

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Effective Tips to Use When Cross-Examining Psych Doctors

Since August, 2016 my newsletters have been based on providing tips for effectively cross-examining psych doctors. I have also published over 70 tips, which are available at my website, www.DrLeckartWETC.com. Attorneys can use those tips to prepare to take deposition or trial testimony from a psych doctor. Insurance adjusters and attorneys can also commission an Apricot™ to help them prepare to cross-examine a psych doctor or write a brief for the court. 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. I also provide multiple questions for the attorney to use in cross-examining the doctor as well as specific techniques to use on Cx.

An attorney recently told me that using my tips as well as the questions I provided in the Apricot™ produced favorable results for the Cx. Specifically, the attorney stated,

"In fact when I was done with the deposition the (doctor) told me he never wanted to see the deposition transcript and that I had asked him very hard and in depth questions and he was glad to see me go."

The 26 tips discussed in my six previous newsletters are:

1. Never ask the doctor about the patient
2. Always focus on the doctor's diagnosis
3. Determine if the doctor's history supports their diagnosis
4. Find the doctor's data about the patient's credibility
5. Make sure the doctor's Mental Status Examination results are consistent with the doctor's diagnosis

If in reading a psych report you find reason not to trust its credibility but you can't put your finger on all of the problems or understand how to expose them on a Cx or in a brief you can send it to me for a thorough analysis.

6. Be persistent if the doctor is non-responsive
7. Make sure the doctor's psychological testing data demonstrates patient credibility
8. Determine if the doctor's history is complete
9. If you're uncertain where the doctor's report is vulnerable, get expert help
10. Be prepared, don't gamble during a deposition
11. Study up on the validity scales of the Minnesota Multiphasic Personality Inventory (MMPI)
12. The fallacy of the "Cry For Help" explanation of "faking"
13. Determine if the review of medical records supports the doctor's diagnosis
14. Determine if the doctor's Major Depressive Disorder diagnosis is complete
15. Determine if the doctor used the appropriate diagnostic manual
16. Determine if the psych report lacks sufficient data to support the doctor's diagnosis
17. Look for the MMPI testing data
18. Make sure the doctor's diagnosis appears in the DSM
19. Determine if the review of medical records contains psychological-sounding diagnoses made by non-mental health physicians
20. Determine if the doctor's Major Depressive Disorder diagnosis is supported by information about the frequency of the patient's symptoms
21. Know the common flaws in psychological testing reports
22. Determine if the team-approach is appropriate
23. Look for a current Global Assessment of Functioning (GAF) score and the highest GAF score in the previous year
24. Testing always requires a test proctor or supervision
25. Sadness and crying are normal
26. Specifying Personality Traits on Axis II

Browse Dr. Leckart's Book at
www.DrLeckartWETC.com

This month's newsletter provides an additional four tips to use when cross-examining psych doctors.

Tip #27 – Panic Disorder

Since the credibility of every psych report is whether or not there is support for the doctor's diagnosis it is important to know the DSM-IV-TR diagnostic criteria. In this regard, a Panic Disorder is diagnosed correctly when the individual presents with recurrent and unexpected Panic Attacks. These attacks must be shown to have been followed by one month or more of either persistent concern about having additional attacks, worry about the implications of the attacks or the consequences, or a significant change in behavior related to the attacks. In addition, the DSM specifies that a Panic Attack is not a disorder in and of itself and is characterized by a discrete period of intense fear or discomfort in which four or more of 13 symptoms occur that develop abruptly and reach a peak within minutes. These symptoms are: palpitations; a pounding heart or accelerated heart rate; sweating; trembling or shaking; sensations of shortness of breath or smothering; feelings of choking; chest pain or discomfort; nausea or abdominal distress; feeling dizzy, unsteady, lightheaded or faint; feelings of unreality or of being detached from oneself; fear of losing control or going crazy; fear of dying; numbness or tingling sensation and chills or hot flushes.

Tip #28 – Psychological Factors Affecting Medical Condition from the DSM-IV-TR

In order to determine if a person has had a psychological injury that determination typically rests on an evaluating physician's diagnosis of a DSM disorder. In reading medical-legal reports one sometimes encounters the "diagnosis" of Psychological Factors Affecting Medical Condition. Unfortunately, this is not a DSM-IV-TR mental disorder. In contrast, it is considered to be a condition that may become a focus of clinical interest, namely, it might require some attention or perhaps counseling. Regardless, this condition is specified correctly when one or more psychological or behavioral factors have affected a general medical condition found in the patient. In order to use this category, there must be information in the form of medical records and psychological data showing that the individual's signs and/or symptoms are not completely understandable in

terms of the underlying physical pathology and/or an attempted simulation of symptoms. So, if a physician in a medical discipline, such as orthopedics or internal medicine, has determined that all of the individual's complaints are understandable in terms of their underlying physical pathology it is not appropriate to specify Psychological Factors Affecting Medical Condition.

Tip #29 – Collateral Sources of Information in Psych Reports

Collateral sources of information are found in the form of interview data collected from friends, relatives and/or co-workers or business associates of a patient undergoing a medical-legal examination. However, only rarely are collateral sources of information available and used in evaluations for the court. Most typically, this occurs when there is some barrier to collecting data such as might occur with a person who is developmentally disabled, deceased, or who might be unable to communicate if, for example, they have suffered a severe cerebral stroke or other mentally debilitating central nervous system injury.

Tip #30 - The Five Axes Diagnostic System

Doctors often provide their diagnosis using the five axes diagnostic system. In this regard, Axis I is reserved for diagnosing most psychological disorders, one exception being Personality Disorders, which are diagnosed on Axis II. The reader of the report should look for Axes III, IV and V where the doctor normally provides information about the individual's general medical conditions, psychosocial and environmental problems and levels of Global Assessment of Functioning (GAF). The GAF score is especially important in medical-legal cases since it provides information about the individual's level of functioning that may be relevant to the court's decisions about disability. As per the DSM, it is also important that the doctor specify an individual's GAF score at both the time of the evaluation and the highest GAF score they obtained during the past year.

In summary, all 30 tips provided above can be used to prepare for cross-examining a psych doctor. Essentially, every attorney who deposes psych doctors can ask "very hard and in depth questions" about the doctor's report to the point that the doctor will be "glad" to see you go!

This is the ninety-eighth 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.

**FREE MMPI Score Validation
involving testing reports of a**

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