

THE WETC PSYCHOLOGY NEWSLETTER

Dr. Bruce Leckart

"Find the Truth, Tell the Story"

Westwood Evaluation & Treatment Center
11340 Olympic Blvd., Suite 303, Los Angeles, CA 90064
(844) 444-8898, DrLeckartWETC@gmail.com, www.DrLeckartWETC.com

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Essential Tips for Cross-Examining Psych Doctors

Psych doctors who write reports that contain multiple substantial flaws should be challenged in cross-examination. In order to effectively cross-examine a psych doctor an attorney must know where the flaws are in the doctor's report and the right questions to ask that will expose those flaws on the record. That is where I can be helpful to you. As you may already know, I write Apricots™ to assist attorneys and insurance adjusters with information about the flaws in a psych report and cross-examining psych doctors. An Apricot™ describes a psych report's flaws using non-technical terms, discusses effective strategies to use in approaching the doctor's cross-examination, and provides a script of questions to get those flaws on the record. An Apricot™ is also a work product privileged report that can be used in any jurisdiction. In situations where discovery has closed or the doctor will not be cross-examined, an Apricot™ contains all the psychological information needed to prepare a brief for the court if the attorney decides that they wish to petition to have the court throw out the doctor's report. Find sample Apricots™ available on my website for download, www.DrLeckartWETC.com.

This month's newsletter offers three additional tips to the 15 tips I wrote about in my August, September, October and November newsletters. The 15 tips from previous newsletters are listed below:

1. Never ask the doctor about the patient
2. Always focus on the doctor's diagnosis
3. Determine if the doctor's history supports their diagnosis
4. Find the doctor's data about the patient's credibility

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If in reading a psych report you find reason not to trust its credibility but you can't put your finger on all of the problems or understand how to expose them on a Cx or in a brief you can send it to me for a thorough analysis.

5. Make sure the doctor's Mental Status Examination results are consistent with the doctor's diagnosis
6. Be persistent if the doctor is non-responsive
7. Make sure the doctor's psychological testing data demonstrates patient credibility
8. Determine if the doctor's history is complete
9. If you're uncertain where the doctor's report is vulnerable get expert help
10. Be prepared, don't gamble during a deposition
11. Study up on the validity scales of the Minnesota Multiphasic Personality Inventory (MMPI)
12. The fallacy of the "Cry For Help" explanation of "faking"
13. Determine if the review of medical records supports the doctor's diagnosis
14. Determine if the doctor's Major Depressive Disorder diagnosis is complete.
15. Determine if the doctor used the appropriate diagnostic manual.

The three tips below are also essential for exposing the flaws in a psychological evaluation report through cross-examining psych doctors.

16. Determine if the psych report lacks sufficient data to support the doctor's diagnosis

The doctor's diagnosis is the major problem found in most psych reports. Therefore, the reader of the report should focus on determining if the psych report lacks sufficient data to support the doctor's diagnosis. Doing

this is not a difficult task. Simply, match up the diagnostic criteria found in the Diagnostic and Statistical Manual of Mental Disorders (DSM) with the data found in the doctor's report to see if the report lacks sufficient data to support the diagnosis. Once it has been demonstrated that the diagnosis is unsupported, there is absolutely no support for the conclusion that the patient has a psychiatric injury, a psychiatric disability or a need for treatment.

17. Look for the MMPI testing data

The Minnesota Multiphasic Personality Inventory (MMPI) is an instrument that is widely accepted by the psychological community as being capable of assessing psychopathology. In fact, the MMPI is the cornerstone of virtually every credible forensic psychological testing battery as a test with the ability to measure an individual's test-taking attitudes or credibility. In reviewing a psych report, when you see that a doctor has declined to administer an MMPI, you should ask them where in their report they provided their explanation for omitting the MMPI from their battery of psychological tests.

When you find that the doctor administered the MMPI during their evaluation, look for the MMPI scores in their report. For some unknown reason, many psych doctors choose to omit MMPI scores from their report. The absence of those scores means that the reader of their report cannot verify the basis for their summary conclusions about the patient's MMPI performance. When you see that a psych doctor has declined to provide the patient's MMPI scores in their report, you should ask them if there is anything in their

report that would allow the reader of that document to confirm the conclusions they drew from the patient's MMPI.

18. Make sure the doctor's diagnosis appears in the DSM

For some reason that is not clear, some psych doctors choose to make up their own diagnoses by "creating" modifiers or specifiers. These doctors take it upon themselves to add modifiers or specifiers that are not outlined in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM). Unfortunately, the use of modifiers or specifiers created by the doctors results in a situation where their diagnosis is ambiguous as those creations have no generally understood meaning. When you see a diagnosis in the doctor's report that does not exist in the DSM, you should ask the doctor where in the DSM you can find the diagnosis they provided in the manner that they verbally described that disorder.

In conclusion, the tips discussed above are essential to effectively cross-examining a psych doctor about psych reports written for the court. The tips can also be helpful in preparing a brief for the court. For more information on cross-examining psych doctors and identifying the flaws in psych reports check out my website at www.DrLeckartWETC.com where you can also download a sample Apricot™ as well as a free copy of my book Psychological Evaluations in Litigation: A Practical Guide for Attorneys and Insurance Adjusters.

FREE MMPI Score Validation involving testing reports of a

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

This is the ninety-fifth 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, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.