

SCAA

October 2008

Vol. 36 No. 2

Seattle Claims Adjusters Association

Celebrating over 75 years of service to the claims community — Founded in 1930

“A professional organization dedicated to the ongoing education of the claims community.

Providing an arena for member interaction and the sharing of resources.”



James' Headlines

— by James K. Gomez, SCAA President

I trust everyone had fun at the last meeting...by the way what did you all think of the baked chicken we had for lunch. This year you should be able to find a complete menu in the newsletter. For the remainder of the year the lunch menus have been confirmed. Speaking of menus, the rate SCAA pays per person for lunch is \$27.33 for all months other than November, April and May. Whereas for those months, the range in prices are from \$31.58 to \$40.87. With this in mind, we may need to eventually raise prices, since the amount

charged for vendors and adjusters are not covering the cost of food.

A special thanks goes out to our first guest speaker of the year, Dr. Dale Calkin, DC. Dr. Calkin is definitely passionate in his beliefs; he really had the crowd stirred up and involved in his presentation. Regardless of what your name was, he would give you a different name and incorporate you into his discussion. For those of you who may be interested in ACOM (Occupational Medicine Guidelines) please send me an email and I will put you in touch with Dr. Calkin. Or you can visit the meeting page of our website and download handouts provided by Dr. Calkin, which will be available for a short period of time.

Representatives from The Leukemia & Lymphoma Society attended the September meet-

(See Headlines... continued on page 3)

Next Meeting of the SCAA

October 17, 2008

The Swedish Club, 1920 Dexter Ave North, Seattle, WA

Program

“Slip, Trip and Falls”

Bradley Probst, Ph.D., ARCCA Inc.

Cost

\$15 Members \$20 Non-Members

Time

11:30 a.m.

It is important for you to RSVP if you are going to attend our luncheon meetings. Do so through our website or contact James Gomez at jgomez@frontieradjusters.com. Thank you!

Membership in SCAA is open to all claims adjusters, and should be a priority on your list of things to do! Print the application from our website, or see page 4 of this issue.

RENEW TODAY!

www.seattleadjuster.org



DON'T FORGET TO RSVP!

Please let us know you will be attending our next meeting by submitting an RSVP at our website:
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ON THE DOCKET FOR 2008

Date	Speaker/Topic
Oct 17	SCAA Meeting "Slip, Trip and Falls" Bradley Probst, Ph.D., Biomedical Engineer, ARCCA Inc.
Nov 21	SCAA Meeting Speaker/Topic TBA
Dec 5	SCAA Holiday Party 1-4pm at Sazerac Watch our website & newsletter for more info

Meeting Information

Please keep in mind that we'd like to start and end promptly during our monthly meetings. Here is the timeline for each meeting:

- 11:30 a.m. Registration
- 11:45 a.m. Buffet
- 12:00 p.m. Meeting Called to Order
- 1:00 p.m. End of Meeting

Please arrive on time and have your cash or check (payable to SCAA) ready. We appreciate your cooperation and assistance.




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The Seattle Adjuster

*Published monthly September—June for the
 Seattle Claims Adjusters Association
 By **Alquemie Publishing Ink**
 541/937-2611 Fax: 541/937-4286
 Email: npassist@msn.com*

Benefits of Membership in SCAA Renew Today!

We can't say enough about the advantages of membership in the Seattle Claims Adjusters Association. The benefits are numerous, for example:

- **Newsletter** — Receive a copy of the SCAA newsletter September through June, packed full of educational articles and other information of interest to adjusters. It is also a resource guide to goods and services provided by our industry vendors — who also support our Association.
- **Monthly Meetings** — Attend these meetings to hear local presenters on topics that are pertinent to today's adjuster — always educational and sometimes entertaining!
- **Spring Seminar & Vendor Fair** — An entire year's worth of work goes into planning and hosting this annual educational event held in the spring — touching on all the hot topics and providing you an opportunity to meet with industry vendors face-to-face outside of your office.
- **Golf** — Not much educational about golf, but what adjuster today doesn't need a little relaxation and fun — held in the summer each year.
- **Website** — Stay in touch with local happenings and other claims associations in the Pacific Northwest. Open a web version of our newsletter. Find contact information for SCAA board and committee members. Or find a new job from the employment listings. And there's more.....

Membership in SCAA is open to all claims adjusters, and should be a priority on your list of things to do!

Print the application from our website, or see the back cover of this issue.

RENEW TODAY!

www.seattleadjuster.org

Headlines... *(Continued from front page)*

ing and provided a presentation on upcoming fund raising events. As most of you are aware "The Leukemia & Lymphoma Society (LLS) is the world's largest voluntary health organization dedicated to funding blood cancer research, education and services."

One of the first fundraising events of the year is the Winter PineApple Classic 5k Run with Obstacles on Sunday, November 16, 2008. If anyone is interested in participating or attending please let me know.

Again, thanks for everyone attending the meeting. We had one adjuster from Grange Insurance who was a first time attendee to an SCAA luncheon and meeting. The adjuster went home with a \$10 Starbucks gift card. Let's not forget to invite our customers, colleagues, and co-workers to attend our meetings. And, **let's not forget our next meeting, October 17, 2008 @ The Swedish Club. Please remember to RSVP! ❖**

SCAA Lunch Menus for 2008-09

OCTOBER

Chicken Athena with herbs and feta
Toasted Orzo Pasta Salad with Spinach
Greek Green Salad with Olives, Tomatoes, Peppers,
and Red Wine Vinaigrette
Pita Bread, Lemon Bars
Iced Tea, Coffee and Ice Water

NOVEMBER

Oven Roasted Turkey with gravy
Homemade Mashed Potatoes, Cornbread Dressing
Green Salad with cheese and candied nuts
Parker House Rolls and butter
Pecan Pumpkin Pie with whipped cream
Apple Cider, Coffee and Ice Water

JANUARY

Fried Chicken
Baked Macaroni and Cheese
Crisp Green Salad with Thousand Island Dressing
Soft Rolls and Butter, Brownies
Iced Tea, Coffee and Ice Water

FEBRUARY

Chicken Gumbo Soup
Jambalaya - with andouille sausage, chicken, bell peppers in a rich tomato brown sauce and rice
Spinach Salad with Poppyseed Dressing
Baguette and Butter
Baker's Choice Frosted Cake Slices
Iced Tea, Coffee and Ice Water

APRIL

Baby Greens with Gorgonzola Cheese and Pomegranate Vinaigrette
Chicken Breasts with Peach Chutney, Rice Pilaf
Grilled Washington Asparagus
Crusty Rolls and Butter, Turtle Bars
Mrs. Swindells Fruited Tea, Coffee and Ice Water

MAY

Cedar Planked Salmon with Aioli
Seattle's best Swedish Meatballs with Sour Cream
Brown Gravy and Lingonberries
Baby Red Potatoes with Dill
Green Pea Salad with Bacon and Water Chestnuts
Soft White Rolls and Butter
Decadent Chocolate Mousse with whipped cream and shaved chocolate
Arnold Palmers (lemonade and iced tea mixed)
Coffee and Ice Water

VEGETARIAN OPTIONS

We can make vegetarian entrees for those who pre-order at least 48 hours in advance.



Medical Notes

Chiropractic Scope of Practice: OR & WA

Article provided by Health Cost Management

By **J. Michael Burke, D.C.**, *SpineCare Chiropractic Group*

The practice of chiropractic is licensed and regulated in all 50 states. However, unlike the practice of medicine which varies little from one state to another, the chiropractic scope of practice can differ widely from state to state. The dissimilarities between states is often confusing to those outside of the profession whose functions may require them to encounter or interact with chiropractors. These may include insurance personnel, claims adjudicators, and attorneys. The reasons for the variety of state laws governing the practice of chiropractic are many, and a discussion of them is outside the scope of this brief paper, but the interested reader is referred to sociologist Walter Wardwell's *Chiropractic: History and Evolution of a New Profession*¹ for further reading. The purpose of this paper is to review the licensing laws of Oregon and Washington, as they pertain to the chiropractic scope of practice.

Oregon

The broadest legal spectrum of chiropractic practice can be found in Oregon. Chiropractors in Oregon may refer to themselves as chiropractic physicians. Drs. Ruth Sandefur and Ian Coulter² have described the Oregon scope of practice thusly:

In Oregon, chiropractors are allowed to perform minor surgery, proctology, and obstetrical procedures. They also employ "chiropractic diagnosis, treatment and prevention of body dysfunctions, correction, maintenance of the structural and functional integrity of the neuromusculoskeletal system and the effects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic diagnostic procedures and the employment of all rational therapeutic measures as taught in approved chiropractic colleges." ... Chiropractors practicing in Oregon may utilize physiotherapy devices, perform venipuncture to collect blood specimens for laboratory diagnosis, give nutritional advice, and dispense nutritional supplements from their offices.

Membership Application for 2008-2009



SCAA Annual Membership Application

Membership Dues for the year September 1, 2008 to August 31, 2009

DUES ARE NOT PRO-RATED

Please print neatly, one application per person

Applicant _____ Company _____

Mailing Address _____ City _____ State _____ Zip+4 (Required) _____

Phone _____ Email _____

Check the appropriate boxes: Renewal, year first joined _____ Change of Address New

Active Member — Adjusters & Claims Persons **\$25 Due** Life Member — Past President or Retired **No Money Due**

Associate Member — Member of Defense Bar or Former Claims Person **\$25 Due** Corporate Sponsor — Legal Firms **\$125 Due**

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Barb Tyler—Alquemie Publishing
PO Box 87
Dexter, OR 97431

If you have any questions on type of membership or membership status, contact Barb Tyler at 541/937-2611, or by email: npassist@msn.com

The law governing chiropractic practice in Oregon is contained in chapter 684 of the Oregon Revised Statutes.³ ORS 684.010 states:

(2) “Chiropractic” is defined as:

(a) That system of adjusting with the hands the articulations of the bony framework of the human body, and the employment and practice of physiotherapy, electrotherapy, hydrotherapy and minor surgery.

(b) The chiropractic diagnosis, treatment and prevention of body dysfunction; correction, maintenance of the structural and functional integrity of the neuromusculoskeletal system and the effects thereof or interferences therewith by the utilization of all recognized and accepted chiropractic diagnostic procedures and the employment of all rational therapeutic measures as taught in approved chiropractic colleges.

The appropriateness of many diagnostic and treatment procedures and techniques are determined by whether they are taught in “approved chiropractic colleges.” For example, manipulation under anesthesia (MUA) is within the scope of practice because “the Board found that Texas Chiropractic College teaches a continuing education course in Manipulation Under Anesthesia and offers a preceptorship program.”⁴ (However, the administration of anesthesia for this procedure is not within the chiropractor’s scope.) ORS 684.040 (2)(d) states that an approved chiropractic college is either a college “approved by the board under the board’s academic standards” or a school accredited by the Council on Chiropractic Education.³

It may be easier to understand chiropractic in Oregon by listing which medical procedures lie outside the legal scope. This list includes:

1. Prescribing medications. Not only are chiropractors prohibited from prescribing or dispensing prescription drugs, but chiropractors are similarly proscribed from recommending that patients discontinue taking drugs that have been prescribed to them. Chiropractors can, however, recommend or prescribe over-the-counter

(OTC) drugs and may do so in doses equivalent to a prescription medication, e.g., 600 mg ibuprofen every six hours.

2. Acupuncture. Although some states allow chiropractors to perform needle acupuncture, it is outside the Oregon scope of practice despite Oregon’s otherwise broad scope. Aside from needling, chiropractors are allowed to stimulate acupuncture points by a variety of methods including manually (e.g., acupressure or acupuncture massage) and electrically.
3. Major surgery. While this prohibition might seem obvious, in Oregon it is legal for chiropractors to perform minor surgery. ORS 684.010(6) defines minor surgery as “the use of electrical or other methods for the surgical repair and care incident thereto of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in the superficial structures; and the use of antiseptics and local anesthetics in connection therewith.”³ Postgraduate certification in minor surgery is required.
4. Injections. Chiropractors may not provide therapy by injection including the administration of vitamins and other nutritional substances. Chiropractors may also not perform trigger point injections. The administration of local anesthesia in order to perform minor surgery is an exception. Chiropractors may also perform venipuncture to draw blood for diagnostic testing purposes. (Laboratory analysis of serum and urine is allowed.) Intradermal injections for allergy testing are within the scope of practice.

(See Medical Notes... continued on page 6)



Tacoma Claims Adjusters

— Upcoming Meeting —

November 14, 2008

11:30 am - 2:00 pm

LaQuinta Inn

1425 East 27th Street, Tacoma, WA

For more information visit:

www.tacomaadjusters.org

Medical Notes... (Continued from page 5)

The use of x-ray for diagnostic purposes is allowed in Oregon as it is in Washington and California. Many chiropractic offices maintain their own x-ray equipment.

The practice of obstetrics, gynecology, and proctology by chiropractors is allowed in Oregon, subject to the proscriptions previously described. As with minor surgery, postgraduate certification is required.

The Oregon Board of Chiropractic Examiners (OBCE) maintains a very informative website to which the reader is referred for more information.⁵ The OBCE's *Guide to Policy and Practice Questions* contains a detailed listing of approved and proscribed devices, procedures, and substances.⁴

Washington

Washington state's scope of chiropractic practice used to stand in stark contrast to that of its neighbor state to the south. Chiropractic in Washington is still restrictive compared to Oregon and other states with more expansive scopes. The Chiropractic Quality Assurance Commission, part of the Washington State Department of Health, oversees the chiropractic profession.⁶ The chapter of the Revised Code of Washington governing the chiropractic profession is RCW 18.25.⁷ RCW 18.25.005 states in part:

(1) Chiropractic is the practice of health care that deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, all for the restoration and maintenance of health and recognizing the recuperative powers of the body.

(2) Chiropractic treatment or care includes the use of procedures involving spinal adjustments and extremity manipulation. Chiropractic treatment also includes the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation, the normal

regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventive measures. Chiropractic care also includes such physiological therapeutic procedures as traction and light, but does not include procedures involving the application of sound, diathermy, or electricity.

Note that chiropractors in Washington are prohibited from performing such commonly used physical therapies as ultrasound, diathermy, and electrical stimulation. Chiropractors also cannot prescribe or dispense drugs, practice obstetrics or any form of surgery, perform colonic irrigations (legal for chiropractors in Oregon and California), use x-rays or other forms of radiation for therapeutic purposes, or perform venipuncture. Washington is one of the few states, perhaps the only state, that prohibits health care providers other than chiropractors from performing "adjustments by hand of any articulation of the spine."

MUA is not mentioned in the current regulations, but the procedure is currently under consideration by the Chiropractic Quality Assurance Commission. ❖

Bibliography

1. Wardwell, W.I. *Chiropractic: History and Evolution of a New Profession*. St. Louis, MO: Mosby Year Book, 1992.
2. *Chiropractic in the United States: Training, Practice, and Research*. Chapter V: "Licensure and Legal Scope of Practice," Ruth Sandefur, D.C., Ph.D., Ian D. Coulter, Ph.D., <http://www.chirobase.org/05RB/AHCPR/05.html>.
3. Oregon Revised Statutes, 2003 edition, <http://landru.leg.state.or.us/ors/684.html>.
4. Oregon Board of Chiropractic Examiners, *Guide to Policy and Practice Questions*, http://egov.oregon.gov/OBCE/laws_guidepolicy.shtml.
5. OBCE website, <http://egov.oregon.gov/OBCE/index.shtml>.
6. Chiropractic Quality Assurance Commission, <https://fortress.wa.gov/doh/hpqa1/hps3/Chiropractic/default.htm>.
7. Washington State Legislature, <http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=18.25>.



DON'T FORGET TO RSVP!

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Case Study

Tolling the Statute of Limitations for Incapacitation

By Jeffrey D. Eberhard

In *Rivas v. Overlake Hosp. Med. Ctr.*, the Washington Supreme Court clarified the issue of when the statute of limitations for filing a negligence action may be tolled for incapacitation. While it was possible that the statute meant that one's incapacitation must last long enough to have a guardian appointed, the Supreme Court disagreed. In order to toll the statute of limitations, a plaintiff must only show that she did not understand the nature of the case at the time the cause of action accrued.

While performing a renal angioplasty on Rivas, a physician at Overlake Hospital Medical Center encountered difficulties which resulted in the loss of one of Rivas' kidneys. Rivas spent four days in the intensive care unit (ICU) after the surgery. Three years and two days later, Rivas filed a medical malpractice action against the hospital. The hospital immediately filed a motion for summary judgment as the three year statute of limitations for a medical negligence action barred the lawsuit. Rivas argued that the statute of limitations was tolled for the four days during which she was in ICU. The trial found that there were genuine issues of fact as to whether Rivas was incapacitated and denied the defendants' motion.

After obtaining pertinent facts through discovery, defendants renewed their motion for summary judgment. Defendants relied upon declarations from several nurses that Rivas was alert, oriented and

aware of her medical condition while in ICU. Opposing statements by Rivas' doctor concluded that her condition rendered her incapacitated and incapable of understanding the nature of any legal proceeding. The trial court again denied defendants' motion, which they appealed to the Court of Appeals for discretionary review. The Court of Appeals found that the length of Rivas' incapacitation was insufficient to trigger the tolling of the statute of limitations.

On review, the Washington Supreme Court looked to former RCW 4.16.190 which tolls the statute of limitations for a person who is incompetent or disabled to a point that they cannot understand the nature of any legal proceedings. To determine inca-

Claims Pointer: To toll the statute of limitations in a negligence action, a plaintiff does not have to prove that she was disabled or incapacitated for a period of time long enough to have a guardian appointed. It is sufficient that a plaintiff show that the incapacitation rendered her incapable of understanding the nature of the cause of action at the time it accrued.

pacitation, RCW 4.16.190 requires that the person meet the elements found in RCW 11.88 (the Guardianship Act), which states that the question of incapacitation is a legal decision based upon a demonstration of management insufficiencies over time. Thus, defendants argued that Rivas must have demonstrated that she was incapacitated over a period of time (presumably more than four days) long enough for a guardian to have been appointed. The Supreme Court found that this provision of RCW 11.88 relates only to the process of establishing a guardianship and not the conditions which render a person incapacitated.

The Supreme Court held that because the statute of limitations is an affirmative defense, the burden was on the defendants. While the burden shifted to Rivas to prove that the statute was tolled while she was in ICU, she was entitled to present evidence to persuade the court that she was incapacitated under the statute. Thus, summary judgment was improper as there were unresolved questions of fact. The Court of Appeals decision was reversed. ❖

Full Case Available at: <http://www.courts.wa.gov/opinions/pdf/795061.opn.pdf>

This article is intended to inform our clients and others about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in this article without seeking professional counsel.



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