The DSM-5: Important Changes Advocates Need to Know from the DSM-IV

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WHAT IS THE DSM-5?

* The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*

* Published in May 2013

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WHAT IS THE DSM-5?

* The DSM-5 classifies mental disorders with associated criteria and is designed to aid clinicians provide more reliable diagnoses of mental disorders

* The DSM-IV was published back in 1994

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General Effects of the DSM-5 on Veterans Law

* In August 2014, VA (through an interim final rule) updated its regulations to replace outdated references to the DSM-IV
  * *See* 79 Fed. Reg. 45,093 (Aug. 4, 2014)
* These changes affected 38 C.F.R. §§ 3.384, 4.125, 4.126, 4.127, and the rating schedule under 38 C.F.R. § 4.130

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General Effects of the DSM-5 on Veterans Law

* While some of these changes to VA regulations may appear cosmetic (changing DSM-IV to DSM-5 in the text of the regulations), the diagnostic criteria between the DSM-IV and DSM-5 may differ significantly

* **Note:** these regulatory changes *do not* mean the DSM-IV is no longer relevant

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General Effects of the DSM-5 on Veterans Law

* VA published the final rule on March 19, 2015 which adopted the interim final rule
  * *See* 80 Fed. Reg. 14,308 (Mar. 19, 2015)
* The VA stated that the change from DSM-IV to DSM-5 does not change how mental disorders will be evaluated under the VA Rating Schedule and no disorders were removed from the Rating Schedule

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Will the VA Apply the DSM-IV or DSM-5 to your Client's Case?

* This determination is based on the status of your client's case on August 4, 2014 (the date of the VA regulation change)
* DSM-5 applies to:
  * New claims filed on or after August 4, 2014
  * Claims pending before the Regional Office (RO) on or after August 4, 2014
    * This includes claims that were denied by the RO, a Notice of Disagreement and a VA Form 9 have been submitted, but the case has not been certified to the Board of Veterans' Appeals (BVA)

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Will the VA Apply the DSM-IV or DSM-5 to your Client's Case?

* DSM-IV applies to:
  * Claims that had been certified to the BVA as of August 4, 2014
    * May need to look to the VA Form 8 to determine whether DSM-IV or DSM-5 applies
  * Claims that were pending appeal before the BVA, the U.S. Court of Appeals for Veterans Claims (CAVC), or the U.S. Court of Appeals for the Federal Circuit on August 4, 2014
    * The DSM-IV will still apply to these cases even if the BVA, CAVC, or the Federal Circuit eventually remands the claim and it goes back to the RO

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VA Examinations

* From the *VA Adjudication Procedures Manual M21-MR*, Part III, subpart iv, 3.A.8.e (last updated Dec. 19, 2014):
  * New examination requests on or after August 27, 2014 must be performed using the DSM-5 criteria
  * If there is an exam of record that used the DSM-IV criteria, the VA should *not* request a new examination if the DSM-IV exam:

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VA Examinations

* Is otherwise adequate for rating purposes;
* Renders an Axis I diagnosis of a mental disorder; and
* Supports a grant of the benefit sought in view of the evidence of record

* **A new examination under the DSM-5 criteria should be requested if the DSM-IV exam does not satisfy all three of these requirements**

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Defining Mental Disorders

* DSM-IV
  * "[E]ach of the mental disorders is conceptualized as a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful syndrome) or disability (i.e., impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.

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Defining Mental Disorders

* DSM-IV
  * In addition, this syndrome or pattern must not be merely an expectable and culturally sanctioned response to a particular event, for example, the death of a loved one. Whatever its original cause, it must currently be considered a manifestation of a behavioral, psychological, or biological dysfunction in the individual."

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Defining Mental Disorders

* DSM-5
  * "A syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in social, occupational, or other important activities."

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Defining Mental Disorders

* DSM-5
  * "An expectable or culturally approved response to a common stressor or loss, such as death of a loved one, is not a mental disorder."
  * "Socially deviant behavior (e.g., political, religious, or sexual) and conflicts that are primarily between the individual and society are not mental disorders unless the deviance or conflict results from a dysfunction in the individual, as described above."

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Major Changes in the DSM-5

1. No more Axes organizational system
2. No more GAF score
3. Post-traumatic stress disorder (PTSD) has been moved to a new category and changes have been made to PTSD's diagnostic criteria

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No more Axes Organizational System

1. In the DSM-IV, there were 5 Axes that separated mental disorders into 5 larger categories

2. The 5 axes were:

   Axis I: Clinical Disorders
   Axis II: Personality Disorders
   Axis III: General Medical Conditions
   Axis IV: Psychosocial and Environmental Problems
   Axis V: Global Assessment of Functioning (GAF)

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Axes Organizational System

1. The DSM-5 gets rid of this organizational structure – instead opting to group disorders together based on common symptoms

   Ex. "Depressive Disorders", "Dissociative Disorders", "Obsessive-Compulsive and Related Disorders"

2. Previously, all of these would have been found under Axis I: Clinical Disorders, instead of grouped together

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No More GAF Scores

* Axis V in the DSM-IV was dedicated to Global Assessment of Functioning - a way to quantify a person's level of functioning

* It was a way to see how debilitating a person's symptoms were and how they affected day to day functioning

* The DSM-5 got rid of this Axis with the others, and instead created a section of the DSM called "Assessment Measures" where it offers multiple options for assessing a client's level of functioning

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No More GAF Scores

* The 3 recommended options to assess functioning in the DSM- 5 are:

1. Cross-cutting symptom measures
   * This assessment measure is a more general medical review

2. Severity Measures
   * This assessment measure is more disorder specific

3. The World Health Organization Disability Assessment Schedule (WHODAS 2.0)

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No More GAF Scores

* The WHODAS 2.0
  * Most similar to the GAF score, this assessment measures and assesses a patient's ability to perform functions in six areas: understanding and communicating; getting around; self-care; getting along with people; life activities (i.e. work, school, and household activities); and participation in society

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PTSD is Now in a New Category

* In the DSM-IV, PTSD was categorized as an Anxiety Disorder which fell under Axis I: Clinical Disorders
* In the DSM-5, a new category has been created - "Trauma- and Stressor-Related Disorders"
  * PTSD is now listed under this category with other Trauma and Stressor induced Disorders – which are too specific to be considered general anxiety disorders

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Changes to PTSD Diagnostic Criteria

* DSM-IV contained more vague language about what constituted a stressor
  * "a person's response to the stressor [must have] involved intense fear, helplessness, or horror"

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Changes to PTSD Diagnostic Criteria

* DSM-5 eliminated this language in favor of a more explicit criteria
  * Individuals must have been exposed to actual or threatened:
    * Death;
    * Serious injury; or
    * Sexual violence
  * In one of more of the following ways:

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Changes to PTSD Diagnostic Criteria

* (1) "Directly experiencing the traumatic event(s),"
* (2) "Witnessing, in person, the event(s) as it occurred to others."
* (3) "Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental."

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Changes to PTSD Diagnostic Criteria

* (4) "Experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (e.g., first responders collecting human remains; police officers repeatedly exposed to details of child abuse)."

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Changes to PTSD Diagnostic Criteria

* The DSM-IV only had three "symptom clusters" needed for a diagnosis of PTSD, but the DSM-5 has four "symptom clusters"

* Thus, under the DSM-5, the veteran must

  * (1) re-experience the traumatic event or stressor (ex. in flashbacks or nightmares);

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Changes to PTSD Diagnostic Criteria

* (2) demonstrate persistent avoidance of stimuli associated with the event or stressor (ex. avoiding reminders of the event);
* (3) suffer negative alteration in cognition or mood (ex. feelings of guilt); AND
* (4) exhibit marked alterations in arousal (ex. hypervigilance or aggression)

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Is it Easier to Obtain a PTSD Diagnosis Under the DSM-IV or the DSM-5?

* It depends!
* The DSM-5's threshold in regard to stressors may be lower since it does not take into account the veteran's subjective response to the traumatic event
* The DSM-IV, however, only requires three symptom clusters as opposed to four in the DSM-5

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Is it Easier to Obtain a PTSD Diagnosis Under the DSM-IV or the DSM-5?

* In summary, whereas the DSM-IV was more focused on the individual's immediate reaction to a traumatic event or stressor, the DSM-5 appears to be more focused on the symptoms of PTSD

* Only time will tell whether it is easier for veterans to establish a PTSD diagnosis under the DSM-5

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Advocacy Advice

* If an exam was conducted using the DSM-IV criteria and the veteran was not diagnosed with PTSD, get a new exam under the DSM-5 criteria (preferably a private exam, but you can also request a VA exam)

* If the veteran was previously denied due to no PTSD diagnosis under the DSM-IV (and that decision is final), he or she can file a claim to reopen and the VA would have to reopen the claim if he or she could produce a PTSD diagnosis under the DSM-5

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Advocacy Advice

* Advocates representing a veteran whose claim was previously denied due to no PTSD diagnosis under DSM-IV can also contend that they do not have to produce new and material evidence, because they are submitting a new claim

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Advocacy Advice

* "When a provision of law or regulation creates a new basis of entitlement to benefits, as through liberalization of the requirements for entitlement to a benefit, an applicant's claim of entitlement under such law or regulation is a claim separate and distinct from a claim previously and finally denied prior to the liberalizing law or regulation."

  * *Spencer v. Brown*, 17 F.3d 368 (Fed. Cir. 1994)

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Advocacy Advice

* Thus, advocates should argue that the VA significantly liberalized the stressor criteria applicable to a claim for service connection for PTSD by amending its regulations to incorporate the DSM-5

* Therefore, this is a new and distinct claim so the veteran is not required to submit new and material evidence

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Caution! VA at Work

* On a recent American Legion outreach trip to New Orleans, NVLSP staff spoke with a veteran who had a VA psychiatric exam (using the DSM-5 criteria) which rejected military sexual trauma (MST) as a stressor

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Caution! VA at Work

* A reminder about the DSM-5's PTSD criteria
  * Individuals must have been exposed to actual or threatened death, serious injury, or *sexual violence*
  * In one of more of the following ways: [including] *directly experiencing the traumatic event . . .*

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Caution! VA at Work

* The DSM-5 criteria is clear that MST constitutes a stressor
  * Sexual violence that the veteran directly experienced
  * Sexual violence includes abusive sexual contact
* If your client has a VA exam that states that MST is not a stressor under DSM-5, you should request a new exam and argue that the prior exam was inadequate or if you have a private exam that provides a diagnosis of PTSD, use this error to diminish the probative value of the VA exam

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Questions?

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