

Critical Appraisal of Expert Medical Testimony

Checklist for analysis of medical reports / testimony

1. Be informed. Speak with Crown / opposing side expert(s), and consider instructing your own – for both an independent opinion and for litigation support. Experts with forensic training typically have advantages in relation to injury assessment and characterization, and can be more at ease in a legal environment. A team approach may sometimes be desirable.
2. Review expert's education, training, qualifications, experience, and relevance. Were appropriate additional experts consulted if necessary (e.g. neuropathologist)?
3. Consider biases and impartiality – ascertain what the expert was told before they made their examination and came to their conclusions
4. Assess the 'raw data' upon which the opinion is based. Consider seeking original relevant materials for independent review, e.g.:
 - Information provided to the medical expert – consider biases
 - Medical records – family physician, clinic, hospital
 - Photographs, diagrams – clinical and other
 - Medical imaging data (CT, X-ray, ultrasound etc.)
 - Information from coroner provided to pathologist prior to autopsy (in BC: coroner's 'Form B')
 - Preliminary autopsy results sheet, prepared by pathologist (in BC: 'Form C')
 - Original autopsy notes & diagrams (sometimes quite revealing!)
 - Records from other personnel attending autopsy (e.g. police, coroner)
 - Scene and autopsy photographs
 - Toxicology report
 - Other related expert reports – e.g. neuropathology, cardiac pathology
 - Peer review/quality assurance notes
5. Ascertain which specimens were sampled, and which might still be available for further review
6. Separate (semi-)objective findings from subjective interpretation
7. Assess reasoning, logic, and evidence base
8. Probe suggested mechanism of injury and/or death (i.e. how did the alleged actions of the accused lead to the medical outcome which you identified)
9. Consider relevant published literature carefully – N.B. peer review does not always equate to a proper unbiased critical analysis of the data and conclusions
10. Keep it simple – seek and demand a clear explanation in plain English
11. Beware – yet embrace (rich pickings!) – over-confidence / dogma / inflexibility