

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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The DSM-5 and Weak Psych Reports

In the words of John Henry Wigmore, cross-examination is "beyond any doubt the greatest legal engine ever invented for the discovery of truth."

3 Wigmore, Evidence §1367, p. 27 (2d ed. 1923)

In last month's newsletter after laying out a number of theories I concluded that psychologists and psychiatrists keep writing substantially flawed reports in workers' compensation and personal injury litigation because of incompetence. In this month's newsletter I point out that the same "mind set" that produces weak psych reports is found in the DSM-5, reinforcing the notion that it's ok to do bad work.

Specifically, both the problematic DSM-5 and the incompetence rampant in forensic psych is the result of the philosophical difference between evidence-based practice (EBP) and the "gut-oriented/feeling-based" standards utilized by many forensic and clinical psych practitioners.

Evidence-based practice requires making decisions about the diagnosis, cause, and treatment of psychopathology that is based on academically grounded scientific research. Evidence-based practitioners rely on objective data to draw evaluative conclusions. In contrast, non-evidence-based practitioners rely on their "gut," intuition, clinical judgment or subjective feelings.

Nowhere can the contrast be more clearly seen than in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition, the DSM-5!

"An Apricot™ is a written-analysis of a psych report that you have that may not be in your favor. I find every flaw in the report, explain why they are flaws, and provide documentation from the published psychological and psychiatric literature that demonstrate that these flaws exist."

I have written extensively about the DSM-5 and how in California's workers' compensation system it does not conform to Labor Code section 3208.3, which wisely requires that psychological diagnoses be made using a diagnostic manual "generally approved and accepted nationally by practitioners in the field of psychiatric medicine."

There is no doubt that the DSM-5 has been widely rejected nationally and internationally. If you want documentation about the reasons, I suggest you read the newsletters I published between June, 2013 and February, 2014, available at my website, www.DrLeckartWETC.com.

Perhaps the single most telling weakness of the DSM-5 occurs in the collective attitude expressed by its almost 2,000 authors concerning the diagnostic criteria for the literally thousands of disorders found in that manual.

Specifically, the DSM-5, which attempts to represent the official view of mental disorders for the mental health community, states very clearly and concisely on page 21:

"Diagnostic criteria are offered as guidelines for making diagnoses, and their use should be informed by clinical judgment."

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A statement follows this on page 25 that reads:

“it is important to note that the definition of mental disorder included in DSM-5 was developed to meet the needs of clinicians, public health professionals, and research investigators rather than all of the technical needs of the courts and legal professionals.”

Well now, what do those statements tell us?

By employing the simple word “guidelines,” the DSM-5 explicitly states that the criteria laid out for the thousands of disorders in the 947-page DSM-5 can be completely ignored by diagnosticians, especially those working in forensics, in favor of their “clinical judgment.”

Or, if you prefer,

Dear forensic practitioners:

“Please feel comfortable and completely free to ignore the evidence-based knowledge of the 1,810 mental health professionals, listed on pages 897-916 who contributed to the DSM-5 diagnostic criteria. Throw those criteria out the window, and just use your “gut,” intuitions, clinical judgment and subjective feelings in drawing diagnostic conclusions and providing testimony in court!”

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And you wonder why you see such terrible, undocumented reports with unsupported conclusions and recommendations?

Now for some good news. For over 30 years I have been fighting incompetent reports in the course of my multifaceted forensic practice. For the last 10 years I’ve been focused on writing Apricots™. An Apricot™ is a work product privileged report that lists all of a psych report’s flaws, explains why they are flaws in jargon-free language, provides published references supporting my conclusions, and includes simple questions to ask the psych doctor on Cx that expose the flaws in their report. Apricots™ are also used to prepare briefs, petitions and/or appeals. If you are an attorney, an insurance adjuster or supervisor and you suspect you have a substantially flawed psych report, send it to me for a free telephone analysis and cost estimate of an Apricot™. You can reach me at 844-444-8898 and/or DrLeckartWETC@gmail.com.

This is the one hundred thirty-third 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.