

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Personal Injury Psych Reports: More on Cross-Examining the Doctor

Last month I published a newsletter wherein I discussed psych reports written for personal injury cases. Specifically, I provided information about the plaintiff's life history and their current symptoms, or complaints as a source of data presented by the evaluating doctor that could support their diagnosis. This month's newsletter discusses another source of data typically found in psych reports that could support the doctor's diagnostic conclusions: the Mental Status Examination data.

A Mental Status Examination is part of every psychological and psychiatric evaluation conducted in a medical-legal context. A Mental Status Examination is part of the doctor's face-to-face interview that typically takes 20 to 30 minutes to complete. It is a procedure that produces a set of observations of the patient that are made by the doctor using a relatively standard set of examining techniques and questions. Further, the nature of Mental Status Examinations and the procedures for administering them have long been well known (e.g., Trzepacz, P.T. & Baker, R.W. The Psychiatric Mental Status Examination. New York: Oxford University Press, 1993). In this regard, the doctor's evaluative report should always contain a section dedicated to detailing observations of the plaintiff made by the doctor during the Mental Status Examination. Essentially, during a Mental Status Examination the doctor observes, measures and comments on the behavior of the plaintiff being evaluated. In particular, the doctor is expected to report on the plaintiff's physical presentation; understanding of the examination; credibility; historical ability; relationship with the examiner; mood; and cognitive processes such as memory, concentration, insight and judgment. All of the observations the doctor makes about the plaintiff's physical presentation is more formally called

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the patient's "signs." In contrast, the plaintiff's symptoms are what they complain about or tell the doctor is wrong with them at the time of the examination.

In my newsletter from July, 2014 titled, The Ten Commandments of Mental Status Examinations, I discussed ten essential aspects of Mental Status Examinations. The July, 2014 newsletter is available for download from my website, www.DrLeckartWETC.com. Those Ten Commandments of Mental Status Examinations are:

1. The Doctor Shall Not Provide Information About the Patient's Complaints in Their Report of the MSE
2. The Doctor Shall Not Provide Summary Conclusions About the Patient
3. The Doctor Shall Discuss and Explain Any and All Inconsistencies Between the Patient's Complaints and the Doctor's Observations
4. The Doctor Shall Provide Mental Status Examination Observations That Are Consistent With Their Diagnoses
5. The Doctor Shall Not Provide Information From a Mental Status Examination Checklist that is Completed by Either the Doctor or the Patient
6. The Doctor Shall Provide Observational Data About the Patient's Mood
7. The Doctor Shall Provide Measurements of the Patient's Memory
8. The Doctor Shall Provide Measurements of the Patient's Attention and Concentration
9. The Doctor Shall Provide Measurements of Complex or Higher Order Cognitive Processes
10. The Doctor Shall Provide Observational Data of the Patient's Social Behavior

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During cross-examination of the psych doctor, the attorney should simply ask where in the doctor's report they provided the observational data to support their diagnostic conclusions. A question that may be useful during cross-examination is: "Doctor, you stated in the Mental Status Examination section of your report that the plaintiff had a mood that you described as dysphoric and depressed. Since dysphoria is a general term that is used to describe any form of uneasiness or discomfort, can you point to any observations that you made that were cited in your report of your Mental Status Examination that indicate that the plaintiff demonstrated any behaviors indicative of a clinical depression?" Another question might be: "Doctor, will you please tell me where your report of your Mental Status Examination I can read about what you observed of the plaintiff's behavior that led you to make your summary conclusion about his mood?"

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In summary, psych reports written for personal injury claims of a psychiatric injury must contain sufficient data to support the doctor's diagnosis. In addition to the plaintiff's life history and their current symptoms, or complaints, another essential source of data is the doctor's observations during a Mental Status Examination. When it is discovered that the doctor's report lacks sufficient Mental Status Examination data and is in violation of the Ten Commandments described above, the doctor should be asked questions in cross-examination that are directed at the flaws in their Mental Status Examination. When the flaws in the doctor's Mental Status Examination are exposed, the conclusion must be that the doctor's report lacks sufficient Mental Status Examination data to support their diagnostic conclusions!

This is the one-hundred second 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.