



Roy G Beran

Legal medicine

How to prepare a report

This article forms part of our 'Paperwork' series for 2011, providing information about a range of paperwork that general practitioners complete regularly. The aim of the series is to provide information on the purpose of the paperwork, and hints on how to complete it accurately. This will allow the GP to be more efficient and the patient to have an accurately completed piece of paperwork for the purpose required.

Legal medicine often requires the provision of a report by the general practitioner. This may be either as the treating doctor or as the expert witness providing peer evaluation of a colleague, or to assess professional standards and/or delivery of health services. This article reviews the process and obligations attached to the provision of such a report.

Keywords: medicine, forensic; general practice/legislation & jurisprudence

Legal medicine has evolved as a specialty area in medicine (rather than law) and relates to the application of medical expertise to the administration of the law.¹

Legal medicine often requires the provision of a report by the general practitioner. This may be either as the treating doctor or as the expert witness providing peer evaluation of a colleague, or to assess professional standards and/or delivery of health services. The request may be generated by a number of sources such as a lawyer, a court, the police, or an insurance company. It may be as simple as the completion of a questionnaire, but that does not diminish the fact that completing such a questionnaire amounts to the provision of a legally binding report. This relies on the integrity and accuracy of its content. The completion of such a document equates to the provision of expert testimony and may be used in legal proceedings. The signature of the doctor who completed the questionnaire amounts to that doctor 'testifying' to the veracity of assertions made within the document.

Often the request for a report will be less structured and may simply ask for an opinion based on a series of assumptions accompanied by a set of questions.

The report

The report must clarify who has prepared its content. This is important as it identifies the scope of the expertise being provided. It should include the use of appropriate letterhead and a comprehensive resume, encapsulating the training and expertise of the author of the report. Without such a resume, the expertise, and hence value, of the report may be disputed with the potential for its rejection by the adjudicating authority.

The purpose and circumstances resulting in the provision of the report should be stipulated. This includes identifying how, when, where and why the report was prepared. It should include a description of the patient at the time of any consultation. It should encompass not only the personal identification but also the presentation, demeanour and level of cooperation of the patient.

It is important to explain to the patient that this is a legal medicine consultation, not a therapeutic provision of service. The patient's informed consent, or refusal to proceed, should be documented in a brief statement in the report. Also include the date of the consultation, who else is present, and the nature of the relationship of that person to the patient.

Report structure

A structured report simplifies its evaluation and interpretation. The use of headings to identify each aspect of the assessment helps the reader to navigate the content of the report.

Legal medicine reports may be organised under the following headings:

- introduction (preamble)
- presenting symptom(s)
- history of the present illness
- injury/injuries sustained
- subsequent management
- personal history
- current complaints
- physical examination
- opinion
- author resume
- code of conduct
- references (when cited), and
- an appendix summarising any additional information that was supplied specifically for the purpose of preparing the report.

History of the present illness

Supplementary reports, which provide additional information regarding the present illness, are often included in the request for the report. In order to minimise bias the author recommends reading these after meeting the patient. The preamble should include the fact that reports were provided, by whom the reports were prepared, and whether or not they were read before, or after, seeing the patient.

As an independent expert it behoves the doctor to take a detailed history of the events or illnesses that relate to the circumstances necessitating the legal medicine consultation. This history is no different to any other medical history and should include:

- presenting symptom(s)
- history of the present illness
- injury/injuries sustained
- subsequent management
- personal and social histories, eg. smoking, alcohol consumption, medications, past medical history, past surgical history, employment history (where relevant) and family history (where appropriate)
- a list of the current complaints at the time of the consultation.

Physical examination

Once a detailed history has been secured, then a targeted physical examination should ensue. This implies specific examination of the relevant parts of the body related to whatever caused the

report to be commissioned.

A more general examination should also be undertaken and documented to establish the overall state of health, any auxiliary considerations, and anything that may subsequently impact on any overall assessment. The more detailed the history and examination, the more protected is the report writer from difficult cross-examination (should they be called as a witness to appear in court).

Opinion

It is imperative that the opinion proffered within the report is rational and the process by which it was derived is both transparent and substantiated. The opinion is the most critical component of the report. It should start with a summary of the salient features of the case, thereby placing the opinion into context. It should offer an overarching assessment of the case, the patient, the process and the conclusions drawn. Any conclusions proffered should be adequately argued and substantiated.

Where any conclusions rely upon literature review, such literature should be referenced, as would be the case in any scientific writing. The references should then be documented either as footnotes or alternatively as endnotes prior to the appendices.

The opinion should be limited to the expertise of the person providing it. That is, should the expertise of a specific consultant be required (eg. a neurologist) this should be identified and the GP should refrain from providing a specific neurological opinion.

Where the opinion cannot be adequately formulated, due to missing evidence or investigation, this needs to be identified and the resultant limitations defined.

Where additional information, testing or further specialised opinion is mandatory before a final conclusion would be valid, this needs to be included within the opinion expressed.

Often the request for a report will include specific assumptions and questions. These need to be outlined within the proffered opinion and the questions answered. Where necessary, should the assumptions proposed limit the response, then it is worth stating those assumptions and further explaining that the answers are specifically tailored to those assumptions.

It is not the role of the expert to usurp the duties of the court. The expert is there to assist the adjudicator to assess the case, not to supplant the adjudication process. Guilt or innocence of an offence, or an act of negligence, is not the responsibility of the expert witness. The expert is there to offer expert opinion on certain facets of the case and to limit the opinion to those facets. To transgress this restriction may render the report useless and the writer equally so labelled.

Author resume

The author of the report needs to establish their personal credentials as an expert in the field; one or two well constructed paragraphs is all that is required. This should be sufficiently comprehensive to establish the level of expertise, clinical experience and professional standing of the report's writer. Should more information be required, it is the duty of the person requesting the report to draw this material out.

Code of conduct

Most jurisdictions have established a code of conduct² relating to expert legal medicine reports. The author of the report has a duty to adhere to this code and is responsible not to any advocate who has commissioned the report, but rather to the system in which the report belongs, usually the court.

The report must contain a formal statement attesting to the fact that the report writer has read the relevant code of conduct, applicable to the jurisdiction in which the report relates and referable to the matter under review. It must also include a formal acceptance of that code of conduct.

Supplementary reports

A summary of the supplementary reports assists the reader to prioritise their content and value.

The author recommends placing this material within an appendix (identifying each report by author, expertise of author and date of preparation), followed by an efficient content summary. This serves to verify that each supplementary report was

critically appraised as to its value in the overall assessment of the patient.

The author's preference is to read and summarise every report provided, even if a specific document is unhelpful, in which case this may be stated, as, for example, '...The report by Professor X does not contribute additional information beyond that already summarised...'.

Further assistance

While the interface between medicine and law may cause stress for the uninitiated, organisations such as the Australasian College of Legal Medicine have established courses and a mentoring process designed specifically for doctors to help them understand legal medicine. Information can be found on their website at www.legalmedicine.com.au.

Author

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