THE WETC PSYCHOLOGY NEWSLETTER

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Common Flaws in Psych Reports #3

In my February, 2010 newsletter I talked about some additional common flaws that occur in psychological and psychiatric reports. It was a follow-up to a newsletter I wrote in March, 2009 outlining some substantial flaws that can be found in most psychological reports written for the courts. As I noted in February, 2010, the identification of those flaws is especially important for attorneys and adjusters in the workers' compensation area because the passage of SB899 has resulted in a situation where most AME reports are not reviewed by other doctors who are capable of finding those errors. In short, between the two newsletters I have identified four important errors as:

1. A lack of correspondence between the history presented by the doctor and the DSM-IV-TR diagnostic criteria.

2. A lack of correspondence between the Mental Status Examination data presented by the doctor and the DSM-IV-TR diagnostic criteria.

3. The failure to provide objective psychological test data supporting the doctor's diagnosis.

4. Doctors making statements indicating they have not collected enough data to make a diagnosis.

This month's WETC Newsletter discusses two additional flaws in psychology reports in the hope that this information can be used by non-mental health professionals to identify such flaws in time for an MSC or during an AME's deposition or trial testimony.

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"the flaws discussed in this month's newsletter put the doctor's report at risk of being successfully criticized by opposing attorneys in the courtroom as not constituting substantial evidence."

The Use of an Outdated or Obsolete Diagnostic Manual

As almost everyone knows, the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition-Text Revision (DSM-IV-TR) is the "bible" for diagnostic work in psychology and psychiatry and is required for use by LC § 3208.3. The Psychiatric Protocols also require its use for injuries occurring prior to January 1, 2005.

The first edition of the Diagnostic and Statistical Manual of Mental Disorders was published by the American Psychiatric Association in 1952 and has since been through five revisions as researchers have learned more about the nature of mental disorders. The second edition, called the DSM-II, was published in 1968, and in turn was followed by the DSM-III, which was published in 1980. The next revision, published in 1987, was titled the DSM-III-R and it was replaced by the DSM-IV in May, 1994. The current diagnostic manual, the DSM-IV-TR, was published in May, 2000. As each manual has been published it has been considered to be the standard for use in diagnosis.

The above being said, one error that is still sometimes made by psychological and psychiatric evaluators is the use of an outdated diagnostic manual. Since there have been changes in the definition of some disorders over the years, as well as the elimination of some and the addition of others, the use of an antiquated diagnostic manual opens up the possibility of the doctor making diagnostic errors. Perhaps more importantly, it reveals that the doctor is not current in their knowledge of psychological diagnoses.

In this regard, some doctors have been known to state that there are no differences between the DSM-IV and the DSM-IV-TR. This is clearly not correct. With all due respect to these physicians, they would do well to read page xxix of the DSM-IV-TR where the differences between the DSM-IV and the DSM-IV-TR are discussed.

A reading of that page indicates that the authors of the DSM-IV-TR clearly stated that the revision assured that the information in the new diagnostic manual was "up-to-date" and reflected new information that became available since the DSM-IV literature reviews were completed in 1992. Additionally, there were some substantive changes in the diagnostic criteria for many disorders, for example, Tourette's disorder (307.23). Additionally, while there were no substantive changes in the diagnostic criteria for some of the disorders, such as a Major Depressive Disorder, substantial changes were made in the information concerning these disorders such as the course of the episodes and remissions, factors that could easily bear upon the doctor's diagnosis. To give just one example, the DSM-IV explicitly stated that untreated episodes of a Major Depressive Disorder typically last six months or longer, whereas based on recent research the DSM-IV-TR updated that information to indicate that untreated episodes typically last four months or longer. While some doctors may not think that this information, and other types of data like it, is important, data such as these could easily make a difference in a diagnostic conclusion.

Overall, an attempt to maintain the position that it is irrelevant whether one uses the DSM-IV or the DSM-IV-TR is not supported either in terms of the legal requirements of the workers' compensation system or the position that the two diagnostic manuals are essentially the same.

Diagnosing Disorders That Do Not Exist

On many occasions some doctors have been known to creatively or erroneously "diagnose" disorders that are not found in the DSM-IV-TR. At times, they are not far off from what is found in the DSM-IV-TR, but far enough to make their diagnostic conclusions ambiguous. For example, one favorite of mine is a Hysterical-Borderline Personality Disorder. It sounds good and official but of course, a 10-second search of the Index of the DSM-IV-TR quickly reveals that there is no such disorder, and the doctor's "diagnosis" is simply one that they created for the occasion and that has no known meaning or criteria.

Another way for a doctor to diagnose a disorder that does not exist is to create or make up diagnostic modifiers or specifiers not found in the DSM-IV-TR. As defined by the DSM-IV-TR a diagnostic modifier or specifier is often simply a way for the doctor to provide additional information about the severity of the disorder or its course. For example, the DSM-IV-TR has a specific way of allowing a doctor to report that a patient's condition has improved. In this regard, the two possible specifiers that the doctor can report are "In Partial Remission" and "In Full Remission."

"In Partial Remission" is the specifier that is used when the full criteria for the disorder were met at some prior time but at the time of the doctor's current examination only some of the signs and/or symptoms remain. "In Full Remission" is the specifier used when there are no longer any signs and/or symptoms of a disorder that was previously found, but it is relevant to note that the disorder existed at some time in the past. This specifier might be used when the doctor wants to make it clear that the patient had a disorder as a result of the automobile accident that occurred in July, 2006, but is recovered and no longer has any signs or symptoms of the disorder. However, when a doctor makes up their own specifiers and states something like, "Depressive Disorder Not Otherwise Specified, greatly improved," or "Depressive Disorder Not Otherwise Specified, with some improvement," they have added ambiguity to their report and created an opening for criticism and questions about their competence and credibility.

In summary, I have pointed out two additional ways that a doctor can introduce uncertainty in their report by using an outdated version of the Diagnostic and Statistical Manual of Mental Disorders and by diagnosing disorders that simply do not exist in the most current version of the diagnostic manual. Regardless, these flaws when found in psychological reports reveal a lack of understanding of workers' compensation laws for psychiatric and psychological reporting. Further, the flaws discussed in this month's newsletter put the doctor's report at risk of being successfully criticized by opposing attorneys in the courtroom as not constituting substantial evidence.

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