

# THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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## DSM-5: Assessing Psych Disability in PI and WC Cases

By now virtually every interested professional has heard about the publication of the DSM-5 and probably almost as many have heard about its multiple flaws and lack of acceptance by mental health professionals all around the world. If you need some information about these issues check out the newsletters I've published in the last few months, available on my website [www.drleckartwetc.com](http://www.drleckartwetc.com). However, even though the news is widespread, probably not everyone has considered the major problems in using the DSM-5 for assessing the extent of an individual's signs and symptoms as well as permanent psychiatric disability both in personal injury litigation and in the workers' compensation system. Well, keep reading for a discussion of some major problems as they relate to assessing psychiatric disability.

As I have pointed out, the Global Assessment of Functioning (GAF) Scale was eliminated from the DSM-5, which from my point of view was no great loss since the GAF Scale has some major problems. However, the elimination of the GAF scale has some severe consequences for the litigation of psych injuries. Specifically, if one is concerned with a personal injury plaintiff's or a workers' compensation applicant's psychological signs and symptoms or their inability to function socially, occupationally or educationally, there is no effective system in the DSM-5 for calculating that disability.

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First, a look at the DSM-5 reveals that the authors recommended replacing the GAF Scale with the WHODAS 2.0, which is an acronym for the World Health Organization Disability Assessment Schedule 2.0. The WHODAS 2.0 is a "test" containing 36 items or questions that are used by *patients* to rate their complaints on a five-point scale. The questions are all transparent and subjective and therefore useless in coming up with an objective measure of permanent psychiatric disability in a medical-legal case. As a possible alternative to the WHODAS 2.0, the authors of the DSM-5 suggest two other measures, which are just as bad if not worse, that are also based on the totally subjective answers the patients provide for transparent questions. Since credibility is always a forensic doctor's first concern, and the DSM-5 recommended "tests" have no methods for assessing truthfulness, the suggested measures are quite useless in assessing permanent psychiatric disability.

In an attempt to adjust to the DSM-5, some attorneys in the California workers' compensation system are trying to use Labor Code section 4660 that requires the use of the Schedule For Rating Permanent Disabilities. That schedule specifies that the reporting doctor is to use the GAF Scale to determine permanent psychiatric disability. However, the Schedule For Rating Permanent

Disabilities is not up to that task. Unfortunately, a reading of the Schedule reveals that it provides inadequate and incomplete instructions for using the GAF Scale.

Specifically, one very common outcome of using the GAF Scale is that the doctor arrives at two different GAF scores, one for the patient's signs and symptoms and one for the patient's occupational functioning. The way this happens is very easy to understand. I have seen many patients who have a lot of signs and symptoms that warrant a GAF Scale score of say 60. However, when this person's occupational functioning is considered, their GAF Scale score may be 75 or higher. Quite simply, although they have signs and symptoms of a disorder they are capable of and actually are working at a reasonably high level. Unfortunately, the Schedule provides absolutely no information about how to rate such an applicant's disability. The only way of doing that is to use the information and instructions on pages 32 and 33 of the DSM-IV-TR that reads, "It should be noted that in situations where the individual's symptom severity and level of functioning are discordant, the final GAF rating always reflects the worse of the two."

The bottom line here is that in personal injury cases there is no viable method in the DSM-5 for quantifying signs and symptoms or assessing disability in the areas of work, socialization or education. Additionally, in workers'

compensation cases if one tries to use the Schedule For Rating Permanent Disability for an applicant with discordant GAF scores one cannot come up with a meaningful single GAF Scale score. This puts the psychological or psychiatric evaluator trying to assess an individual's psychiatric disability in a predicament. If they use the DSM-IV-TR, they are conceivably using an out of date manual. If they use the DSM-5, they have no method for assessing permanent psychiatric disability. It seems to me that the only reasonable alternative is to conclude, like many psychologists, psychiatrists and other mental health workers have, that the preponderance of data in this area indicates that the DSM-5 has so many substantial flaws that it has not been "generally approved and accepted nationally by practitioners in the field of psychiatric medicine" and to continue using the DSM-IV-TR until the courts and/or the legislature come up with a better solution. However, if and when you get an unfavorable psych report where the evaluator uses the DSM-5, your next approach may be to cross examine the doctor, which may provide an opportunity for you to shed light on the many flaws and weaknesses of the DSM-5 as well as the evaluator's report.

- **Pre-deposition consults**
- **Pre-trial consults**

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