



written a number of books and many articles on the philosophy of medicine, the epistemology of medicine and medical nosology (a systematic arrangement, or classification, of diseases). A copy of my *curriculum vitae* is annexed here as Exhibit 1.

4. I am familiar with the literature in medicine and in philosophy on the question of how a “diagnosis” is reached and the evidentiary basis upon which physicians make judgments about the presence of a disease, disability, disorder or symptom in a patient. My opinions are based on my own research and the established opinions in the field of the philosophy of medicine, and are stated to a reasonable degree of medical and scientific certainty.

5. It is inherently part of the practice of medicine that, in order to determine the health, well being, disease or disorder of a patient, a competent physician must have information about that patient. It is not, however, required that the physician making a diagnosis have *direct personal contact* with a patient. Nor, by the same token, is it necessary that the physician offering a diagnostic opinion have even seen or had communicative (verbal or written) contact with the patient.

6. Indeed, a physician may, in some instances, offer a sound opinion about the presence or absence of a condition absent any relationship with that patient beyond undertaking a measurement or test of that patient, or evaluating the results of such a measurement or test. This is the case in many of the diet drug litigation matters, *i.e.*, a physician reading the results of an echocardiogram taken outside his presence can, without question, render a viable, credible and medically correct opinion as to the presence -- or absence -- of certain diseases or disorders in that patient.

7. In such areas as laboratory medicine, pathology, radiology, psychiatry, neurology, neuroscience, emergency medicine and hematology, physicians are either sent tissue samples from patients or undertake tests upon patients -- many of whom are unable to communicate or lack the competency to communicate -- when tests are performed. In such cases it is possible for the physicians to offer an assessment and diagnosis of the presence or absence of a

particular condition in a patient without any further information about or relationship to the patient.

8. For example, a radiologist can see what damage a bullet has done to the spinal cord of a patient with nothing more than images to guide his or her judgment. A pathologist can detect the presence of neoplasm without any medical history from or prior contact with the patient. A hematologist can detect the presence of leukemia and other cancers solely on the basis of an accurate blood test. Laboratory medicine specialists frequently detect diabetes or anemia with nothing more than a lab test.

9. Similarly public health physicians may test for communicable diseases such as HIV, TB or SARS without performing any tests or measurements other than those appropriate for the detection of those infections. These diagnoses simply depend upon the competent assessment of biological information and nothing more.

10. The emerging practice of telemedicine also sometimes involves diagnosis 'at a distance' where competent physicians examine X-rays or other types of body scans and offer diagnostic opinions about normal and abnormal function and the presence or absence of disease.

11. It is admittedly the case that for the diagnosis of many diseases it is necessary to have information about the patient's history, symptoms and even genetics. In many other situations, a physician will find the added information provided by a medical history helpful in reaching a differential diagnosis or ruling out alternative diagnoses. Nonetheless, for some disorders and problems it is not necessary to have this background information. When measurements are taken of well understood organ structures and systems such as the heart, kidney or lymphatic system it is possible to make diagnoses that are wholly valid and universally recognized as such by medical specialists without any other available information besides the test result.

12. You have asked my opinion on a related matter, *i.e.*, are there any ethical consequences from a disclaimer that render a diagnosis invalid or moot?

13. In my opinion, when a disclaimer is issued it is to both notify the treating physician about what has and has not been done in the care of a patient. A disclaimer also sets out for all third parties the limits of what the physician did and did not do and what they are willing to admit responsibility for in terms of patient care. A disclaimer does not nullify or void a diagnosis or responsibility for the accuracy and reliability of that diagnosis.

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Arthur L. Caplan, Ph.D.

Sworn to before me this  
\_\_\_ day of January 2004

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Notary Public