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# The Magic of Fact and the Failure of Myth

Scott E. Streater, D.V.S.

As “experts” we are professing to be 1] educated, 2] knowledgeable in our field, 3] having sufficient practical experience to formulate findings, opinions and outcomes which will have a powerful effect on our clients, the lawyers who retain us and our reputations. We have talked about this before. I am aware of this and because of my experiences, have come to believe, especially with advancing age, that review is a good thing. Informational decay is a reality for all ages.

The process of finding facts, should lead the forensic professional to conclusions (reports and testimony) that are valid, reliable and reproducible, a general requirement under the law in many legal jurisdictions at this time. In other words results should closely mimic the real world. After all, the discipline we are based in, *Psychology* is defined as an organized body of common sense. If we are unable to construct common sense outcomes from our efforts, we are out of our discipline, which can create real trouble for our clients and our careers.

Lets start with some definitions. *Facts*: are truths, known by actual experience and by observation. *Myths*: are unproven or false collective beliefs. They have no place in our profession. We are professionals and by definition we have control over our science. *Science*: is a systematic knowledge of the physical world or material world gained through observation and experimentation. It includes knowledge of facts or principles, knowledge gained by systematic study.

As vocational forensic experts, our typical mode when assessing employability should start with a standardized interview. A basic set of questions designed to help us arrive at some general understanding of the client’s situation. The results are not necessarily facts but we tend to rely on the answers as a basis for further investigation. At least the client is on record and the veracity of this information can be tested by review of records, collaborating information found in the lawyers case file and other sources.

The second step in a typical evaluation is standardized testing, a battery of standardized psychological and aptitudinal tests, given in a standardized manner, to assess the quantities of ability and aptitude possessed by the client. This information *is* of a factual nature if it is collected in the proper manner. The outcomes of these measurements when applied to the proper normative bases become a strong factual basis for our reports.

A third step in formulating data for a report would be a careful review of the records. A critical reading of the personal, educational, medical and vocational records on hand, to decide what information is present and what may be necessary to request either by interviews, written or archived records. This information is best indexed in the file folder and the factual material synopsised on a sheet at the beginning of each section of the file. These data then become the basis for your factual representation in data runs, reporting and eventually testimony. In a word they are the “findings” upon which you will base your conclusions and eventually forecast your opinions. Differences in factual findings should produce differences in opinion and in your conclusions. Errors in fact will produce errors in opinion. We are not retained to be final “finders of fact”. We are in court to be providers of information, based in fact, to aid or assist the finder of fact, the judge and jury. It is effrontery to the legal process and to the judge to assume the role of finder of fact, a role that can get you in a great deal of trouble on the stand. The judge has great latitude in this matter.

Continued on page 5

## Inside

President’s Message .....	2	Future Conferences .....	3
New Members .....	2	Test Maintenance Committee .....	4
Letter From the Editor .....	3	Distance Learning .....	4
Information For the Work Place .....	3	Charleston, SC .....	4

## American Board of Vocational Experts

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#### President

Harold Kulman, MA  
Marietta, PA  
mailto: hvkb@comcast.net  
mailto: pres@abve.net

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Feasterville, PA  
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mailto: preselect@abve.net

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mailto: bart@inebraska.com  
mailto: treas@abve.net

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mailto: secty@abve.net  
mailto: cpgrimley@aol.com

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Bruce Growick, PhD  
Columbus, OH  
mailto: growick.1@osu.edu  
mailto: pubs@abve.net

Jeffrey Lucas, PhD  
Palatine, IL  
mailto: ermjeff@email.com

Stephanie Sleister, PhD  
Bartonville, IL  
mailto: sleister@ntslink.net

Ellen Nagourney, MS  
Mica, WA  
mailto: elnago@ace-computers.com

#### THE VOCATIONAL EXPERT

##### Editor

Cynthia P. Grimley, MS  
Lexington, SC  
mailto: cpgrimley@aol.com

##### STAFF

##### Executive Director

Glenn Zimmermann  
mailto: glenn@btfenterprises.com

##### National Office

3540 Soquel Drive, Suite A  
Santa Cruz, CA 95062  
Phone: (831) 464-4890  
FAX: (831) 576-1417  
<http://www.abve.net>

## President's Message

By Harold Kulman, ABVE President, 2003–2005



I am especially looking forward to seeing all of you at our fall conference in St. Thomas. Paul Blatchford and Don Jennings have set up a great program which I am sure will be quite interesting and provide you with a great deal of professional guidance.

The Board of Directors has been very busy since my last report to you. I am especially pleased with the way they have incorporated our membership into their committees and still have left the door open for more membership participation. Bart Hultine has been working very diligently building our membership. He has been in constant contact with the Forensic section of IARP and will be traveling to promote our organization elsewhere. Stephanie Sleister and Billy McCroskey are updating our credentialing examination by eliminating some of the old test questions and adding new ones. Jeffrey Lucas has been reviewing new membership applications and hopes to have several new potential members ready to take their examination at the conference in St. Thomas. Our continuing education chair, Dick Baine, has been working with Donald Jennings and I to resolve problems that have arisen with continuing education unit requirements. Ellen Nagourney has an extensive list of members on her committee. She has presently divided these members into three sub-committees, which will determine the university we might want to use for our distance learning program, the selection of an appropriate degree program, and the development of questions to be presented to the university that we choose. Cynthia Grimley, our Secretary, is also responsibly handling her position as newsletter editor and publisher. She has been doing a great job. Dr. Ronald Peterson and Lindette Mayer will hopefully be publishing a monograph in the near future. Dr. Jennings, your President Elect, is the publications chair and he has been overseeing the activities of our publications. Dr. Bruce Growick continues to keep me well informed about the upcoming journal publications and a new journal will be published very shortly. Phil Spergel and Don Jennings have revised our ethics code and they will be working on our ethics procedures for complaints. They will be holding an ethics seminar at our conference in St. Thomas. Those of us who hold memberships in other organizations requiring ethics credits certainly appreciate their effort.

In the spring of 2004, from March 19 through March 21, ABVE will host its Spring Conference in Charleston, South Carolina. John Czarick along with assistance from Cynthia Grimley, Ellen Nagourney and I will be chairing this conference. John has already begun his efforts to find speakers. If anyone would like to be a speaker or knows a speaker, please contact John or I as soon as possible. Charleston is a very beautiful and historic city and our conference will be held when the flowers first come into bloom and the city is in its entire spring splendor. If there is anybody who would like to give us a hand with this conference, just give me a call at (717) 426-1229.

In closing let me take this opportunity to thank the Board of ABVE, committee chairs, and the membership working on our projects for their great effort. In addition, I would certainly like to thank our management firm, BTF, for their constant efforts, helping us keep our commitments and follow our guidelines.

### Welcome to the Following New Members

Denise Cordes, Diplomate & David Morgan, Diplomate

Thank you to William Hartwick, Michael Graham, Michael Newman, Francis Thomas and all membership committee volunteers for the recruitment efforts!

## Letter From the Editor

**Cynthia Grimley, MS**  
**Newsletter, Editor**

Dear Members:

Just a reminder that most of you are now receiving your newsletter via email and it is very important that you keep BTF updated of any email address changes.

You will need Adobe Acrobat reader to view the PDF format. The feedback of this format continues to be favorable. If you have any problems receiving your newsletter electronically please let BTF know immediately. Those members who do not have email will still continue to receive their newsletter by mail.

I continue to look for members to assist me on a committee for the newsletter. I would like to see members contribute items such as book reviews, or any other areas that may be of interest to our forensic community. If a committee could be formed to assist with the contribution of such items then these can be distributed via email on a monthly basis, in between the regular newsletter publications.

Please contact me if you are interested in serving on the newsletter committee. I can be reached at 803-765-1513 or [CPGRIMLEY@AOL.COM](mailto:CPGRIMLEY@AOL.COM).

The American Board of Vocational Experts, never has and currently does not endorse the use of any specific tests, test batteries, or commercial products.

## Information For the Work Place

*Two ABVE Diplomates asked to serve on AADEP planning committee.*

The American Academy of Disability Examining Physicians (AADEP) has asked Michael Newman, MA, Director of Vocational Rehabilitation Services at Mutual of Omaha, and Bart Hultine, EdD, to serve on the Prevention and Rehabilitation Committees of AADEP. Both are ABVE Diplomates from Nebraska.

Newman presented to the group at a planning meeting at Mutual of Omaha on July 31. Newman will also present to the National Conference of the AADEP on September 6th in Nashville. Hultine plans to attend the Nashville conference as well. Newman spoke of the importance of timely intervention and meaningful involvement on the part of the injured person, to assure the best results in achieving successful rehabilitation.

AADEP is a Credentialing Academy for Physicians who seek to improve their skill in assessing disability. They have expressed a keen interest in the ABVE credentialing process as it involves, among other things, a peer review. AADEP has recognized the importance of peer review and a peer review process similar to ABVE's as part of their credentialing process. AADEP is seeking to establish a network of professional associations that deal with forensic issues and disability.

If a formal relationship is proposed between ABVE and AADEP, Board approval will be necessary. This seems to represent an excellent opportunity to partner with a very well respected group of physicians, who are concerned with improving the quality and validity of the Disability Determination process. By including all professionals in the determination, management and rehabilitation process, a seamless delivery system is more likely and the client feels more empowered by becoming involved in the planning and implementation of the recovery plan.

**Submitted by: Bart Hultine, EdD**



**MARK YOUR CALENDARS NOW!!!**

**FUTURE CONFERENCE SITE LOCATIONS**

**Spring 2004**  
**Charleston, SC**  
**March 19-21**

**Fall 2004**  
**Anaheim/Newport**  
**Beach, CA**

**Spring 2005**  
**To Be Announced**

**Fall 2005**  
**San Francisco, CA**



## **ABVE Conference Charleston, South Carolina**

March 19 –21, 2004

Doubletree Suites Hotel  
181 Church Street

Reservations: Conference Rate:  
\$179 s/d

877-408-8733 or 843-577-2644

Charleston is America's most beautifully preserved architectural and historic treasure, with a rich, 300-year history just waiting to be discovered. Hundreds of significant and lovingly preserved structures from the colonial and antebellum periods grace the Historic District's narrow streets. Church bells toll the hour as history unfolds around each and every corner. In no other place are the past and present more intertwined. The entire Charleston area is a never-ending feast for the senses, with history serving as the main course. Visit Charles Towne Landing, the site where the original settlement was established in 1670. Explore the Charleston Museum, our nation's first museum, or Patriots Point, the world's largest naval and maritime museum and home of WW II's Fighting Lady, the aircraft carrier Yorktown. Drive to Fort Moultrie, scene of the first decisive American victory of the Revolution, and a mainstay of shore defense until 1947. Take a scenic boat tour to Fort Sumter, the man-made island fortress where the Civil War began. World-famous plantations and gardens offer visitors a fascinating glimpse into life during the antebellum era. Informative tours of the Charleston area are offered daily and are a must for all who want to truly appreciate this living museum. The area's lush sea islands and sun-drenched beaches offer as much recreation or relaxation as your heart desires. Golf is on a world-class level, with challenging courses reflecting the natural beauty of the South Carolina lowcountry. Charter fishing on the Gulf Stream or inshore waters is

readily available. Shopping is one of our Visitors most passionate pursuits. Marvel at native sweetgrass baskets and handmade crafts found in Charleston's famous open-air market, or browse through inviting boutiques, art galleries and antique shops found throughout the Charleston area. When it comes to dining, your biggest decision may just be what to try next. Every meal is a celebration of tastes, with variety that ranges from traditional oyster roasts to fine continental dining. If festivals strike your fancy, you have come to the right place. You will be dazzled by a diverse array of special events. At any time of year, you will always find more to see, do and experience than you ever imagined... in a place where warm welcomes have been a treasured tradition for over 300 years. Oh, and don't forget the CEU's you will receive from attending and hearing the great speaker line up. More to come on this later.....

### **TEST MAINTENANCE COMMITTEE**

#### *Stephanie Sleister, Chairperson*

The Test Committee consists of the following individuals: Stephanie Sleister, Jeff Lucas, Ellen Nagourney and Billy McCroskey.

All of the applicants who have recently taken the test thus far have passed. Copies of the finished tests from years past to the present were sent to Billy McCroskey to re-standardize the test. Additional test questions were prepared by Ellen Nagourney and Stephanie Sleister and sent to Billy McCroskey to add to the test pool. The new questions will be added to the test for items that will be scored, but will not count in order to test the validity of the test questions.

Billy McCroskey and I will be working on creating a standardized test preparation curriculum based on the items on the test. The purpose of this is to ensure that anyone presenting a test preparation seminar will be able to

provide the same material in the same standardized manner. The curriculum will consist of items on the test that have been proven to reflect the competencies necessary for a Forensic Vocational

Specialist. The curriculum will be on a CD-Rom that will be purchased by individuals interested in taking the test. That revenue will go to ABVE to continue with the development and validate the ABVE exam. We will publish the methodology of creating the curriculum in ABVE Journal.

The new test and the curriculum should be completed by Spring 2004. In the interim, I will be presenting the Test Preparation Seminar in St. Thomas. I will be presenting the seminar and providing the test at the IARP Forensic Seminar in San Antonio, Texas in November. The test will be provided to those applicants who have successfully passed the application process for ABVE. Thus far, two individuals have signed up for the test in San Antonio.

### **ABVE Develops New Distance Learning Committee**

#### *Ellen Nagourney, Chairperson*

The ABVE Distance Learning Committee formed in May as the result of its development at the Spring Conference. The committee chair is Ellen Nagourney, Board Member at Large. The committee has been divided into sub-committees to assist with various duties. The committee members are: Robert Wolf, Anita Rothard, Scott Streater, Nancy Borgeson, Cynthia Ward, Estelle Hutchenson, Nina Wax, Cindy Bender, Eugene Van de Bittner, Augusto Penafiel and Debbie Veatch. The committee is made up of an enthusiastic group of members who have

**Continued on page 5**

In forensic practice, we will find that mythical beliefs just never disappear. H. L. Mencken said it in the 1920's: "Heave an egg out of a Pullman window, and you will hit a Fundamentalist any where in the U.S. today." Unfortunately, this statement is as true today as it was in the 1920's. Myth dies hard. In an age when science is predominant and superstition should be on the wane. One must never forget that scores of biology teachers through out our nation are reluctant to teach the theories of evolution because of the controversy that will ensue or the potential loss of employment that has and can occur. As an additional insult a new "science" has been birthed, "creation science"

Vocational information has the same sort of difficulty. This is particularly true in the career/business areas. Authors of popular vocational information especially in the business areas have foisted a myriad of myths, based on untried and unproven information. One has only to pick up one of the latest pop business psychology paperbacks to find masses of misinformation delivered to the waiting public as gospel. Often, these ideas are based only on personal experience reinforced by testimonials. There is no scientific process involved.

Another appearance in our professional area is the advent of computer-based programs that lack the necessary scientific process to provide the validity/reliability foundation required by the scientific process. No one knows whether many these developments have a sound basis in science, as they have not for the most part been subjected to the required scrutiny

necessary to confirm their claims. No one truly knows whether these offerings are an aide to our endeavors or simply an aide to the pocket books of the creators. Scientific scrutiny is an absolute in the formulation of fact. "It is best to test and not infer", should be a well-worn slogan. Some of these programs are for the most part highly debatable because of the lack of sufficient data and literature available regarding their construction and outcomes. The real tragedy is they are almost certainly of some merit, just unproven.

How does one determine the veracity of information that might be of potential use in formulating your findings, opinions and conclusions? What does one look for in determining the use of a potential tool? Here are some clues. Voiced by the original skeptic, Martin Gardner in his book published first as "'The Hermit Scientist'" (1950) and again as "In the Name of Science", printed in 1952. Garner states in part 'The purveyor of the information appears to work in total isolation from their scientific milieu. They seem to be unaware of the scientific process, failing to try out their ideas on their colleagues, they tend not to publish scientific papers regarding their ideas, failing to publish their hypotheses in peer review journals prior to the announcement of their discoveries. When queried about this situation they offer a number of excuses, frequently these utterances focus on the radical differences of their offerings and somehow the rest of the world would not understand. This is in contrast to generating the work necessary for acceptance. They appear paranoid citing their intellectual prowess and the lack of the same in their colleagues. They often refer to

persecution and discrimination issues. These individual will often attack leaders in their field, and the theories they espouse. They tend to use very complex jargon, inventing terms and phrases which only they understand'.

As professional forensic practitioners, we must bear in mind these criteria when we choose the methodologies and instruments we use to construct the information we bring to the finders of fact. Our facts should be soundly based and our opinions firmly rooted in scientific reality. The conclusions we reach which are the forecasts affecting an individual's future, can only stand the tests of the courtroom and of time, if they are based in factual information predicated on the scientific process. Deviation from this standard can only create erroneous outcomes for the individuals they serve and severely tarnish your career.

REFERENCE:

GARDNER, M., *IN THE NAME OF SCIENCE. SECOND REVISED (1957) EDITION. DOVER PRESS.*

**ABVE Develops New Distance Learning Committee**  
Continued from page 4

an interest in helping ABVE to partner with an accredited university for the purpose of developing a doctoral program, which can be made available to ABVE members. The committee is also exploring the possibility of the development of a certificate program specific to forensics. We anticipate that this committee will be active at least one year to identify and develop these programs then on going to monitor the effectiveness of the programs. Any interested member, who wishes to participate in this important committee, is welcome to contact Ellen Nagourney via e-mail at [elnago@ace-computers.com](mailto:elnago@ace-computers.com) or by telephone at 509-928-3366.

Apologies to Lindette Mayer, PhD. for her name being omitted in the ABVE 2003-2004 Directory of Members as a recipient of the David S. Frank Lifetime Achievement Award. Dr. Mayer received this award in 2000.