

This article is intended to provide general advice only. The contents do not constitute legal advice and should not be relied upon as such. Readers should seek specific expert and legal advice in relation to the information provided in this article.

MEDICO-LEGAL REPORTS

Current as of May 2024

Note: Whilst this fact sheet refers to the County Court of Victoria as the relevant jurisdiction, corresponding provisions can similarly be found in the rules of each Court. For matters in the Supreme Court please refer to the Supreme Court (General Civil Procedure) Rules 2015 (Vic), Or the Magistrates' Court General Civil Procedure Rules 2020 (Vic) for matters in the Magistrates Court of Victoria.

Medical practitioners are often requested by legal practitioners to provide an expert report for the purposes of legal proceedings. Any medical practitioner providing such a report must familiarise him or herself with the requirements of Order 44 of the relevant Court Rules. Compliance with Order 44 is mandatory, and a failure to do so will give the Court grounds to refuse to consider an expert's report.

WHAT CAN I EXPECT WHEN BEING BRIEFED TO PROVIDE A REPORT?

Lawyers are required to send a copy of the Expert's Code of Conduct when they instruct a medical practitioner to provide a report (or soon after).¹ Any report produced must be signed by the expert and be accompanied by clear copies of any photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter to which the report refers.²

Medical practitioners should be aware that their report needs to be available to be served on the other party at least 30 days before the date fixed for trial.³ To that end any practitioner agreeing to provide a report should be aware of the deadline for completion and only undertake the work in circumstances where they can meet that requirement.

HOW MUCH SHOULD I CHARGE FOR AN EXPERT REPORT?

Fees for providing expert reports will vary depending on the level of information required. Members are encouraged to establish their own professional fees for the provision of such services. Services provided for the benefit of third parties generally attract a GST of 10%.

As far as practicable, the fee on a medical account should reflect the effort, skills and resources associated with the provision of that service.

¹ *County Court Civil Procedure Rules 2018* (Vic) o 44.03(1)(a)

² *County Court Civil Procedure Rules 2018* (Vic) o 44.03(4)

³ *County Court Civil Procedure Rules 2018* (Vic) o 44.03(1)(b)