

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
310-444-3154, DrLeckartWETC@gmail.com, www.DrLeckartWETC.com

September, 2014
Volume 1, Issue 68

Cross Examining Shrinks: Leckart's First Rule

There are many times when plaintiff and applicant attorneys, as well as defense attorneys, believe that a psychologist or a psychiatrist has severely under- or over-estimated a claimant's psychopathology and/or psychiatric disability. For the last six years I have been assisting attorneys in taking deposition and trial testimony from psychologists and psychiatrists. I generally do this by writing reports that document whatever flaws are found in those reports, enumerating all the problems I can find. I also suggest questions for the attorneys to ask the doctors that will expose those problems and lead to more just settlements or findings.

In writing my critiques and preparing attorneys to take the doctor's testimony, I have come up with several rules. This newsletter will address Leckart's First Rule. Quite simply, Leckart's First Rule states that the attorney should never ask the doctor about the patient but always confine their questioning to the doctor's report. The reason for this is quite simple. When the attorney asks the doctor about the patient, the door opens for the doctor to provide information that is not in his or her report that could conceivably support their conclusions. Obviously, the information the doctor may or may not provide if asked about the patient may or may not be correct for a variety of reasons. However, if the attorney confines their questions to the doctor's report, no new "evidence" can find its way into the doctor's testimony and the outcome will most likely be far superior than asking the doctor about the patient. In fact, Leckart's First Rule is not limited to psychologists and psychiatrists but applies

If you are not satisfied with a doctor's report and wish to challenge their conclusions, all you need is a list of the flaws in that document as well as a list of questions to ask the doctor that will expose those problems.

to an attorney taking testimony from medical practitioners of any specialty working as an expert witness.

Does it matter which side of the fence the attorney and the doctor are working on? No! Essentially, Leckart's First Rule applies to any and all reports written by a physician on referral from a defense attorney, an applicant or plaintiff attorney or a doctor agreed to by both sides. If, as an attorney, you are not satisfied with the doctor's report and want to take it to task, all you need is a list of the possible flaws in that report, an understanding of why those portions of the report are flawed, and a list of questions to ask the doctor that will produce testimony revealing the flaws and get you to a place where you can safely demonstrate that the doctor's report does not support their conclusions.

So, if you are a defense attorney and are dealing with a report in which the doctor has provided opinions that state there was an injury but you believe that such an injury did not occur, Leckart's First Rule tells you to ask questions about the report that point out that there is no support for their conclusions. Similarly, if you are an applicant or plaintiff attorney dealing with a report in which the doctor has provided opinions that state there was no injury or a minimal injury in a case where you believe a significant injury has occurred, Leckart's First Rule says that you ask questions about the report that point out that there is no support for their conclusions.

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

In summary, by applying Leckart's First Rule the attorney will likely see the best outcomes when strategically formulating questions that require the doctor to respond about what exists in their report. For example, when asking the doctor about the patient's complaints of depression, the attorney should never ask:

Dr. Soandso, will you please tell me about the patient's complaints of depression at the time of your interview?

Rather, the attorney should ask something like:

Dr. Soandso, will you please tell me where in your report I can read about the patient's complaints of depression?

Most frequently, winning or losing your case depends on Leckart's First Rule and the strategy described above.

**Pre-deposition consults
involving reports of an**

•IME •QME •PQME •AME •APQME

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

This is the sixty-eighth 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.