

Guidelines for College Fellows participating in the RANZCOG expert witness register



The Royal Australian and New Zealand College of Obstetricians and Gynaecologists

A Fellow accepting the responsibility for providing an expert opinion in medico-legal cases should be qualified and competent to provide the particular opinion sought. The College aims to improve the standard of expert opinion given in medico-legal cases; recognised standards (endorsed by Council in July 1999) have been incorporated into these guidelines. Not being a member of the Expert Witness Register does not preclude a Fellow from giving a medico-legal opinion.

1. The task of a Fellow retained to provide an expert opinion in a medico-legal case is two-fold:
 - (a) the scientific task of collating, examining and evaluating the case material, and forming an opinion based on that study;
 - (b) the technical function of communicating this opinion to the Court (any evidence given to the Court must be preceded by adequate preparation combining a sufficient quantity of study with logical methods of analysis).
2. An expert witness should give evidence for the benefit of the court in the interests of justice. Expert witnesses should be prepared to give an impartial medico-legal report and should not act as an advocate for either plaintiff or defendant.
3. Members of the expert witness register must be Fellows of the College in **current** active practice in the relevant area of expertise. They must be Fellows actively participating in the College Continuing Professional Development program. A retired Fellow, or a Fellow no longer practising in the area of expertise, may act as an expert witness in situations where the Fellow was in active practice at the time of the adverse outcome.
4. Upon retirement, Fellows of the Expert Witness Register may apply to the College to have their name maintained on the register for a period of up to three years. Following review, the College may approve such an application, allowing retired Fellows to provide opinions on cases that occurred during their time of active practice.
5. If the Fellow seeks to use College policy or other material to illustrate or to give weight to the opinions presented it is important that the qualifications provided in the preamble to the College policy documents are clearly understood and clarified for the court and that the material is contemporaneous with the time of the event.
6. Any statements of opinions should be in writing and clearly noted as opinion and not as assertion of fact. Should crucial evidence be found missing this should be stated.
7. The Fellow should avoid giving specific opinions outside their area of expertise and practice. For example, there may be occasions where it is inappropriate for an obstetrician to provide an opinion as to whether the events of labour caused a child's neurological disability.
8. Fellows should advise the spectrum of care considered reasonable by their peers at the time of the event and of all the options in any clinical situation rather than only the ideal option in the best of circumstances with the advantage of hindsight.
9. The Fellow should express frankly any shortcomings or limitations of her/his evidence and, in particular, one should highlight areas of ambiguity.
10. In giving evidence in Court, the expert should aim to deliver the evidence in a manner which will be comprehensible to a lay person.
11. In preparing a report a Fellow should ensure that she/he has a copy of, and will be bound by, any current guidelines for expert witnesses as issued by the court to which the Fellow is reporting.
12. For a Fellow to be accepted to the expert witness register he/she must have satisfactorily completed a College approved education course on preparing medico-legal reports and have satisfied the College's assessment requirements as part of the course. Her/his continuation on the register is to be reviewed every three years taking into account participation in relevant continuing professional development. The College may choose to submit further assessment courses and may choose not to reappoint Fellows onto the register after three years.

Endorsed by Council, July 2006

Please note: By agreeing to register as an expert witness your name and business address will be released to third parties in response to an enquiry in relation to available expert witnesses. While the College will provide the information to third parties for that purpose only, the College cannot guarantee the information will not be used by the third party for a secondary purpose.

Disclaimer: This college statement is intended to provide general advice to Practitioners. The statement should never be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of each patient. The statement has been prepared having regard to general circumstances. It is the responsibility of each Practitioner to have regard to the particular circumstances of each case, and the application of this statement in each case. In particular, clinical management must always be responsive to the needs of the individual patient and the particular circumstances of each case. This College statement has been prepared having regard to the information available at the time of its preparation, and each Practitioner must have regard to relevant information, research or material which may have been published or become available subsequently. Whilst the College endeavours to ensure that College statements are accurate and current at the time of their preparation, it takes no responsibility for matters arising from changed circumstances or information or material that may have become available after the date of the statements.