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## Preface

The issue of potential malingering (or poor effort) in the context of head injury litigation has seen an explosion of research and commentary in the last quarter century. Various journals devoted to clinical neuropsychology practice of the 1950s, 1960s, and 1970s rarely published papers focused on the issue of malingering in civil litigation. The few papers that were published deal with malingering with regard to military service and criminal prosecution. Largely through the demonstration of important clinical contributions to patient care of clinical neuropsychology research efforts by Ralph Reitan, Oscar Parsons, Arthur Benton, and a bevy of their former students (Lawrence Hartlage and Charles Mathews, among others) did clinical practice in neuropsychology begin. An interesting clinical note is that Dr. Benton initially developed his famous Visual Retention Test based on his clinical work during World War II, when he was based at the San Diego Veterans Administration Hospital and had to assess possible malingering by sailors who did not wish to return to fighting in the Pacific.

The growth of clinical neuropsychology research and clinical practice and concurrent founding of journals to support scholarly inquiry and clinical practice in the field has produced many revelations about the effects of closed head injury, an injury for many years believed to be of little consequence and one known at times as a silent epidemic. Coupled with the explosive growth of knowledge about the potential deleterious effects of closed head injury has been increased personal injury litigation, changes in protocols for screening, assessment, and treatment of sports related and war related head injuries and product liability suits. As more and more head injuries have come to be litigated and the potential sums of money involved have become enormous, issues and concerns about malingering (or poor effort) have grown substantially. By the 1980s, malingering and its evaluation and detection had found a routine place in the primary journals of neuropsychology.

The first edition of this book attempted to address the problem of malingering (or poor effort) in head injury litigation. Several things were clear at the time of the first edition. The first was that malingering was a very substantial problem in head injury litigation. For example, empirical research findings had indicated that at least 25% of cases of head injury in litigation involve malingering. Second, the possibility of malingering (or poor effort) existed in all head injury litigation cases and clinicians needed to be prepared to make

the diagnosis when it is the most probable diagnosis. Third, there were many methodological, conceptual, and logistical caveats related to the detection of malingering. Fourth, there are emotional difficulties in labeling a patient a malingerer (or someone who gave poor effort). It is a diagnosis with clear negative implications and is tantamount to calling a potentially brain injured patient a liar, something that can have very negative personal and financial consequences. Because of the very serious consequences, convincing evidence is required for such a diagnosis and more than is the case for many clinical diagnoses made on a routine basis. The first edition attempted to demonstrate the utility and the pitfalls of various actuarial and clinical approaches to the diagnosis of malingering and equip the clinician with the necessary tools, knowledge, and logic to consider malingering and its alternative diagnoses intelligently, honestly, and ethically.

In the 15 years that have passed since the first edition was published, much has happened in terms of research and clinical practice related to the detection of malingering (or poor effort) in head injury litigation. For example, a new common practice is to use the term “poor effort” rather than “malingering” as poor effort is a behavior that can be observed objectively. On the other hand, the term malingering, while certainly the initial basis for the area of research, has been thought to require the forming of a conscious intention which as yet is unobservable in addition to a behavior. Still, malingering remains in the clinical nomenclature of the discipline of clinical neuropsychology, as well as in many areas of medicine.

The large volume of clinical research now available has prompted many strong ideas about, creative approaches to, and new methodologies for the detection of malingering but has likewise spawned a considerable tautology and clinical mythology. The diagnosis of malingering is not just a scientific controversy but has become a political one as well. Clinical practitioners may complain about the favoring of defense or plaintiffs’ allegations of brain injury usually when they are on the other side of the controversy and sometimes may have a financial interest in the outcome. The diagnosis of malingering (or poor effort) is fraught with conceptual, philosophical, and logistical potholes. Because much has happened in this clinical area, it was felt that a new edition was required to address new research findings and changes in clinical practice that have occurred since publication of the first edition of this book and to provide practitioners with the necessary scientific findings to guide their clinical work.

In the second edition of this work, the assembled chapters are based on rigorous scientific research but are clinically oriented to facilitate their application to practice. Faust and colleagues open with two closely related chapters that disclose the methodological and conceptual problems in the diagnosis of malingering to establish clearly a mind-set of critical analysis before reading about methods proposed by other authors. The chapters that follow provide current methods and thinking on multiple approaches to the detection of malingering during head injury litigation, including specific symptoms such as memory loss to more global claims of diffuse loss of function to cognitive and psychomotor arenas. The various presentations range from the strong actuarial methods of Reitan and Wolfson, which have a false-positive rate of

nearly zero (but the sacrifice to false-negative rates is uncertain), to the careful, consummate clinical reasoning of Hartlage, known as a gifted clinician as well as a leader in professional development within neuropsychology. This book has been developed for the thoughtful, serious clinician who may be involved in evaluating patients with head injury who often become involved in litigation with regard to these injuries. The book contains many “how-to” sections, but just as many cautions and concerns are expressed about how to approach the problem of malingering.

The editors must express their appreciation to the chapter authors, who have laid bare their own methods and reasoning in the evaluation of malingering (or poor effort). Each has provided original insights, methods, and commentary on these very complex and difficult issues. Their willingness to share in the movement toward advancement in the diagnosis of malingering is much appreciated. To our editor at Springer, Janice Stern, we would like to express our appreciation for her continuing faith in our efforts to produce works that contribute to the growth of clinical neuropsychology and in particular for her affable nature in both pulling and prodding work that was so often delayed. To the Springer production editor, we also thank you for your tenacity in chasing author queries and in bringing the manuscript to its published conclusion with such promptness and with such style and for putting up with us in the process. To our long suffering wives, Dr. Julia A. Hickman and Mary W. Horton, goes our continuing and unfaltering love and appreciation for their help, support, and understanding during those times devoted to manuscripts such as this that pull from time otherwise spent together. Thank you, thank you very much!

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