

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Useful Tips for Cross-Examining Psych Doctors

A review of my past newsletters will reveal that I write Apricots™ to assist attorneys with cross-examining psych doctors and ultimately to save money on psych claims. An Apricot™ describes a psych report's flaws in jargon-free language; discusses specific techniques to Cx the doctor; and provides multiple simple questions that get those flaws on the record despite the doctor's resistant behavior. An Apricot™ is also a work product privileged report that is useful in any jurisdiction. In situations where discovery has closed or the doctor will not be cross-examined, an Apricot™ contains all the psychological information needed to prepare a brief for the court.

In my August, September and October newsletters I provided readers with a total of twelve tips to use in cross-examining psych doctors. Those twelve tips 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 data about the patient's credibility
5. Make sure the doctor's Mental Status Examination results are consistent with the doctor's diagnosis
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

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

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.

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"

This month, I offer three additional tips that will help expose the flaws in a psychological evaluation report and question the doctor about those flaws.

13. Determine if the review of medical records supports the doctor's diagnosis.

The patient's medical records can speak volumes about an examinee's credibility and may be valuable in drawing conclusions about a psychiatric injury and/or in apportioning psychiatric disability. Attorneys should examine the doctor's review of medical records to determine if they cited any documents that support their diagnosis. When there are no such records from a mental health practitioner then it can be determined that the psych doctor did not review any of the patient's medical records that concur with their own diagnosis.

14. Determine if the doctor's Major Depressive Disorder diagnosis is complete.

A Major Depressive Disorder is a common diagnosis found in medical legal reports. In order to diagnose a Major Depressive Disorder correctly it is necessary to

specify whether the disorder is of the Recurrent or Single Episode variety and to record the severity of the disorder. In Diagnostic and Statistical Manual of Mental Disorders (DSM) terminology the doctor is also required to provide a 5-digit numerical diagnostic code that allows the reader to work backwards and determine the full nature of the disorder if not described verbally. Thus, when a doctor provides a diagnosis of a Major Depressive Disorder, but declines to state if that disorder is of the Single Episode or Recurrent variety and/or declines to record the severity of the Major Depressive Disorder, then their diagnosis is incomplete.

15. Determine if the doctor used the appropriate diagnostic manual.

It is not uncommon for a psych doctor to write a medical-legal report and state in that report they have used the DSM-IV. However, the DSM-IV-TR was published in May, 2000, rendering the DSM-IV obsolete at that time. Therefore, the use of the DSM-IV anytime after May, 2000 is a substantial flaw in the doctor's report. Some doctors will argue that the two diagnostic manuals are the same. While many of the diagnostic criteria for disorders found in the DSM-IV-TR are in fact the same as those found in the

DSM-IV, there are substantial differences in the two diagnostic manuals. The major differences between the two manuals are summarized on pages 829 through 843 of the DSM-IV-TR. In fact, multiple diagnoses are different and the discussions of the various disorders are also dissimilar in many ways. Further, the instructions for arriving at a GAF score were greatly expanded. Additional information about the differences between the DSM-IV and the DSM-IV-TR can be found on the American Psychiatric Associations website (<http://www.psychiatry.org>). The bottom line here is that the DSM-IV is not an appropriate diagnostic manual to use for reports written after May, 2000.

In summary, the tips discussed above can be useful in identifying flaws in a psych doctor's report and developing questions to use in cross-examination of the doctor. The tips can also be helpful in preparing a brief for the court. For more information on cross-examining psych doctors and finding the flaws in their reports and conclusions check out my website at www.DrLeckartWETC.com where you can also download a free copy of my book Psychological Evaluations in Litigation: A Practical Guide for Attorneys and Insurance Adjusters.

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This is the ninety-fourth 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.