

## **FORMAT FOR VETERINARIAN EXPERT REPORT**

**NOTE: PLEASE READ CAREFULLY!** We are asking that you prepare your report using a specific format that may be different than the one that you are accustomed to using. As your report may be used in either civil or criminal proceedings it is important that your report adhere to the following format:

### **General Requirements for Admissibility**

The British Columbia *Evidence Act*, R.S.B.C. 1996 c. 124 and the *Rules of Court* provide that the report of an expert may be admitted as evidence at trial without requiring the expert to appear as a witness. In order for the report to be admissible, it must set out the following:

- (a) The expert's qualifications;
- (b) the facts and assumptions on which the expert's opinion is based; and
- (c) the signature of the person primarily responsible for the content of the report.

### **The Facts and Assumptions Requirements**

There has been a number of cases where expert reports have been deemed to be inadmissible or unpersuasive because the reports failed to specifically set out the facts and assumptions on which the experts' opinions were based.

Mr. Justice Lowry, in *Crutch v. BC Woman's Hospital*, 2001 BCSC 995 stated that:

I consider it preferable that a statement of expert evidence (most often referred to as an expert's report) begin with a clear statement, or perhaps reference to an annexed letter of request, sufficiently specifying the nature of the opinion sought so as to make it immediately evident why the opinion is required and what it is that must be proven with this kind of evidence. The facts upon which the opinion is based - and only those facts - should then be set out in as complete and concise a statement as the circumstances will allow. The opinion, including the reasoning applied, should be expressed in the simplest terms bearing in mind that the challenge an expert witness faces is to make the evidence easily understood.

Mr. Justice Lowry provided further clarification in the case of *Rowe v. Bobell Express Ltd.*, 2003 BCSC 472 where he said as follows:

Rule 40A of the Rules of Court permits the opinion of an expert witness to be proven by tendering a statement of the opinion without the necessity of the witness being called. The statement must, however, contain the facts and assumptions on which the opinion is based. As I have said before, it is my view that the statement should set out all the facts necessary to the opinion, but only those facts.

The facts, known or assumed, should be immediately apparent. The reader should not have to cull them out of pages recording what was said in the course of interviews or observed during examinations or revealed by tests administered.

### **Suggested Format of Your Report**

We ask that you structure your report as set out below. In the event that the suggested structure is unworkable for any reason, please call the senior animal protection officer to discuss.

#### 1. Statement of Qualifications

Your report should indicate that you are a duly qualified veterinarian licensed to practice within British Columbia. Your report should also contain a statement of your qualifications including particulars such as your education, training, fellowship, specialties, years in practice and type of practice. It may be convenient for you to attach a current *curriculum vitae* to your report.

#### 2. The Purpose of Your Report

Please include a short statement that sets out the scope and purpose of your report.

#### 3. Facts and Assumptions

Please state clearly and concisely the key facts and assumptions on which your opinions are based. The facts could include things such as your observations of the property (eg. water dish was absent, 2 bales of hay). If you wish, you may indicate the relative degree of importance of any particular fact or assumption. You may also wish to provide separate itemized lists of facts and assumptions corresponding to the various opinions that you have been asked to provide (i.e. diagnosis, causation, prognosis etc.)

#### 4. Opinion

Please state your opinion on the issues that you have been asked to address along with your analysis and reasoning. In the majority of cases, the opinion sought includes whether or not the

animal that you examined was in distress, as defined by the *Prevention of Cruelty to Animals Act*, R.S.B.C. 1996, c. 372 (the "Act"), and what caused the distress.

Distress has been defined in the Act at section 1 (2) as follows:

For the purposes of this Act, an animal is in distress if it is

- (a) deprived of adequate food, water, shelter, ventilation, space, care, or veterinary treatment,
- (a.1) kept in conditions that are unsanitary,
- (a.2) not protected from excessive heat or cold,
- (b) injured, sick or in pain or suffering, or
- (c) abused or neglected.

You would also typically be asked to provide your opinion as to whether the animal had to be removed from the property in order to alleviate the distress. It can also be extremely important to provide details as to the duration of the "distress", how long it would take for an animal to get in that condition of "distress" and any other pertinent information regarding the severity of the "distress."

## 5. Appendices

You may wish to append to your report the following information:

- a list of the records that you have reviewed and any comment you may have on those records;
- the result of your examination and/or testing;
- any photographs which were taken of the animals; and
- any recommendations for future care.