability, your job is not to opine on whether or not a colleague breached the standard of care.
- Active medical practice less important because you are not opining on standard of care and because life care planning is typically done by nurses or vocational professionals, maintaining an active medical practice, although always helpful, is not as important as in some other forms of expert witnessing.
- Board certification less important again this work is usually done by nurses and vocational experts, even a physician without Boards should be qualified to do so.
- Low risk typically far less potential liability than practicing clinical medicine.
- Specialty is somewhat less important. Although it is ideal to concentrate on cases with injuries relevant to your specialty²², this is not an absolute requirement. You are a medical doctor regardless of your specialty and would be presumed to a certain extent to have more inherent credibility than a nurse or vocational expert.
- Very, very low overhead. Home office, computer, cell phone, maybe errors and omissions insurance.

Disadvantages of life care planning by physicians:

• This is expert witness work, so you may be called to testify at deposition and trial. If you are shy or thin skinned and don't want to ever have to testify, this is not for you.

²² e.g. PM&R for someone who is paralyzed, Gastroenterologist for someone on a G-Tube, Plastic Surgeon for burn victim, Neurologist for TBI, etc.

- These can be big assignments. So although assignments can be very lucrative, you will need to have the time available to get the work done and produce a high quality work product.
- Some travel may be required to visit the injured person and attend a trial.²³

Frequently Asked Questions About Serving as a Physician Life Care Planner:

Q. How much money can I make performing life care plans?

A. Physician life care planners can make \$5,000-\$15,000 or more per plan. Many physician life care planners earn over \$100,000 per year doing these plans.

Q. What specialties can do this work?

A. Life care planning has typically been performed by nurses and even non-medical professionals such as vocational experts. As such, all physician specialties can theoretically do this work. Some specialties will, however, be more attractive to a certain client depending on the medical issues at hand. For example, a neurologist for a brain injury, a GI physician for a colostomy, a psychiatrist for emotional trauma, a rehab physician for paralysis, etc.

Q. Do I need an active medical practice and board certification?

A. No. One of the advantages of life care planning is that physicians who are retired or not in active clinical practice can still perform life care plans. If your life care planning takes off you can potentially do this full time.

Q. Why is the work so lucrative?

A. Typically, life care plans are requested on cases with serious injuries. Life care planners most often charge by the hour. Preparing a well-supported and well-documented and defensible life care plan is often very time consuming.

Q. Why wouldn't a lawyer just hire a nurse or vocational expert to do this work at a lower hourly rate?

A. The cases where life care planners are involved are often very serious or catastrophic. Given this fact, many lawyers are willing to pay a premium for the added credibility of a physician life care planner. In addition, sometimes the physician in question is already working on another aspect of the case (e.g. liability, treating doctor, damages), so having the

²³ For depositions, the lawyers typically travel to where the physician is located, especially if that is perceived as a desirable destination.

physician prepare the life care plan saves the lawyer from having to hire an additional expert witness.

Q. What are the startup and overhead costs?

A. These are generally small to negligible.

Q. What are the liability risks?

A. Generally far less than practicing clinical medicine.

Q. Will I need to testify?

A. Potentially, yes, as life care planning is a subset of expert witness work. You will, however, be opining as a life care planner on necessity of future needs/care and their costs. Unlike a medical malpractice case, you will typically not be commenting on quality of care provided by another physician.

Q. What are the keys to success and building a lucrative physician life care planning practice?

A. Learning how to do the work at a very high level, being responsive and easy to deal with and then gaining repeat and word of mouth business.

How SEAK can assist physicians considering life care planning: SEAK is proud to offer a unique twoday training program "How to Start, Build, and Run a Successful Physician Life Care Planning Practice" where we teach:

- How to develop an accurate, defensible life care plan,
- How to assemble and review the medical and other records you will need to review,
- Best practices for conducting the life care plan interview and examination,
- How to determine the functional ability and impairments of the injured person,
- How to determine future medical needs of the injured person,
- Best practices for assessing and researching the cost of the examinee's needs,
- How to draft a powerful, persuasive, and defensible life care plan,
- How to defend your life care plan at deposition and trial,
- How to avoid common pitfalls, and
- Numerous techniques to market your life care planning practice to attorneys and others.

<u>This course is now available to stream on-demand</u>. For a schedule of upcoming SEAK training programs for physicians, please <u>click here</u>.

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