

1. What are the elements that need to be established, on a balance of probabilities, for a claim of civil liability to be successful in a civil legal action

Select the **MOST** correct statement?

- a. Duty of care, injury, causation.
- b. Injury, liability, compensation.
- c. Error in judgment, injury, causation.
- d. Fault, injury, causation.

**The correct answer is D.** In order to be successful in a civil legal action in Québec, a plaintiff must prove that the defendant committed a fault, that the plaintiff suffered injury, and that the fault caused the harm or injury suffered by the plaintiff (causation).

2. A 48 year-old male suffers renal failure and end-stage kidney disease. He is a known diabetic, and had been receiving regular care from his endocrinologist. He initiates a civil legal action against his specialist, alleging the kidney damage was preventable.

Which statement **BEST** describes what the courts would consider in determining whether or not the **standard of care** was met in this patient's care?

- a. Poor outcomes are generally considered to be the result of a fault.
- b. The court expects perfection in medical care.
- c. The standard of care is the level of care and skill reasonably expected of a physician with similar training and working in similar circumstances.
- d. The standard of care is the level of care and skill reasonably expected of a physician with similar training and working in similar circumstances.

**The correct answer is C.** Courts determine the standard of care based on whether the clinical care provided to the patient reflected the care that would have reasonably been provided by a physician with similar training and experience. The threshold of reasonable care is determined with the assistance of a number of different sources, including medical expert opinion, published and accepted clinical guidelines, and policies and recommendations of the Colleges at the time the care was provided.

3. A 40 year-old female is diagnosed with cervical cancer and requires a hysterectomy. She later discovers that her family physician had received an abnormal result from her last pap test, which was filed without action. She initiates a civil legal action against her family physician alleging that the delay in diagnosis and treatment of her cervical cancer has resulted in her being infertile.

Which statement **BEST** describes the concept of **causation** when proving civil liability?

- a. The plaintiff (patient) must establish that the family physician had a duty of care that triggered an obligation to follow the standard of care. The plaintiff (patient) must establish that the family physician breached their duty of care by not following the standard of care.
- b. The plaintiff (patient) must establish that the family physician breached the standard of care and demonstrate a causal connection between the alleged breach and the harm.
- c. The plaintiff (patient) must establish that the family physician breached their duty of care by not following the standard of care.
- d. The plaintiff (patient) must establish that the family physician had a duty of care to the patient and that they breached their duty of care.

**The correct answer is B.** To establish causation, the plaintiff must establish, on the balance of probabilities, that there is a relationship, or causal connection, between an alleged breach of the standard of care and the stated harm or injury.

4. A 24 year-old female presents to the emergency department with a two-day history of headache. After a thorough assessment, the patient is discharged with follow-up instructions including symptoms to watch for. Twelve hours later, the patient returns to the emergency department with a worsening headache and new fever, and is diagnosed with meningitis. A civil legal action is initiated by the patient alleging that the delay in diagnosis was the result of negligent care by the emergency physician. The legal counsel for the plaintiff and defendant, respectively, seek opinions of other emergency physicians as medical experts in the matter.

Which statement regarding medical experts is **MOST** correct?

- a. Experts testifying in court must be physicians.
- b. The medical expert's duty is to advocate for the party who retains them.
- c. Medical experts assist the court in determining issues outside the court's direct knowledge, such as what would constitute a reasonable standard of knowledge and skill in a particular circumstance.
- d. Only emergency physicians with highly specialized training are suitable as medical experts in a medico-legal matter involving emergency care.

**The correct answer is C.** In order to assist the court in determining what constitutes a reasonable standard of knowledge and skill in a particular circumstance, medical experts have a duty to be objective and impartial. Experts on standard of care are generally of similar training and experience as the defendant physician. They may use clinical practice guidelines to support their interpretation of the standard of care.

5. A 19 year-old male suffers from cerebral palsy which he believes is due to prolonged maternal labour and delivery. He launches a civil legal action alleging civil liability against the family physician who delivered him 19 years ago.

Which statement **BEST** describes how the court would determine the **standard of care** expected from the family physician?

- a. The level of care and skill reasonably expected of an obstetrician at the time the care was provided (19 years ago).
- b. The level of care and skill reasonably expected of an obstetrician at the time of the trial.
- c. The level of care and skill reasonably expected of a family physician providing intrapartum obstetric care at the time the care was provided (19 years ago).
- d. The level of care and skill reasonably expected of a family physician providing intrapartum obstetric care at the time of trial.

**The correct answer is C.** Since the defendant in this matter is a family physician providing intrapartum obstetric care, the courts would consider the standard of care as the level of care and skill a reasonable, normal, prudent family physician providing intrapartum obstetric care, would have provided at the time of the delivery (19 years earlier).