

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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How to prepare for a psych depo without professional help

For the last three months I've written about Apricots™. As you now know, Apricots™ are work-product reports that identify the substantial flaws in a medical-legal psych report so that during a deposition the attorneys can reveal those flaws, get them in the record and demonstrate to the court and anyone reading the deposition that the doctor's report is substantially flawed and their conclusions about permanent disability, apportionment and the need for treatment are unwarranted.

In describing my Apricots™ I've also pointed out that they contain a script of specific questions to ask the doctor. In addition, I've noted that an Apricot™ can be written to assist the attorney in preparing a brief for the court if the doctor's deposition has already been taken and/or if discovery has closed. In addition, I've offered free telephone consults to attorneys to help them with a problematic case as a way of introducing them to the concept of Apricots™. All of this is being done as a way of teaching attorneys how to effectively deal with problematic medical-legal reports. It is my hope that by doing so it will ultimately raise the level of reporting by demonstrating to the medical community that in the areas of personal injury and workers' compensation poor reporting will not be tolerated, rewarded or accepted. The ultimate goal of

Browse Dr. Leckart's Book,
**Psychological Evaluations in
Litigation: A Practical Guide for
Attorneys and Insurance Adjusters**
at www.DrLeckartWETC.com

Apricots™

As an alternative to doing it yourself, no matter where you are in the world as long as your report is in English, you can send me the report and I'll write an Apricot™ describing all the report's flaws with a list of questions to ask the doctor during Cx.

Apricots™ is to teach attorneys to become highly effective in taking depositions from psych doctors without my help.

This month's newsletter describes how an attorney can plan to take a psych doctor's deposition testimony without my help. While any given attorney may decide it is not time-effective to do so, here's how it's done.

Essentially, below is a list of ten things to do in the order in which you have to do them.

1. Decide that you are going to attack the major problem in the doctor's report that is invariably their diagnosis.
2. Learn the definition of the diagnosis by reading the DSM-IV-TR. Although the most recent version of the American Psychiatric Association's diagnostic manual is the DSM-5, it has been soundly rejected by an overwhelming number of mental health professionals, including Dr. Allen Frances, the psychiatrist and Professor at Duke University, who was the chairperson of the DSM-IV and DSM-IV-TR Task Force, Dr. Thomas Insel, the psychiatrist who has been the Director of the National Institute of

Mental Health for over a decade and has concluded that the weakness of the DSM-5 is “its lack of validity,” and the Center for Medicare and Medicaid Services (CMS).

3. See if the doctor cited sufficient history to indicate that the patient reported sufficient current symptoms to diagnose the disorder correctly. Be sure to determine that the history is complete with data about each complaint qualitative nature, frequency, intensity, duration, onset and course over time.
4. Determine if there are sufficient data in the doctor’s report of their MSE to diagnose the disorder or disorders they diagnosed. An MSE should contain: a description of the patient’s appearance and social behavior during the face-to-face interview, observations that have led the doctor to conclusions about the patient’s credibility, narrative statements made by the patient that shed light on any possible psychopathology, observations about the patient’s mood or affect, as well as measurements of the patient’s memory, concentration and attention, insight, and judgment that have bearing on the possibility of psychopathology.
5. Determine if there are psychological testing data consistent with the doctor’s diagnoses. Information about the psychological tests can be found in my book, Psychological Evaluations in Litigation, which is available for reading or free downloading at my website (www.drleckartwetc.com). In this regard, an inspection of my book will reveal that most psychological tests are not useful in medical-legal examinations because the first responsibility of any medical-legal evaluator is to determine credibility and most tests do not have measures of credibility.
6. Determine if the doctor cited any medical records from any mental health professional who agreed with their diagnosis and decide if that doctor’s report or reports were credible.
7. Decide never to ask the doctor about the patient, only the content of their report. If you ask about the patient the doctor is then free to discuss anything, not just the data in their report that led to their conclusions. Needless to say, that discussion may contain assertions that are not credible for a variety of reasons, the most disturbing of which is that the doctor is simply “creating stories.”
8. Decide never to ask the doctor about the extent of permanent psychiatric disability, apportionment or treatment as those questions can always be answered by the doctor taking refuge in their “professional opinion.” The problem here is never with your questions but with the concepts of disability, apportionment and the need for treatment, which are totally subjective.
9. If you don’t have a copy of the DSM-IV-TR buy one used at Amazon.com and take it to the deposition and conspicuously display it so the doctor understands that you know what you are talking about.
10. Write out a series of simple questions that mostly can be answered either “yes” or “no” that will expose all the flaws in the doctor’s report and when the doctor goes off the “deep end” and gives you a long-winded discussion that contains unresponsive answers, incomprehensible jargon or “word salad,” simply go back to your original simple question and keep asking it until the doctor provides an answer.

In case you’re curious as to how this list was generated, it’s a description of exactly what I do when writing an Apricot™.

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(e-mail us at DrLeckartWETC@gmail.com
for more information)

This is the eighty-fourth of a series of monthly newsletters aimed at providing information about pre-deposition/pre-trial consultations, psychological evaluations and treatment that may be of interest to attorneys and insurance adjusters working in the areas of workers’ compensation and personal injury. If you have not received some or all of our past newsletters listed on the next page, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.