

Makin' It Better Newsletter

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When you file an auto accident claim to be compensated for injuries that were the fault of another, you may become a celebrity of sorts. Some insurance companies will watch your every move to make sure you are as injured as you claim.

And, it's perfectly legal.

Surveillance can take the form of photos or video (sometimes taken out of context), and your actions will be documented. There are certain restrictions on this covert activity. The "spy" can't come on to your property to take footage, and they are prohibited from using enhanced camera equipment to peer into your home from afar, such as telephoto lenses. There are circumstances in which there is an implied expectation of privacy on your property that they are not allowed to breach—for instance, a 6-foot-high fence encompasses your backyard.

But public settings are fair game. When you take a walk, go out to eat, or run errands, you may have company. You can even be photographed

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or videotaped while on the job if you work in a public place.

Physical surveillance is not the only tool insurance companies employ. Social networking sites often do the hard work for them. Some people display a lot of information on Facebook and Twitter in various forms. Insurance companies will gladly take the guise of friends and followers to harvest a bounty of alleged evidence.

Honesty is the best policy to combat insurance surveillance. If you don't exaggerate your claim, you generally have nothing to worry about. ■

sudden cardiac arrest



Sudden Cardiac Arrest (SCA) strikes approximately 350,000 people in the United States per year, without warning, with roughly 90 percent of victims dying in minutes. It is one of the leading causes of death in those over age 40.

SCA is not a heart attack. A heart attack is essentially a “plumbing” problem. Arteries and blood vessels narrow and

clog, or arterial plaque breaks off and forms a clot, depriving the heart of needed oxygen and damaging the heart muscle. The heart, often, does not stop beating during a heart attack.

SCA is caused by an “electrical” problem. In most cases, it is the result of irregular heart rhythms, or arrhythmias, which can cause the heart to stop beating. Many times, SCA strikes active people who seem to be healthy but have undetected cardiovascular disease.

Although a heart attack and SCA differ, the damage inflicted by a previous heart attack can interrupt the electrical system of the heart, paving the way for SCA. Those who have coronary artery disease, a thickened heart muscle, a heart valve disorder, a heart rhythm disorder, or a congenital heart defect are also more susceptible.

Sudden cardiac arrest rarely strikes those under age 35; although, when it does, commonly during an athletic endeavor, media coverage often gives the impression that it’s more widespread than it really is. Congenital heart defects are frequently to blame.

Those struck by SCA need the immediate assistance of a defibrillator. If one is not available, performing cardiopulmonary resuscitation may be the victim’s last hope. ■

washing our hands

OF THE WHOLE THING

Recently, researchers from Michigan State University stealthily observed the hand-washing habits of nearly 4,000 people in public restrooms. The results were not pristine.

Sixty-seven percent of restroom users washed their hands with soap (sounds OK...seemingly), 23 percent merely wet their hands (not so good), and 10 percent didn’t wash their hands at all (yikes). Besides soap, another key to cleanliness is the amount of time spent washing our hands. The recommended time is 15–20 seconds, but roughly 95 percent of the “participants” failed to reach that benchmark. Those who deemed hand-washing as worth their trouble averaged a paltry six seconds.

When washing hands, it is advisable to also scrub with soap between the fingers, on the backs of hands, and under the nails (by scratching a soaped-up palm). Thoroughly dry your hands and use a paper towel, if available, as a germ shield when you push open the bacteria-infested door upon exit.

The Centers for Disease Control says that “hand-washing is the most effective thing one can do to reduce the spread of infectious disease.” It seems a lot of germs are resting easy these days. ■



guest column:

WHO NEEDS AN OREGON INCOME CAP TRUST



Older individuals often find they require additional in home care, assisted living or long term skilled nursing care at some point. When a senior does not have long term care insurance or another plan in place to pay for long term care, then many people quickly discover the costs of in home assistance, assisted living and long term care often exceed a

senior's monthly income and exhaust their saving and financial resources

Typically the senior uses their available financial resources to pay for healthcare expenses until they can no longer afford care. At that point the Oregon State Medicaid system can step in and assist by contributing towards the senior's long term care.

This is how Oregon administers the Medicaid system; a senior would apply for Medicaid the month before they will be short of funds, and then if they qualify, Oregon State Medicaid would kick in to help continue payments to their long term care provider.

To qualify for Medicaid assistance the senior cannot have monthly income in excess of the Medicaid limits. The income limit is currently \$2130 per month for 2013, and this amount is subject to change annually. Additionally, the senior cannot have cash reserves over \$2,000.

The costs of long term care typically run around \$3,000 to \$4,000 per month for in home care or assisted living and can cost close to \$6,000 per month for skilled nursing care.

What is an elder to do if their monthly income from social security and a pension is not enough quite to pay for long term care but is more than the limit of \$2130 to qualify for Medicaid?

To solve this problem Oregon allows what is called an **"Income Cap Trust"**. An Income Cap Trust is a trust created for the benefit of the senior to obtain the care they need and to obtain assistance by the state Medicaid program to cover the additional cost of care beyond the senior's monthly income.

To create an "Income Cap Trust" a senior would seek the advice of an elder law attorney or an attorney specializing in Medicaid planning. The attorney will create a Trust for the elder's monthly income. All of the senior's monthly income is then deposited directly to the trust. The trustee of the trust is usually a child or trusted friend.

The attorney then works with state Medicaid social workers to create a schedule of monthly payments that allow distribution of the senior's funds from the trust. Payments are made by the trustee directly to the care facility or care provider to help cover the cost of care.

In this way the senior's monthly income does not go directly to the senior so they may qualify for Oregon State Medicaid assistance. The trustee also makes a monthly payment to the senior to cover their personal costs as allowed by Medicaid.

If the senior is married and their spouse is not going to need Medicaid then separate planning must be done to provide for the spouse's income and care.

It is a good idea to plan for Medicaid well in advance. Ideally, a senior would have a proper estate plan in place at least 5 or 6 years before Medicaid is needed. Medicaid currently imposes a five year "look back period" for the transfer of assets. Transferring assets inside the five year "look back period" may affect a senior's ability to qualify for Medicaid.

If you find you or a family member may need an Income Cap Trust please contact an Attorney as soon as possible. Planning out the Income Cap Trust a few months in advance can help you and your loved ones be prepared and help to prevent any gaps in coverage or gaps in payments to your care provider. For more information, please feel free to contact attorney Kelly Stearns of the Columbia Pacific Law Firm, LLC in Astoria, Oregon at 503-468-3100. ■

August update:

With school getting back in session, our firm encourages everyone to use extra caution when you are out and about. Please slow down and follow posted speed limits, be aware of crosswalks, and give school buses plenty of room to navigate. Keep our children safe!

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INSURANCE COMPANY surveillance



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This publication is intended to educate the general public about personal injury, on the job injuries, Social Security, and other issues. It is for information purposes only and is not intended to be legal advice. Prior to acting on any information contained here, you should seek and retain competent counsel. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

the hummingbirds are here

My wife loves flowers, and she successfully attracts hummingbirds to our home every spring and summer. These amazing creatures are not shy about staking out territory, so after getting “buzzed” by a few bold male hummingbirds in the yard last week, I thought I would investigate these creatures. Here is what I found:

- The average hummingbird weighs a tenth of an ounce; less than a nickel;
- Oregon’s most common species, Rufous, journeys from Mexico to the Pacific Northwest every January;
- Hummingbirds are the only bird that can hover and fly backwards;
- Hummingbirds beat their wings 200 times per second;
- These birds can fly 60 miles per hour.

You can easily attract hummingbirds by planting bright red, orange, and pink flowers, which are more visible to the birds than



other colors. Fragrance is not important as the color. Wild azalea, Salmonberry, Orange honeysuckle and bright colored Rhodies all work well. We have planted a perennial, Crocosmia, which produces a bright red flower in mid to late July. They love the Crocosmia. I counted five hummingbirds buzzing around the yard at one point.

Feeders also work well. Instead of buying commercial feed with artificial sweeteners and food coloring, mix one part cane sugar to four parts

water. Boil the solution on the stove, not the microwave, for at least thirty seconds to prevent fermentation and mold growth.

Hang your feeder out of direct sunlight, either right next to a window, or at least twenty feet away to prevent the birds from flying into your windows. If you are really patient, you might just be able to have the birds approach the feeder while holding it in your outstretched arm. If you do, I would like to see a picture. ■

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