

THE WETC PSYCHOLOGY NEWSLETTER

Dr. Bruce Leckart

"Find the Truth, Tell the Story"

Westwood Evaluation & Treatment Center
11340 Olympic Blvd., Suite 303, Los Angeles, CA 90064
(844) 444-8898, DrLeckartWETC@gmail.com, www.DrLeckartWETC.com

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What you can do about weak psych reports

In the words of John Henry Wigmore, cross-examination is "beyond any doubt the greatest legal engine ever invented for the discovery of truth."

3 Wigmore, Evidence §1367, p. 27 (2d ed. 1923)

At this point I'm pretty sure you know that for the last 10 years I have been writing Apricots™.

An Apricot™ is a work-product privileged report written for an insurance adjuster and/or an attorney who believes they have a substantially flawed psychological, neuropsychological or psychiatric report that will harm their client's case. In my Apricots™ I describe all the flaws in non-technical language and discuss the specific techniques and strategy for cross-examining the doctor, providing simple questions designed to expose those flaws during a deposition or trial despite a slippery doctor's evasiveness. Those same Apricots™ are frequently used to write trial briefs, petitions and appeals.

Below is a list of some of the flaws repeatedly found in psych reports that indicate that substantially flawed reports dominate forensic psychology and psychiatry!

Some of the Most Frequent Substantial Flaws in Psych Reports

- A lack of correspondence between the history of the patient's symptoms or complaints presented by the doctor and the diagnostic criteria spelled out in the Diagnostic and Statistical Manual of Mental Disorders (DSM).
- An incomplete history with inadequate or missing

"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 demonstrate that these flaws exist."

information about the frequency, intensity, onset, duration or course of the patient's symptoms or complaints over time.

- The absence of Mental Status Examination observational data to support the diagnosis.
- Inconsistencies between the doctor's Mental Status Examination observational data and the DSM diagnostic criteria.
- Inconsistencies between the patient's symptoms and the doctor's Mental Status Examination observations.
- Failure to collect and/or report mandated Mental Status Examination data on judgment, insight, memory and concentration.
- The absence of objective psychological testing data to support the diagnosis.
- The doctor's failure to consider testing data that show the patient was "faking" symptoms.
- Using subjectively interpreted psychological tests.
- Using psychological tests that have no validity or reliability.
- Using psychological tests that are incapable of assessing credibility.

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- Failing to administer any psychological tests.
- Failing to provide psychological testing data that support the doctor's summarily provided conclusions.
- Grossly misinterpreting psychological testing data.
- Administering psychological tests under non-standardized conditions.
- Administering psychological tests not intended to measure psychopathology.
- Reporting tests scores that are impossible to obtain.
- Giving the patient psychological tests to complete at home.
- Using "Rule-out," "Provisional" and "Deferred" diagnoses, which are reserved for situations in which the doctor has inadequate information to understand the patient.
- Using an outdated or obsolete diagnostic manual.
- Using non-mental health professionals to review medical records.
- Using employees or independent contractors to perform other medical functions legally reserved for the doctors.
- Creating one or more disorders that do not appear in the diagnostic manual used by the doctor.
- Using multiple versions of the DSM to arrive at diagnostic conclusions.
- Using diagnostic modifiers not found in the DSM.
- Failure to submit a report within the legally mandated timeframe.
- Failure to collect enough data to conclude there is no psychopathology.

The Bottom Line: When the doctor's diagnosis is unsupported because of substantial flaws in their report, not one word found in their Summary and Conclusions is credible.

Now for some good news. If you are an attorney or an insurance adjuster or supervisor and you suspect you have a substantially flawed psych report, call me for a free analysis and a cost estimate for obtaining an Apricot™. You can reach me at 844-444-8898 and/or DrLeckartWETC@gmail.com.

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This is the one hundred thirtieth 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.