

# Oregon Chiropractors Indicted For Workmens' Compensation Fraud

"FRAUD SQUAD" ACTIVELY PURSUES VIOLATIONS

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It began with the realization that too much of Oregon's workers' compensation money was being wasted on fraudulent claims. Most fraud cases involve the claimant or patient. But about one-fourth involve the provider.

To solve the problem, the State Accident Insurance Fund Corporation (SAIF) sent out a letter to all providers telling them of the new "in-house medical cost containment program" and warning that efforts to reduce the problem of overpayment would be increased. The letter went on to suggest that doctors review their files for cases of over or duplicate payment and send refunds to the SAIF office. This was in March of 1989.

In that same month, the Oregon Department of Insurance and Finance announced that after meeting with "people across the state representing business, labor and the service sector" one concern continued to be expressed: "many Oregonians believe that abuse runs rampant in the workers' compensation system and it must be stopped." The department mailed a letter reviewing the problem and encouraged the use of an "abuse hotline." This toll-free number allowed people to report abuses directly to the workers' compensation abuse investigation team.

Just prior to these announcements, Oregon's first racketeering lawsuit against a health-care provider ended in a conviction. Unfortunately, it was against a chiropractor.

A Salem chiropractor, his ex-wife, and office manager were found guilty of racketeering by defrauding SAIF and other insurance companies. Among the illegal practices that this chiropractic office was found guilty of were:

**KEEPING OVERPAYMENTS** -- Rather than return overpayments, this office kept them. In addition, they were found guilty of attempting to "cover-up" this practice.

**ILLEGAL CASH DISCOUNTS** -- By giving cash discounts to patients and not disclosing them to the insurance company, the patient or the clinic was able to be reimbursed for more than was actually paid for the service.

**LEASING AND SELLING OF TENS UNITS AND EDUCATIONAL MATERIAL** -- The clinic leased and sold TENS units to patients at prices which exceeded the 20% mark-up regulation. These units were only leased or sold to insurance patients, the majority of whom were on workmens' compensation. This same violation occurred with educational material as well.

**DOUBLE BILLING** -- The chiropractic office charged two insurance carriers for the same service.

In addition, the chiropractor and his staff were found guilty of evidence tampering and witness tampering.

In reaction to this case, SAIF Vice President Allan B. DeScheinitz stated, "Those who cheat or try to cheat SAIF are going to pay the price today and in the future. Our new fraud unit is reviewing more than 50 cases. Believe me, this is just the beginning."

Fortunately, many chiropractors heeded the warning. They performed audits of their files, found the patients where they had kept the overpayments, and sent the money back. But why did it require the creation of a "fraud squad" to bring some DCs to the realization that they had to be accountable?

Since that time, two chiropractors have come forward and settled with SAIF. The judgements against them have been for small amounts (\$25,000 or less) to be paid initially with large amounts hanging over their heads, pending no violations for five years.

In addition, three Oregon chiropractors have been arrested for filing allegedly fraudulent workers' compensation claims with an additional six chiropractors charged with overbilling SAIF. "The arrests and lawsuits are the result of a five-month investigation conducted by investigators from SAIF Corporation and the Department of Justice that found \$357,725.86 in overbilling," said Attorney General Dave Frohmyer. "Criminal charges were filed because three chiropractors converted non-existent maladies into on-the-job, workers' compensation claims."

The lawsuits filed against the three DCs have asked for orders freezing their assets and prohibiting the tampering or removing of records. These orders also call for them to be prohibited from participating in the workers' compensation system or treating injured workers.

If found guilty, the charges against one doctor could bring a total of six years in prison plus fines and damages equaling \$2,348,002.12, plus attorney fees and investigation costs. In addition, this chiropractor could forfeit his corporation and any real and personal property used in the illegal conduct, not to mention lose his license and the right to be involved in any healing art paid by insurance.

If all nine DCs are found guilty, the total damages and penalties would be more than \$3.2 million dollars PLUS attorney fees and investigation costs. The allegations are as follows:

- Theft I (a criminal offense)
- Conspiracy to Commit Theft I (Class C Felony)
- Misrepresentation of a Workers' Compensation Claim (criminal offense)
- Racketeering
- based on theft by deception, forgery, falsifying business records, and mail fraud.
- Charging SAIF more for services than the general public

All of this has created an outcry that is being responded to politically. Two of the Oregon gubernatorial candidates have called for narrowing the role of chiropractors in handling workers' compensation cases. While one candidate, Attorney General Frohnmayer, is calling for decisions of chiropractors to be reviewed by MDs, Gov. Goldschmidt has argued that only medical doctors should be allowed to act as attending physicians. Chiropractors would fall into a referral status. This is very serious, especially in light of the fact that chiropractors receive 15% of all workers' compensation health care payments.

The Chiropractic Society of Oregon (CSO) states that while they are distressed, they are not surprised by the recent indictments for overbilling. CSO President Richard Tilden, D.C., says, "We've been concerned about this issue for years, and although we are deeply embarrassed as chiropractors, we support the attorney general's action and frankly any action that preserves patients' well-being and keeps health care costs reasonable."

"We're on record with the Oregon Board of Chiropractic Examiners in urging them to deal with the problem of over-treatment and overbilling," Dr. Tilden points out. Again, it is the state board that must take some of the responsibility for this situations like these.

The Oregon Chiropractic Physicians Association, the larger of the two associations, also announced that it is "in full support of the State Accident Insurance Fund's (SAIF) zero tolerance for fraud and abuse in the Oregon's workers' compensation system." But, the OCPA is very concerned that SAIF has chosen to focus its entire concern on the chiropractic profession.

SAIF has been "coincidentally" announcing cases against chiropractors JUST as key Oregon legislative groups were making decisions regarding workers' compensation policy. It is feared that SAIF may be using its policing powers to influence policymakers in Oregon.

Interestingly enough, Oregon Attorney General Dave Frohnmayer, whose office is working very closely with SAIF in their effort to pursue abuse by chiropractors, is also a candidate for governor. The entire issue of chiropractic privileges in the workers' compensation program has become a "hot topic" in the gubernatorial campaigning.

One Oregon chiropractor has submitted evidence of what may well be one of the underlying causes of this insurance overbilling problem. Initially, when this was reported to him by his CA, he didn't believe her. She then had to show it to him in writing to prove it to him. This is what she presented to him:

From the PMA Insurance Manual:

*Personal Injury Insurance For Automobiles*  
(pages 29 and 30)

"---The philosophy is to file any type of insurance that the patient has. Be sure to dig for the different types of insurances. A good example is group health insurance and a personal injury policy. A personal injury will pay their usual payment after the deductible is met. The patient's policy for the car will again pay, and therefore THE PATIENT WILL MAKE MONEY ON COMING TO YOUR OFFICE. If both spouses have separate insurance plans at work, by filing both of them, the patient will have the medical bill paid 100%. As you can see, GOING TO THE DOCTOR MAY BECOME QUITE PROFITABLE TO THE PATIENT, not only in regard to his health, but also to his wallet. To say it another way, if health care was costing you \$20 a visit, and you were being reimbursed \$60, would you quit? Neither will your patients. Be sure to deposit all checks in your office account and write a check to the patient for any overpayment." (emphasis added)

In talking with the CA, she explained why this is such a dangerous situation. Many CAs are not familiar with chiropractic care and would not think twice about doing this. Many new DCs would tend to trust that their CA had been properly trained in this PMA course and by this PMA manual, and might not think to question this type of billing practice.

The message to all health care professionals should be perfectly clear:

**THE INSURANCE COMPANIES AREN'T GOING TO TAKE IT ANYMORE!**

They have big computers, aggressive attorneys, powerful political lobbyists, and the support of the general public behind them in their efforts to control health care costs.

It's time to examine your own office.

We have received reports from across the country telling of insurance companies that are using their computers to find those who overcharge. From many areas we hear of insurance carriers that are sending in "patients" with and without insurance. These "patients" have the same symptoms. They are there to determine if you are billing differently for insured patients than you are for cash patients.

For the sake of your family, reputation, future and profession -- please take the time to insure that you are practicing in a manner that is beyond reproach (and investigation).

APRIL 1990