

# THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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## Psych Treatment Liens

Liens for psychological and psychiatric treatment can be disputed! A psych doctor may file a lien against a plaintiff's/applicant's claim for the cost of treatment services provided. Psychologists provide psychological treatment, in the form of individual and/or group psychotherapy. Psychiatrists may also provide counseling as well as psychotropic medication and then see the patient to assess the effects of the medication, making any necessary adjustments to the prescription.

Prior to providing treatment, psychologists and psychiatrists will perform an evaluation of the patient to determine the patient's psychological status and treatment needs, if any. Unfortunately, I've read thousands of evaluation reports from treating psychologists and psychiatrists where they did not provide sufficient data in their report to support a psychological diagnosis that would warrant the need for mental health treatment, but they went ahead and treated the patient. Thus, when psych doctors provide mental health treatment, despite not having a supporting psychological diagnosis, and file a lien for their services as a treating doctor, those liens should be disputed for lack of sufficient evidence to support the need for treatment!

I have recently had communication with an attorney who was disputing the treating psychologist's liens for being excessive and unnecessary. The psychologist in

*"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 supports the contention that these flaws exist."*

this scenario provided over 1000 treatment sessions to the same individual over the course of well over 10 years. This psychologist filed a lien against the claim with the court totaling well into six figures. The legal approach that the attorney adopted was to file a Trial Brief with the court disputing the necessity of the treatment. In an effort to draft a thorough and convincing Trial Brief, the attorney retained my services as an expert consultant to produce a work product privileged report.

With regard to the scenario discussed above, the first order of business would be to identify the most recent evaluative report issued by the psych doctor and determine if the doctor provided sufficient data in their report to support their psychological diagnosis. With respect to the doctor's diagnosis it should be understood that psychological diagnoses are made after considering as many as five different sources of information. These sources of information are: the patient's life history and their presenting complaints, the doctor's report of their face-to-face Mental Status Examination, the objective psychological testing data, the patient's medical records and any collateral sources of information in the form of interviews with the patient's friends, relatives and/or business associates that are available at the time the doctor examines the patient.

In preparing a work product privileged report needed to submit a Trial Brief the first step is to go to the American Psychiatric Association's Diagnostic

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and Statistical Manual of Mental Disorders (DSM) and get the diagnostic criteria for each disorder diagnosed. Once having done so the next step is to read the doctor's report to see if their history of the patient's symptoms or complaints provides sufficient information to warrant the diagnosis. Since the DSM is written in reasonably non-technical English all one has to do is compare what the doctor has said about the patient's complaints with the disorder's definition in the diagnostic manual. If there are insufficient data to support the doctor's diagnosis that is the first sign that their lien is not warranted.

Second, one has to take a good look at the doctor's report of their Mental Status Examination. A Mental Status Examination produces a set of observations of the patient, which are made by the doctor, under reasonably controlled conditions, employing a relatively standard set of examining techniques and questions. Thus, if there are no data in the doctor's report of their Mental Status Examination supporting the doctor's diagnosis then that is further evidence that the lien is not warranted.

Third, one reviews the psychological testing data where the first order of business is to find if the doctor has obtained data determining that the patient was credible during their evaluation. Typically, credibility is addressed by a test such as the Minnesota Multiphasic Personality Inventory (MMPI), the gold standard of all psychological test batteries for use in medical-legal evaluations. If there are data in the doctor's report indicating that the patient was not being honest and straightforward and/or was attempting to simulate symptoms, or as some mental health practitioners might say, "faking," during the evaluation then this is evidence that the diagnosis is incorrect and any subsequent treatment for that condition is not needed.

Fourth, it is necessary to read the doctor's review of the medical records. At that point you ask yourself the simple question, "Did the doctor cite any credible

medical records from mental health physicians who agreed with their diagnosis?" When you find that the psych doctor did not cite a credible medical record from a mental health physician who concurred with their diagnosis, all that is necessary to say in a Trial Brief is that the doctor did not have any medical record data that supported their diagnosis.

Lastly, it is relevant to find any collateral sources of information in the form of interviews with the claimant's co-workers, friends and/or relatives who have offered information that could shed some light on the claimant's psychological status. However, don't hold your breath looking for collateral sources of information in psych reports because it usually isn't there. In fact, there is really no need for such information in the vast majority of the cases since the other four sources of data are sufficient.

In summary, in drafting a Trial Brief it is necessary to shed light on the data in the doctor's report that either supports or contraindicates the doctor's diagnosis. Here the focus is on the data in the doctor's report or reports in the areas of the patient's life history and presenting complaints, the doctor's Mental Status Examination, the psychological testing, the review of the patient's medical records and collateral sources of information. If an inspection of these data does not support the doctor's diagnosis, the conclusion is inescapable that the doctor's report does not support the doctor's diagnosis warranting the need for mental health treatment. At that point, it is reasonable to conclude that the doctor's liens are not supported by the doctor's reports!

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