

Ethics in Medical Reporting and Evidence



Reading time:
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Writing accurate certificates, reports and giving evidence

Your role in signing forms, providing certificates, clinico legal reports and potentially giving evidence about them is important and highly valued in the community. As a treating practitioner or expert witness, it assists lawyers and courts in making informed decisions about health care. It is critical to be honest and upfront, not be an advocate and to be mindful of your obligations of confidentiality and protection of your patients' personal and health data.

Board Code of conduct references of note

10.8 Medico-legal, insurance and other assessments

When you are contracted by a third party to provide a medico-legal, insurance or other assessment of a person who is not your patient, the usual therapeutic doctor-patient relationship does not exist. In this situation, good medical practice involves:

- 10.8.1 Applying the standards of professional behaviour described in this code to the assessment. In particular, being courteous, alert to the concerns of the person, and ensuring that you have the person's consent for the assessment and any necessary physical examination.
- 10.8.2 Explaining to the person your area of medical practice, your role, and the purpose, nature and extent of the assessment to be conducted.
- 10.8.3 Anticipating and seeking to correct any misunderstandings the person may have about the nature and purpose of your assessment and report.
- 10.8.4 Providing an impartial report (see section 10.9).
- 10.8.5 Recognising that, if you discover an unrecognised serious medical problem during your assessment, you have a duty of care to inform the patient and/or their treating doctor.

10.9 Medical reports, certificates and giving evidence

The community places a great deal of trust in doctors. Consequently, doctors have been given the authority to sign a variety of documents, such as a Medical certificate of cause of death (death certificates) and sickness certificates, on the assumption they will only sign statements that they know, or reasonably believe, to be true. Good medical practice involves:

- 10.9.1 Being honest and not misleading when writing reports and certificates, and only signing documents you believe to be accurate.
- 10.9.2 Taking reasonable steps to verify the content before you sign a report or certificate, and not omitting relevant information deliberately.
- 10.9.3 Preparing or signing documents and reports if you have agreed to do so, within a reasonable and justifiable time frame.
- 10.9.4 Making clear the limits of your knowledge and not giving opinion beyond those limits when providing evidence.

Writing reports according to good medical (and dental) practice standards

- Be honest, accurate (dates and times matter) and avoid ambiguous language
- Carefully consider your role - treating practitioner, third party assessor or expert
- Ensure the basis of the report is your knowledge, expertise and treatment

- Ensure you have all relevant information and documents
- Do not omit relevant information deliberately.
- Stick to the questions asked, use plain English and avoid clinical jargon
- Remember that your role is to assist the Court as an independent practitioner
- Establish clear boundaries of your knowledge. Restrain from giving an opinion beyond those limits
- Don't rely on hearsay evidence. Only use first-hand information
- Be mindful that other people (judge, coroner, family, patient, lawyers) may see the report
- Be aware that draft reports may also need to be disclosed in Court

Best practice for issuing medical certificates

- Ensure your statements are supported by appropriate notes, relevant investigations and referrals, as well as opinions of other health professionals.
- When issuing medical certificates, your notes should always record the diagnosis detailed on the certificate, the history and examination findings and any other supportive clinical information.
- Keep a copy of the certificate in the patient's file.
- Unless specifically required, private health information or diagnosis should not be included in a medical certificate (required for statutory schemes/insurance claims).

Best practice for issuing death certificates

- Ensure you are the appropriate person to sign
- Be mindful of different legislation in each State/Territory
- What constitutes a 'reportable death' varies by jurisdiction
- Be aware of your overall local legal obligations (refer to State Health Department websites).

Helpful tips for providing suitable medical evidence

- Front of mind – be honest and upfront. Just tell the truth. Remember your obligations of confidentiality and under the Board Code of Conduct.
- Carefully read a court order or subpoena before responding
- Discuss with your hospital and medico-legal insurer:
 - Purpose - for documents or to give evidence?
 - Timeline - by when?
 - Location - Where do you need to appear/provide the documents?
 - Validity - has it been validly issued?
- Be prepared for the lead up to giving evidence:
 - Contact issuing solicitor/police to confirm when are you required, ask to be kept updated
 - Keep in mind that solicitors/barristers may want to help you prepare – but they can't 'coach' a witness
 - Discuss fees and reimbursement, length of evidence

Resources

[Medical Board Good Medical Practice – a code of conduct for doctors in Australia](#)

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