

CATEGORY: GOVERNANCE

## The RANZCOG Expert Witness Register: Guidelines for College Members Providing Expert Opinion

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This statement has been developed and reviewed by the Women's Health Committee and approved by the RANZCOG Board and Council.

A list of Women's Health Committee Members can be found in [Appendix A](#).

Disclosure statements have been received from all members of this committee.

**Disclaimer** This information is intended to provide general advice to practitioners. This information should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any patient. This document reflects emerging clinical and scientific advances as of the date issued and is subject to change. The document has been prepared having regard to general circumstances.

**First endorsed by RANZCOG:** April 1990

**Current:** July 2020

**Review due:** July 2023

### Background:

This statement was first developed by Women's Health Committee in April 1990 most recently reviewed in July 2020.

### Funding:

This statement was developed by RANZCOG and there are no relevant financial disclosures.

## 1. Overview

The College acknowledges the need for high standards of contemporary obstetric & gynaecological expert opinion being available to the public and the profession in medicolegal, regulatory and other settings.

In responding to this need, RANZCOG maintains an Expert Witness Register ('the Register'). This Register contains the contact details of qualifying Members of the College who have agreed to their details being made available for the purposes of acting as an expert, and who have declared their willingness to provide opinion in accordance with the standards outlined in this document.

Not being included on the Register does not preclude a Member from providing medico-legal or other expert opinion. However, the RANZCOG Register will be relied on by the College in responding to requests for information as to suitable specialists for the provision of expert opinion.

## 2. RANZCOG Expert Witness Register

RANZCOG Members may request inclusion on the College Register as an appropriate person to provide expert opinion in those areas of obstetrics and/or gynaecology in which they would reasonably be recognised as holding specialist knowledge and skill.

To be eligible for inclusion in the Register, Members must:

- a. Hold unconditional registration as a medical practitioner AHPRA or the MCNZ,
- b. Be in good standing with the College,
- c. Be in compliance with the Continuing Professional Development Program of the College, including completion of any medico-legal component, if available.

Additionally, to be included in the Register, Members must declare their agreement to adhere to the following standards:

- a. To only provide expert opinion on matters within their area of expertise, and
- b. To only provide expert opinion on clinical matters that occurred at a time in which the Fellow was in active clinical practice (or within three years of ceasing active practice), and
- c. To maintain currency of knowledge relating to the provision of expert opinion or acting in the role of an expert by undertaking a relevant educational course or other directed learning activity in each three-year period of listing on the Register<sup>#</sup>.

*# Members who possess a tertiary qualification at Bachelor level or higher in Law may apply to the College Continuing Professional Development Committee for exemption to this recommendation.*

Continuation as a member of the Register is to be reviewed every three years; taking into account participation in relevant continuing professional development as prescribed by the College Continuing Professional Development Committee. Where these expectations are not met, the College may elect to remove Members from the Register or suspend Members from the Register pending verification of completion of a relevant College approved educational course.

Upon retirement, a Member who is listed on the Register will have their name transferred to a separate register, (the Retired Members Expert Witness Register) and will remain eligible to provide opinion on matters that occurred during their time of active practice, in accordance with the Guidelines.

*Application:* Members who wish to be included on the Expert Witness Register should first read these Guidelines and the College “disclaimer” (see below) and then complete the return registration form.

In order to be registered with the College as an expert witness, you need to read and declare your willingness to abide by these guidelines.

### 3. Role of an Expert Witness

The role of the expert witness is to provide relevant and impartial evidence in court or in a written opinion based on his or her area of expertise.

The task of a Fellow retained to provide an expert opinion in a medico-legal case is:

- a. The scientific task of collating, examining and evaluating the clinical and factual case material, and using the skills and expertise expected of a Fellow, forming an opinion based on that study; and
- b. The technical function of communicating this opinion to the legal counsel or statutory body that has commissioned the opinion, either in the form of a written report and/or appearance in Court as an Expert Witness.
- c. Be available to provide an impartial opinion fairly and in the interests of justice.

Any evidence given in court or opinion offered in writing must be preceded by adequate preparation combining a sufficient quantity of research with logical methods of analysis.

### 4. Guidelines for providing expert testimony and/or report

- 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.
- An Expert Witness should be prepared to provide impartial medico-legal evidence or written opinion in the interests of justice and should not become an advocate for the cause of the party that has requested the opinion. If a Fellow seeks to use College policy or other material to illustrate or to give weight to opinions presented it is important that the material is contemporaneous with the time of the event and the qualifications provided in the preamble to the College policy documents are brought to the attention of the Court.
- Any statements of opinions should be in writing and clearly noted as opinion and not as assertion of fact. Should crucial information necessary to forming an opinion be found missing, this should be stated.
  - The Fellow should stringently avoid giving specific opinions outside their area of expertise and practice. For example, it may be inappropriate for an obstetrician to opine on whether events of labour caused a child's neurological disability.
  - Fellows should advise the Court of the relevant spectrum of care considered reasonable by their peers at the time of the event, and of all the concurrent clinical options available at the time, rather than providing only the option considered to be ideal in optimal circumstances with the advantage of hindsight.

- The Fellow should express honestly any shortcomings or limitations of their evidence and, in particular, should highlight areas of ambiguity.
- In giving evidence to the Court, the expert should aim to deliver the evidence in a manner which will be comprehensible to a lay person.
- Experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.
- When preparing a report, a Fellow should ensure that they hold and remain bound by a current copy of guidelines for expert witnesses as issued by the relevant court.

## 5. Professional and Ethical Duty of Expert

The professional and ethical duty of a Fellow acting as an expert witness is to:

- Respect confidentiality at all times.
- Ensure that his or her report is non-partisan, scientifically correct, clinically accurate, and reflective of contemporaneous medical practice.
- Maintain objectivity at all times.
- Avoid rendering an opinion as fact.
- Avoid rendering an opinion outside his or her area of specialist knowledge.
- Declare any pre-existing relationship with any party to the proceedings in question. The existence of such a relationship does not of itself constitute grounds for disqualification, provided the expert distinguishes the opinions based on personal knowledge from those based on the evidence provided by the instructing counsel.
- Recognise that his or her paramount duty is to the Court and not to the party retaining the Expert Witness.
- Take into account the spectrum of care considered reasonable by his or her peers at the time of an event and consider all clinical options rather than the ideal option in the optimum circumstance with the benefit of hindsight.
- Deliver the report in a timely fashion.

### *Expert Witness Directory Disclaimer*

The College does not make its own enquiries about, and does not take any responsibility for, the accuracy of the information contained in these entries. More detailed enquiries about the areas of specialised knowledge and skill of Fellows of the College in the directory should be directed to the Fellow concerned.

Information about all health professionals, their qualifications and any limitations on their practice can also be found on the AHPRA Register and Medical Council of New Zealand website

<https://www.ahpra.gov.au/registration/registers-of-practitioners.aspx>

<https://www.mcnz.org.nz/registration/register-of-doctors>

## 6. Links to other College statements

Evidence-based Medicine, Obstetrics and Gynaecology (C-Gen 15)

[https://www.ranzcog.edu.au/RANZCOG\\_SITE/media/RANZCOG-](https://www.ranzcog.edu.au/RANZCOG_SITE/media/RANZCOG-)

<https://ranzcog.edu.au/resources/expert-witness-register/>

## Appendices

### Appendix A Women's Health Committee Membership

Name	Position on Committee
Dr Scott White	Chair
Dr Gillian Gibson	Deputy Chair, Gynaecology
Dr Anna Clare	Deputy Chair, Obstetrics
Associate Professor Amanda Henry	Member
Dr Samantha Scherman	Member
Dr Marilla Druitt	Member
Dr Frank O'Keefe	Member
Dr Kasia Siwicki	Member
Dr Jessica Caudwell-Hall	Member
Dr Sue Belgrave	Member
Dr Marilyn Clarke	Aboriginal and Torres Strait Islander Representative
Professor Kirsten Black	SRHSIG Chair
Dr Nisha Khot	Member and SIMG Representative
Dr Judith Gardiner	Diplomate Representative
Dr Angela Brown	Midwifery Representative, Australia
Ms Adrienne Priday	Midwifery Representative, New Zealand
Ms Leigh Toomey	Community Representative
Dr Rania Abdou	Trainee Representative
Dr Philip Suisted	Māori Representative
Prof Caroline De Costa	Co-opted member (ANZJOG member)/ Observer (no voting on clinical issues)
Dr Steve Resnick	Co-opted member

## Appendix B Overview of the development and review process for this statement

### i. Steps in developing and updating this statement

This statement was originally developed in April 1990 and was most recently reviewed in July 2020. The following steps were carried out in reviewing this statement:

- Declarations of interest were sought from all members prior to reviewing this statement.
- At the May 2020 WHC meeting, the existing statement was reviewed and updated (where appropriate) based on the available body of evidence and clinical expertise.

### ii. Declaration of interest process and management

Declaring interests is essential in order to prevent any potential conflict between the private interests of members, and their duties as part of the Women's Health Committee.

A declaration of interest form specific to guidelines and statements was developed by RANZCOG and approved by the RANZCOG Board in September 2012. The Women's Health Committee members were required to declare their relevant interests in writing on this form prior to participating in the review of this statement.

Members were required to update their information as soon as they become aware of any changes to their interests and there was also a standing agenda item at each meeting where declarations of interest were called for and recorded as part of the meeting minutes.

There were no significant real or perceived conflicts of interest that required management during the process of updating this statement.

## Appendix C Full Disclaimer

### Purpose

This Statement has been developed to provide general advice to practitioners RANZCOG Expert Witness Register and should not be relied on as a substitute for proper assessment with respect to the particular circumstances of each case and the needs of any person. It is the responsibility of each practitioner to have regard to the particular circumstances of each case. Clinical management should be responsive to the needs of the individual person with a breech presentation at term and the particular circumstances of each case.

### Quality of information

The information available in *Guidelines for College Members Providing Expert Opinion* is intended as a guide and provided for information purposes only. The information is based on the Australian/New Zealand context using the best available evidence and information at the time of preparation. While the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) had endeavoured to ensure that information is accurate and current at the time of preparation, it takes no responsibility for matters arising from changed circumstances or information or material that may have become subsequently available. The use of this information is entirely at your own risk and responsibility.

For the avoidance of doubt, the materials were not developed for use by patients, and patients must seek medical advice in relation to any treatment. The material includes the views or recommendations of third

parties and does not necessarily reflect the views of RANZCOG or indicate a commitment to a particular course of action.

### Third-party sites

Any information linked in this Statement is provided for the user's convenience and does not constitute an endorsement or a recommendation or indicate a commitment to a particular course of action of this information, material, or content unless specifically stated otherwise.

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### Exclusion of liability

The College disclaims, to the maximum extent permitted by law, all responsibility and all liability (including without limitation, liability in negligence) to you or any third party for any loss or damage which may result from your or any third party's use of or reliance of this guideline, including the materials within or referred to throughout this document being in any way inaccurate, out of context, incomplete or unavailable for all expenses, losses, damages, and costs incurred.

### Exclusion of warranties

To the maximum extent permitted by law, RANZCOG makes no representation, endorsement or warranty of any kind, expressed or implied in relation to the materials within or referred to throughout this guideline being in any way inaccurate, out of context, incomplete or unavailable for all expenses, losses, damages and costs incurred.

These terms and conditions will be constructed according to and are governed by the laws of Victoria, Australia.

Version	Date of Version	Pages revised / Brief Explanation of Revision
v1.1	Apr / 1990	Details
v2.1	Jun / 1998	WHC
v3.1	Oct / 2000	Medico-Legal Cmtee/ WHC
V4.1	Feb / 2003	MLC (renamed Feb 03 - Previously 'Guidelines for College Fellows providing expert opinion for medico-legal cases')
V5.1	Jul / 2006	Medico-Legal Cmtee
V6.1	Jul / 2011	CPD
V7.1	Mar / 2015	CPD
V8.1	Jul / 2020	Dr S Fleming, Dr G Kesby/WHC

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