

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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More Helpful Tips for Cross-Examining Psych Doctors

In last month's newsletter I noted that over time I have provided readers of my newsletters with various tips on how to cross-examine psych doctors. In that newsletter I reviewed four tips:

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

This month I have five more tips that experience has shown are useful in cross-examining doctors who have come to questionable conclusions.

5. Make sure the data in the doctor's Mental Status Examination are consistent with the doctor's diagnosis.

A Mental Status Examination (MSE) provides a set of observations of the patient that are made by the doctor employing a relatively standard set of examination techniques and questions. The doctor's MSE data must be consistent with the information found in the doctor's history, the psychological testing, and the patient's medical records as well as supportive of the doctor's diagnosis. The MSE should also contain information about the doctor's observations of the patient's consistency vs. inconsistency and vagueness vs. clarity, both of which speak to the patient's credibility. A complete description of MSE's can be found in my book Psychological Evaluations in

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.

Litigation: A Practical Guide for Attorneys and Insurance Adjusters that can be read or downloaded for free on my website at drleckartwetc.com.

6. Be persistent in questioning the doctor.

Under cross-examination, psych doctors sometimes answer questions with technical jargon or are non-responsive in other ways. Sometimes that behavior is deliberately evasive and sometimes it is just how the doctors think and express themselves. Regardless, when the doctor's answers to your questions are ambiguous the simple solution is to be persistent! Just go back to your original simple question and repeat it until you get your clear simple answer.

7. Check the doctor's psychological testing data to be certain the patient was credible.

There are literally thousands of psychological tests. However, only a very few of them have validity scales for determining if the patient answered the questions in an honest and forthright manner. The gold standard is the Minnesota Multiphasic Personality Inventory (MMPI) which has been recognized by psychology and psychiatry for over 70 years as being capable of assessing credibility and revealing the existence of psychopathology. When reading the psychological testing section of a psych report be sure to determine

what the MMPI and other tests reveal about the patient's credibility. If the tests indicate that the patient wasn't truthful, how did the doctor explain those data?

8. Make sure the doctor's history is complete.

One of the cornerstones of every psych report is the doctor's history of the patient's symptoms or, as they are sometimes called, complaints. A complete history of those symptoms is needed in order to diagnose any psychological disorder correctly. There is no doubt that the doctor must present information about each symptom's qualitative nature as well as its frequency, intensity, duration, date of onset and course over time. Without a complete history that provides those data there is no support for the doctor's diagnosis. It then follows that without a credible diagnosis it is irrelevant to consider such issues as whether or not there was a psych injury, what caused the injury, did the injury leave any permanent disability, and did the "injured" person have a need for treatment.

9. Get expert help before the deposition.

Attorneys are experts in the laws and with very few exceptions they are not experts in psychology or psychiatry and cannot be expected to know where all the flaws are in a psych report or what questions to ask the doctor that will get those flaws into the record and before the court. In

planning to take a psych doctor's deposition, particularly if there is a lot on the line, you need to find out where the flaws are in the doctor's report and how to best expose them during a deposition. Not sure how to achieve that? Not sure where the report is vulnerable? Not sure what questions to ask or where to attack? Perhaps, you know the report is flawed but you're not sure where? If you answered yes to any of those questions you need an expert witness. Check out my website at drleckartwetc.com and learn about Apricots™.

In short, the above five tips can be used to improve the outcome of your medical-legal cases by revealing flaws found in the doctor's report that make their conclusions inappropriate. Essentially, you want to make sure that the doctor has cited Mental Status Examination data consistent with their diagnosis, be persistent in asking questions when the doctor's answer is not clear, make certain that the doctor presented objective psychological testing data indicating the patient was credible during their evaluation, make sure the doctor has provided a complete history of the patient's complaints and get professional help in preparing for the deposition when you don't recognize the flaws in the doctor's report and need help formulating questions to get those problems into the court record.

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This is the ninety-second 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 listed on the next page, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.