



Physicians for Human Rights



Columbia Human Rights Initiative
Asylum Clinic
Vagelos College of Physicians & Surgeons



HUMAN RIGHTS COLLABORATIVE AT UIC



Harvard Student Human Rights Collaborative
Physicians for Human Rights student chapter at HMS



Ten Guiding Principles for Writing Medical-Legal Documents

Clinicians are often asked to write [affidavits](#), [expert declarations](#), [supplemental declarations](#), and [Amicus briefs](#) on behalf of individuals involved in the justice or immigration system. Here are 10 guiding principles:

1. **Own your expertise.** Your personal experience in the medical/public health fields, research expertise, academic studies, or professional publications are valuable. You must be able to state opinions with “reasonable medical certainty” but you don’t have to answer every question on a case or be an all-purpose expert.
2. **Do not give opinions beyond the scope of your expertise.** If you think that you may not be equipped to serve as an expert, withdraw. Do not stray into areas in which you have no expertise, as that will likely damage your credibility. Instead, you can recommend other experts if you are asked to comment on something in which you are not an expert. Medical students and residents may assist with research and drafting, but only a licensed clinician should review and sign medical-legal documentation.
3. **Own your work.** Never copy and paste. Always provide citations. If you are quoting somebody else, cite the source, their qualifications, and why it is applicable to the situation you are referring to. You can write: “I agree with XX opinion by this well-known expert with ABC credentials.”
4. **Time is of the essence!** Emergency litigation is extremely time sensitive (usually 24-48 hours). Do not commit to take on a case if you are not able to make the deadline. If you are not able to meet your commitment, the attorney will have lost time they could have used to reach out to someone else. Notify attorneys about your time constraints up front.
5. **Avoid personal, political, or ideological views.** Speak as a serious scientist, rely on the evidence. Use the same principles and professionalism in your communication with the legal team.
6. **Avoid medical jargon.** Break down the scientific, technical language and terminology. The brief and the key issues of the case should be understandable to a reader without any medical or public health training.
7. **Ask for supporting data.** You may request medical records or statements describing the medical condition of specific petitioners, the population’s health, the layout of a facility, or the likely conditions detainees may face upon release. **If some information is not known to you, you can still make an educated comment about a facility by laying out your assumptions**, such as: My understanding of the detention center is XYZ,



my understanding of the asymptomatic carriers is ABC, if there is an individual that falls under XYZ category (ex. diabetes, CV risk), then my opinion is ABC. If you do have access to supporting data, pay close attention to details, such as vital signs, dates and times when reviewing medical records.

8. **Payment is OK.** It does not impugn your integrity to accept payment, as long as it's not an exorbitant amount of money, generally less than \$1,000. Sometimes these costs will be passed on to the client, so it is also good to ask the attorney about the funding source.
9. **Declare your conflicts of interest.** Inform the attorney up front, before producing the declaration.
10. **Recognize that you may be called to testify.** As an author and signer of an expert declaration, which is considered both evidence and testimony, you can be deposed. In agreeing to draft medico-legal documentation, you are also committing to serve as an expert witness, if necessary.

For more information, watch PHR's webinar [Best Practices in Writing Expert Declarations](#).