

<b>Daubert<sup>1</sup></b>	<b>Frye</b>
Applies to all expert opinions, whether they are consider new or not.	Applies only to expert opinions considered to relate to a “new or novel” scientific issue.
State statute and the courts determine admissibility of expert testimony.	Experts’ opinions must be generally accepted in the scientific community to be admissible in Court.
Expert’s testimony must be based upon sufficient facts or data.	No sufficient facts or data requirement
Expert’s testimony must be the product of reliable principles and methods (i.e., scientifically reliable).	No reliability requirement
Expert’s testimony must be relevant to the case at issue.	No relevancy requirement
The expert must apply the foregoing principles and methods reliably to the specific facts of the case.	No reliability requirement
Determination of whether the principles and methodologies of the offered expert testimony are reliable by considering: <ol style="list-style-type: none"> <li>1. Whether the expert’s theory or technique can, or has been, tested;</li> <li>2. Whether the theory or technique has been subject to peer review and publication;</li> <li>3. Whether there is a known or potential rate of error of the technique or theory for a particular scientific technique; and</li> <li>4. Whether the theory or technique is generally accepted in the relevant scientific community.<sup>2</sup></li> </ol>	No review of principles and methodologies used or how those principles and methodologies were applied to facts of case at issue
Judges act as “gatekeepers” who regulate the admissibility of expert testimony based on relevant factors.	Admissibility of expert testimony depends on the standards set by the expert’s scientific community.

<sup>1</sup> Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579, 593-94 (1993).

<sup>2</sup> See, Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999) (applying Daubert standard to non-scientists).