



# NEW JERSEY STATE BAR ASSOCIATION

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May 14, 2026

Hon. Michael J. Blee, Acting Administrative Director  
Attn: Evidence Rules Committee Report on NJRE 702  
Hughes Justice Complex  
P.O. Box 037  
Trenton, New Jersey 08625-0037

Re: Evidence Rules Committee Report on N.J.R.E. 702

Dear Judge Blee:

Thank you for the opportunity to review the recommendation of the Evidence Rules Committee in connection with proposed amendments to N.J.R.E. 702, governing the admissibility of testimony by expert witnesses. The New Jersey State Bar Association (NJSBA) appreciates receiving additional time to provide comments, as the report engendered robust discussion among our members.

The Committee Report notes proponents of adopting amendments to the state's evidence rules that would mirror the federal rules governing testimony by expert witnesses argue they are necessary to "fix widespread misapplication of the Rule by courts" and to "clarify existing law regarding the admissibility of expert testimony and the gatekeeping role of trial judges to prevent unreliable expert testimony from reaching juries." The Committee determined, however, that amending N.J.R.E. 702 would not further the goals of "clarity" and "reaffirmation of the gatekeeping role" of the courts, and concluded the language of the existing rule and New Jersey's interpreting case law was sufficiently clear. Ultimately, the Committee recommended additional training and education for trial court judges on how to enforce and otherwise implement N.J.R.E. 702 and applicable case law.

The discussion within the NJSBA followed a similar course, with members expressing views on both sides of the question of whether to recommend changes to N.J.R.E. 702. The Board of Trustees took no position, but instead conveys the various perspectives to the Judiciary for its consideration. There was universal agreement with the recommendation of the Evidence Rules Committee that lawyers and judges would benefit from additional education on how to interpret and apply the rule. To that end, the NJSBA commits to developing additional educational programs addressing the issue, which will be offered to the bar at large, and offers to work with the Judiciary to do the same for judges.

With regard to the proposed amendments, those members who agreed with the Evidence Rules Committee to not adopt the federal rule did not perceive a need for further clarification. They found no evidence of widespread misapplication of the current rule. They noted any concerns have been addressed appropriately through caselaw and feared a rule change would actually reflect a misapplication of the caselaw. They argued the federal rule would place additional and unnecessary burdens on the introduction of evidence, and reduce judicial discretion on fact-sensitive issues, while opening the door to additional appeals. Finally, they noted that adoption of the federal rule would undermine New Jersey's conscious decision to adopt the use of the *Daubert* factors, but to stop short of declaring New Jersey as a *Daubert* jurisdiction.

In contrast, those who favored adoption perceived the expanded rule as simply codifying existing law in one place. They posited the additional language would provide greater clarity to practitioners and the Judiciary, promote consistent application of the law, and provide continuity for attorneys who practice both in federal and state courts. They did not view the proposed amendment as adopting the federal *Daubert* standard or importing federal case law, noting instead that the proposed revision codifies core principles already embedded in New Jersey jurisprudence, *i.e.*, that expert opinions must be based on sufficient facts and reliable methodology.

In sum, our members engaged in robust debate over whether to support the recommendation of the Evidence Rules Committee to not adopt the federal rule governing testimony by expert witnesses. Yet all agreed additional training and education would encourage proper application of the rule and its supporting caselaw.

Again, thank you for the opportunity to submit these comments. We hope they are helpful to the Court in reviewing the proposal.

Respectfully,

A handwritten signature in blue ink that reads "Christine A. Amalfe". The signature is written in a cursive, flowing style.

Christine A. Amalfe, Esq.  
President

cc: Norberto A. Garcia, Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director