

Psychiatry in the medico-legal setting

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The article by Alfred Allan in this issue (p. 52) sets out the situation regarding the use of the *DSM IV TR* in medico-legal settings in the USA.

The US requires that diagnoses made in a forensic setting are credible and look to case law for guidance.

The use of diagnostic labels is controversial, and the *DSM IV TR* makes this point clearly in its cautionary statement, to be found in the front of the text. However, Allan appears to overstate the tentative status of psychiatric diagnostic categories by giving little weight to the large body of systematic research on which these diagnostic categories are based.

Allan makes the point that the diagnosis must be generally accepted by other experts in the field. His comments, although valuable, are less pertinent to the South African context, where the situation is quite different. In South African courts there are usually no experts available other than the one giving the evidence. Diagnoses frequently have no bases at all, and the *DSM* is grossly abused. One of the most abused diagnostic categories is that of post-traumatic stress disorder (PTSD). PTSD has been used as a diagnosis of convenience to embrace situations such as marital stress, depression, distress following unpleasant events, and sometimes sheer expedience to obtain otherwise unjustifiable compensation. Here the stress is often assumed to be sufficient if it is something experienced second hand, where no serious threat to life is present and where there has been no effect on the individual's (or claimant's) social or occupational functioning. Frequently a diagnosis of PTSD is made when the claimant has been unconscious following a motor vehicle accident and openly reports no recollection of the accident or medical treatment subsequent to the accident. The result of this practice is that PTSD as a *bona fide* diagnostic category has been eroded. The credibility of mental health professionals has been diminished. As a consequence, patients with a genuine disorder will eventually be compromised.

Allan concedes in his article that the *DSM IV TR* contains disorders that are controversial. The converse can also be stated, i.e. that psychiatric disorders that may be pertinent are not included. Peer review and publication should be

included. In South African courts these are frequently accepted with the use of a single source of reference discouraged. Fortunately case law is vital and the system of precedence is always followed. Allan fails to mention the importance of this procedure. However, he makes the important point that making a psychiatric diagnosis is only the beginning of the task of a forensic psychiatrist.

There has to be a causal relationship with the matter before court, whether this is a criminal offence or a civil matter. Failure to do so may result in courts drawing their own inference and in disregarding the psychiatric evidence. It is of crucial importance that any forensic investigation includes a thorough and systematic appraisal of collateral information in order to ensure diagnostic reliability and validity. In addition, patients/claimants should be interviewed alone and not in the presence of their relatives or attorneys, as has become common practice. By reducing the contaminatory influence of outside factors on the forensic assessment process, diagnoses based on self report can be systematically cross checked and validated or disregarded. If forensic diagnoses and assessment are to be reliable and credible, it is essential that forensic psychiatrists and not interfering relatives or legal representatives, be in control of the psychiatric examination.

Psychiatry has long been the 'Cinderella' discipline in medicine. This became particularly clear when the discrepancy in incomes came under scrutiny by the current investigations of the Council for Medical Schemes. The attitude of the HPCSA in not recognising psychiatry as an intern rotation along with the other major disciplines, but relegating it to mental health under the auspices of family medicine, adds to this bad image. As a discipline we need to improve our credibility as well as increase our profile. We must embrace every opportunity to do so and not allow woolly or expedient evidence given in court to provide our detractors with ammunition to condemn us.

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