

THE WETC PSYCHOLOGY NEWSLETTER

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Forty Tough Deposition Questions for Psych AMEs & PQMEs

In last month's newsletter I outlined the characteristics of a high quality psychological or psychiatric report. In prior months I have written about frequently found flaws in psychological reports. All of those newsletters can be found on my website along with a copy of my book Psychological Evaluations in Litigation: A Practical Guide for Attorneys and Insurance Adjusters. I wrote all of that material in an attempt to raise the level of reporting in the field. In retrospect, in the last 28 years I have been doing workers' compensation and personal injury evaluations it has become completely obvious to me that a very high percentage of the evaluative reports crossing my desk contain substantial flaws. As part of my practice, I coach attorneys on how to take effective deposition and trial testimony from doctors who have written flawed reports. As a retired full-time college professor who has never kicked the teaching habit, I also give lectures to anyone who will listen about flawed reports and how to take testimony from psychologists and psychiatrists.

This month's newsletter provides a comprehensive list of questions you can use as a checklist or crib sheet to formulate more specific questions to ask the doctors during depositions and trials. Essentially, this list was compiled for workers' compensation cases in California that have used AMEs and PQMEs but the basics are applicable to any psych case in the English-speaking world. I hope that applicant and defense attorneys, hearing representatives and insurance adjusters will use

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this list in their litigation. If the doctors won't take it upon themselves to raise the standards of their reporting then perhaps the attorneys can force them into doing so by having their reports thrown out of court or negotiating better settlements based on the flaws found in the doctors' reports. Of course, what the AMEs and PQMEs should be doing is anticipating the attorney's deposition questions while in the process of writing their reports rather than after-the-fact.

1. Did the doctor spend the required amount of time with the patient?
2. What was the time interval between the onset of the evaluation and the doctor's submission of their report?
3. Was the AME or PQME report signed by more than one doctor indicating that a "team" was used to produce the report?
4. Who interviewed the patient and how much time did they spend in that interview?
5. Did the doctor use ancillary personnel in violation of the Labor Code?
6. Did the doctor use unlicensed personnel as contributors to their psychological or psychiatric evaluation?

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7. If the AME or PQME used ancillary personnel did they specify how much time they personally spent on the evaluation and did they bill the AME or PQME rate for the ancillary personnel's time?
8. Did the doctor use the DSM-IV-TR?
9. Did the doctor provide correct and complete DSM-IV-TR numerical diagnostic codes?
10. Did the doctor use diagnostic modifiers or specifiers that are permitted by the DSM-IV-TR?
11. Did the doctor use Deferred, Provisional or Rule Out diagnoses on either Axis I or Axis II, indicating they did not have an adequate understanding of the patient's condition?
12. Did the doctor provide a complete and unambiguous diagnosis?
13. Did the doctor "diagnose" Personality Traits?
14. Does the doctor's diagnosis appear in the DSM-IV-TR?
15. If the doctor's diagnosis appears in the DSM-IV-TR is it a DSM-IV-TR disorder that constitutes a psychiatric injury?
16. Did the doctor provide sufficient evidence to warrant the diagnosis of a DSM-IV-TR disorder?
17. Did the doctor provide a complete life history and discussion of the patient's presenting complaints?
18. Is the doctor's history of the patient's symptoms or complaints consistent with the doctor's diagnosis?
19. Do the doctor's Mental Status Examination data support their diagnosis?
20. Do the doctor's testing data support their diagnosis?
21. Did the patient's testing data demonstrate that they were being frank and honest during the doctor's examination?
22. Did the doctor use tests capable of generating meaningful data in the context of a forensic or medical-legal evaluation?
23. Did the doctor report "impossible" MMPI testing scores?
24. Did the doctor offer credible interpretations for the testing data?
25. Did the doctor explain why they did not use the most recent form of the MMPI, the MMPI-2-RF, which was published in July, 2008?
26. Does the doctor's review of the medical records support their diagnosis?
27. Does the doctor's review of the psychological and psychiatric records reveal objective data that supports their conclusions?
28. Do the doctor's data support the existence of a psychiatric injury by linking events at work to the psychopathology?
29. Are there any inconsistencies between the various sections of the doctor's report?
30. Did the doctor draw conclusions about a work injury being the result of a lawful, nondiscriminatory, good faith personnel action?
31. Did the doctor discuss all periods of temporary and partial psychiatric disability and provide information as to when each began and ended?
32. Did the doctor state when the patient's condition reached Maximum Medical Improvement and provide data supporting that conclusion?
33. Do the doctor's data warrant psychotherapy or psychiatric treatment?

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34. Does a neuropsychological report have any relevance for assessing a psychiatric injury?

35. Did the doctor have any data that would suggest Malingering?

36. Are the doctor's comments about the GAF warranted?

37. Are the comments the doctor made about permanent and temporary psychiatric disability complete and straightforward and supported by data a line of credible reasoning?

38. Are the comments the doctor made about apportionment clear and supported by data and a line of credible reasoning?

39. Is the doctor's report readable and are all the needed sections present?

40. Did the doctor commit any "sophomoric," "amateurish" or "silly" errors such as diagnosing a Depressive Disorder while maintaining that the patient's mood and affect was "euthymic" or normal?

If you would like any further information about these questions and how to use them in taking deposition or trial testimony, please email me at DrLeckartWETC@gmail.com or call at 310-444-3154. You can also visit my website at www.drleckartwetc.com and download a sample coaching report and check out some of the questions I have suggested attorneys use in taking deposition and trial testimony. Additionally, if you would like a completely free predeposition consultation just email me a copy of the doctor's report and we'll set up a time for a telephone conference.

This is the forty-ninth of a series of monthly newsletters aimed at providing information about 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.