

# THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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## "In my professional opinion" says the Psych Doctor

Psychologists and psychiatrists who perform medical-legal evaluations are hired to provide their professional opinions in a variety of areas. Specifically, the psych doctor is expected to provide their opinions about causation, the patient's Global Assessment of Functioning (GAF) score, which is a measure of temporary and permanent disability, apportionment and recommendations for mental health treatment. Accordingly, one might find the following conclusions in a psychological or psychiatric report:

"In my professional opinion, the patient's psychological problems were caused by the pain from their slip and fall."

"In my professional opinion, the GAF score is 42 indicating a serious impairment in social and occupational functioning."

"In my professional opinion, the patient's psychopathology is unlikely to improve, and therefore their condition is considered to be permanent and stationary."

"In my professional opinion, the patient will need both psychological and psychiatric treatment for the foreseeable future."

When a psych doctor provides statements of their professional opinions in the areas of causation, temporary

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or permanent disability, apportionment and need for mental health treatment, those opinions are difficult for an attorney to successfully challenge. Quite simply, the reason for this is that all of those conclusions rest entirely on the doctor's subjective opinions. Thus, when the attorney questions the doctor about those judgments, all the doctor has to do is retreat to their "professional opinion."

For example, the attorney may ask the psych doctor on cross-examination, "Doctor, will you please explain how you arrived at the GAF score of 42 for the patient?" Accordingly, the doctor may respond, "Based on my evaluation it is my professional opinion that a GAF of 42 is the most appropriate score." Clearly, all the doctor has to do is repeat, like a broken record, "it is my professional opinion that....." Of course, the attorney will find that they will not have any success in asking questions left entirely to the doctor's subjective opinions.

Rest assured, there is hope for having success when cross-examining a psych doctor who has authored a flawed report. Keep in mind that the diagnosis is where the report is most vulnerable. The diagnosis is the one area where the response "in my professional opinion" will not work. Quite simply, the doctor's report must demonstrate that the patient met all the diagnostic criteria for the disorder found in the Diagnostic and Statistical Manual of Mental Disorders (DSM). As such, the attorney should focus all their questions on the lack of data supporting the doctor's diagnosis. The good news is that when the doctor's

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diagnosis is successfully discounted, all of the conclusions resting on that diagnosis are unsupportable, such as those concerning causation, temporary or permanent disability, apportionment and mental health treatment recommendations.

In summary, when cross-examining psych doctors, attorneys should focus their questions on the weakest part of the doctor's report, their diagnosis. When effectively

done, this approach will force the doctor to testify that there were insufficient data in their report to support their diagnosis. At that point, all of the other subjective conclusions about things like causality, disability, GAF, apportionment and the need for treatment fall by the wayside like a collapsing house of cards.

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