

29th Annual SCWCEA Workers' Compensation Medical Seminar

February 24-26 Marina Inn at Grande Dunes Myrtle Beach <u>Visit our website</u> for details.



President's Message



As I look back at the last twelve months, I would like to thank the many member volunteers who put in countless hours to provide the South Carolina Workers' Compensation Educational Association with their time, talents and expertise.

It is largely due to their unselfish and tireless efforts that this year has seen such tremendous success. And, I would be remiss if I failed to extend, on behalf of the entire Association, our heartfelt and well-deserved gratitude to Donna Croom. In her first year as the new SCWCEA Executive Director, Donna's daily input and actions have been effective, insightful and invaluable.

The year did not pass without a few hurdles. With the installation of a new President, Executive Committee and Executive Director this past January, the Association's new leadership had a lot to learn quickly. One of the greatest challenges for any organization is providing its membership with exactly what it wants. Efforts to build on the best successes from past years and prior leadership were coupled with implementation of the most promising new and fresh ideas. Much was accomplished in a very short period of time and most of these changes have been favorably received by the membership.

Meaningful undertakings included the development and launch of a new website allowing for online registration and membership processing, distribution of the newsletter from print to electronic format, timely dissemination to the membership of periodic electronic alert bulletins and other communications, revisions to the Association's policies and procedures, repackaging of convention and seminar materials, and so much more.

I am excited about what SCWCEA achieved in 2007, but I am even more excited about what we will achieve together in 2008. I have never worked with a more eager, engaged and committed group of active and dedicated members. The plans for programs, services and improvements to the SCWCEA during 2008 have already begun and will continue to mold this association into one of the best in the Southeast.

This time next year, I plan to come back to you and report on our achievements during 2008. I hope it will exceed your expectations.

To you and yours, have a wonderful holiday season and a prosperous New Year!

Sincerely,

J. Russell Goudelock, II



South Carolina Workers' Compensation Educational Association

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Sunset For The Second Injury Fund

Ellen Goodwin is a Shareholder with Turner, Padget, Graham & Laney, PA in Columbia in the area of Workers' Compensation. Prior to this position, she served as General Counsel to the South Carolina Second Injury Fund.

The new law finally phases out the Second Injury Fund – and makes some important changes in the interim before the Fund's last hurrah. There are two important areas of change. The first area involves deadlines for claims, set forth in Section 42-7-320. The second area consists of changes to the actual SIF statute itself, set forth in Sections 42-9-400,

With regard to deadlines, there is basically one more year for new claims to arise. The Fund will not consider any claims for any injury with a date of accident on or after 7/01/08. S.C. Code Ann. § 42-7-320(B). In less than six months, new accidents cannot give rise to new SIF claims. That does not mean older claims cannot still be pursued. You can file notice of claims with dates of accident prior to 7/01/08 up until12/31/10. No notices of claim can be submitted for reimbursement after 12/31/10. § 42-7-320(B)(1). Thus, notice for even very old claims must be filed by 12/31/10.

The Fund may not accept any new information (to support your claim) after 6/30/2011. § 42-7-320(B)(2). Claims should be submitted as early as possible with as much information as possible in order to ensure acceptance. This means affidavits, medical records, depositions and any other evidence that might get the claim accepted. The Fund will then have 6 months in which to consider all information. It is not permitted to accept any claim for reimbursement after 12/31/2011. § 42-7-320(B). If the claim is not accepted by then, it will never be accepted. The Fund fully terminates as of July 1, 2013. § 42-7-320(A).

The second area of change consists of changes to the actual provisions for reimbursement. There are at least 7 major changes contained in the new law. (1) When filing the claim, you must now supply certain information to the Fund. § 42-9-400(f): (i) the date of accident; (ii) employee's name; (iii) employer's name and address; and, (iv) insurance carrier's name, address, NCCI code, and (v) carrier's claim number, policy number, and policy effective dates. The Fund will not provide a decision on reimbursement until such information is received. In fact, the Fund is requiring this information on all claims, even those arising before the effective date of the statute.

Section 42-9-400(l) requires an employer to report that indemnity and medical reserves have been reduced to threshold limits and reported to NCCI. The Fund will also have to submit a report to NCCI pursuant to subsection (m), and NCCI is required to report any discrepancies in reduction of reserves to the Department of Insurance, which is directed to establish regulations on SIF discrepancies. (Intentional failure to reduce reserves is now specifically defined as a false statement or misrepresentation, which can result in criminal penalties. See §§ 38-55-530(D) and -540.)

As of 7/01/07, arthritis is no longer a "listed condition" under § 42-9-400(d). This will cause a noticeable reduction in the number of claims filed between 7/01/07 and 6/30/08. It is unknown whether the Fund will insist that arthritis is not a listed condition for any claim filed after the effective date of the statute or agree that it is removed only for claims arising between 7/01/07 and 7/01/08.

In addition to the listed condition of arthritis, the "catch-all provisions" found in Paragraphs 34(a) and (b) are excised from the new statute. Previously, those paragraphs allowed a carrier that could establish a certain amount of combined disability or impairment, an entitlement to the presumption of hindrance or obstacle to employment or re-employment. Now, a carrier who does not have a listed condition will have to prove hindrance or obstacle to employment by vocational evidence. Whether or not this will continued next page

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continued

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2008 SCWCEA Medical Seminar Comes to Myrtle Beach

by Stephen R. Ratliff, The Directions Group, Inc.

This year's Medical Seminar is predicted to be a "must" for Association members and non-members alike, including nurses, claims professionals, physicians, attorneys, employers, and other stakeholders in South Carolina workers' compensation. Our program will present "What's New" in the areas of Disability Management, Return to Work, Pharmacology, Carpal Tunnel Syndrome, Chronic Pain, Occupational Safety, and Substance Abuse. There will also be updates on workers' compensation legislation, and the development of rehabilitation guidelines in South Carolina. The mock hearing with audience participation is back by popular demand. The venue comes to Myrtle Beach's new Marina Inn at Grand Dunes for a Sunday through Tuesday format.

Speakers include experts active on state, regional and national levels, such as Richard Pimentel, Dr. Jennifer Christian, Dr. Edwin Rudisill, Dr. Gerald Aronoff, Dr. Randolph Waid, and John Martin. Their presentations will inspire you, inform you, and move you. Richard Pimentel's presentation on Return to Work will include a trailer of a full length motion picture *Music Within*, based on his life story, expected in theaters throughout the country in spring 2008. Dr. Christian will share her experiences as chairing the group of twenty-one physicians who developed the new work disability prevention guideline for the American College of Occupational and Environmental Medicine. John Martin shares his first-hand experience with an industrial safety failure that left him in a hospital burn unit for over five months and inspired him to offer safety solutions to business and industry, nationwide.

This year's medical seminar planning committee with the support and participation of the South Carolina Workers' Compensation Commission has planned a medical seminar that you will not want to miss, in one of your favorite meeting destinations. Put February 24th, 25th and 26th down for SCWCEA's Twenty-ninth Annual Workers' Compensation Medical Seminar in Myrtle Beach. Look for seminar information in the coming weeks or visit our website at www.scwcea.org.

Sunset For The Second Injury Fund continued

constitute a truly significant difference is unknown, since the Fund already contends that it can rebut the presumption and require vocational evidence of hindrance or obstacle to employment As above, the Fund may contend that the excision of these provisions applies to all claims filed after 7/01/07 and not just to claims arising after 7/01/07.

Last, but certainly not least, the new statute requires reimbursement only for claims in which the subsequent injury is aggravated by the preexisting impairment. Thus, where two conditions merely combine with each other, reimbursement will be denied. The Fund may also deny reimbursement where the subsequent injury aggravates the preexisting impairment; however, reference to Section 42-9-35, a new section governing "subsequent injuries," may be helpful. That section provides that, where an employee establishes that a subsequent injury aggravated a preexisting condition or impairment or vice-versa. § 42-9-35(A)(1), (2).

Once the Fund terminates, outstanding claims will either continue or abate. At this time, no decision has been reached on that issue. There may be some type of "run off," or the Fund may simply cease to pay any reimbursement requests whatsoever after July 1, 2013. In the meantime, it is anticipated that less claims will be accepted for reimbursement by the Fund and that litigation surrounding the Fund's denials will increase. It is also expected that there may be an initial spike in notices as carriers review old files and file notices on both old and new claims. After termination, subsequent injuries/ aggravations will be governed by \$ 42-9-35 and 42-9-150 – 170. And, of course, there will be no opportunity for reimbursement at that time.

Go Electronic— Sign-Up Online for SCWCEA News and Update Your Information

Please take a moment to visit our website at <u>www.scwcea.org</u> and click on <u>"News Sign-Up"</u> to sign up for the electronic version of this newsletter and email alerts throughout the year.

It's good for the environment because we use less paper and energy—and saves us money in printing and postage.

It's an easy way to make sure we have your current email address for ongoing communication.

From the Executive Director

During the 2007 Educational Conference, SCWCEA committed to you that your survey results would be studied, discussed and taken to heart. Thank you to those who took the time to give us your input! Allow us to share some of that feedback.

The 2007 SCWCEA Educational Conference was the largest ever held. The Conference Committee worked hard and the results were better than ever. Comments at the conference and survey responses bear this out. There is, however, always room for improvement and changes to better serve the membership. Work on the 2008 Educational Conference is well under way and responsive changes will reflect your input.

Program content. The program sessions were very well received. Only one component of one session rated below average (2.7 on a scale of one to five). All overall ratings were well above average and the great majority were somewhere between good (4) and excellent (5). Commentary indicated that program content on legal aspects of the workers' compensation system should be scaled back somewhat in favor of providing more content relating to employer and claims handling perspectives.

Continuing education credit administration. We will improve the process for recording continuing education credits by working to get as much of this activity out of the seminar rooms as possible. However, some licensing boards require that administrative activity take place in the seminar room. SCWCEA is studying how other organizations service multiple continuing education certifications in multiple states.

Expanding the types of continuing education credits offered. Each regulatory board in each state has different criteria, different accreditation processes and widely varying costs associated with accreditation of educational programs.

For continuing education credits in some nursing fields, the programming committee must have a nurse on the committee. This will be a goal for future conferences, but we are dependent upon member volunteers serving on committees to make it happen. Physician continuing education credits (CME's) require eighteen months lead time and may be cost prohibitive (\$1600 per course application fee). SCWCEA will continue to work to expand the types of continuing education credits offered.

Room availability. The 2007 Educational Conference had larger attendance than ever before. Approximately 821 people attended including members, non-members, exhibitors, speakers and staff. SCWCEA had contracted for every room the hotel would allow us to have, which was more than 90% of the hotel's rooms.

The hotel allowed individuals to reserve rooms in the SCWCEA room block prior to the registration materials being mailed. For future conferences, the SCWCEA room block will not open ahead of the mailing of registration materials.

Shuttle bus service. Bus service between overflow hotels and the conference hotel would be a desirable feature. However, regular service over the length of the conference with acceptable frequency would require a significant increase in the conference registration price for everyone. Your feedback indicates a preference to hold down the cost of the SCWCEA educational conference.

Conference location. There was a strong preference for Myrtle Beach as the educational conference site and a slight preference against rotating the location of the educational conference. The 2008 conference hotel contract for Hilton Head was signed in 2006 and it is cost prohibitive to change locations for the 2008 conference. SCWCEA is currently working on the 2009 conference contract, and we hope to return to Myrtle Beach.



Stanford E. Lacy, Esq.



Stephen R. Ratliff



O. Shayne Williams, Esq.

New SCWCEA Board Members Elected At Annual Meeting

During the Association's Annual Meeting at the Marriott Grande Dunes on October 24, 2007, the membership elected individuals to serve a three-year term on the SCWCEA Board of Directors beginning January 1, 2008.

Elected were Stanford E. Lacy, Stephen R. Ratliff and O. Shayne Williams. Harry B. Gregory, Jr. was re-elected to a three year term beginning in January.

Stanford E. Lacy, Esq., is a founding partner of Collins & Lacy, PC in Columbia, South Carolina. A graduate of the University of Virginia and the University of South Carolina's Law School, Stan also serves as an adjunct professor at USC's School of Law focusing on Workers Compensation. He has served in a variety of capacities, including President, of the SCWCEA during the past several decades.

Stephen R. Ratliff, Vice President of Business Development and Operations for The Directions Group, Inc. in Mt. Pleasant, South Carolina, received an Associates Degree from Trident Technical College and attended MUSC's Bachelor of Health Science Program. Stephen is responsible for overall company operations and expanding the existing customer base for those needing case management and consulting services in the southeastern United States. He currently chairs the 2008 Medical Seminar Committee for the SCWCEA.

O. Shayne Williams, Esq., practices workers' compensation defense law for Turner, Padget, Graham & Laney, PA in Greenville, SC. He is a graduate of the University of South Carolina School of Law.

Harry B. Gregory, Jr., Esq., Director of the SC State Accident Fund, was re-elected to his second term on the SCWCEA Board. He received both his undergraduate and J.D. degree from the University of South Carolina.

The three new members replace Walter H. Barefoot of Turner, Padget, Graham & Laney, PA, Florence, SC; W. Justin Kohl of Defender Services, Inc., Columbia, SC and Patricia L. Rediehs of GENEX Services, Inc., Charlotte, NC.

"We will miss the institutional knowledge and invaluable input provided by Walt, Justin and Pat", says Rusty Goudelock, SCWCEA President, "but we are always excited to welcome new board members and benefit from the fresh ideas, hard work and energy they bring to our organization and its mission. We look forward to working with them during the years to come to advance the programs of SCWCEA".

2008 Membership Renewals

If you are a current member of SCWCEA, you will receive your 2008 renewal notice before December 31, 2007.

Please note that only Firm/Business and Individual Members have voting rights with the organization.

Associate Members (\$50) will be reassessed an additional \$25 during April 2008 if their company does not renew at the Firm/Business membership level by March 31, 2008.

To join, please download the membership application form on our website. www.scwcea.org.

Welcome New Members

Heather Bennett Wausau Insurance Companies Alpharetta, GA

Denny Bertwell Woodall & Broome, Inc. West Columbia, SC

David Bornemann Chappell, Smith & Arden Columbia, SC

Gail Bowman Unisource Administrators, Inc. Sarasota, FL

Melissa Brown Willson, Jones, Carter & Baxley,PA Mt. Pleasant, SC

Zenitha Brown Chubb Insurance Atlanta, GA

Judy Burroughs Builders Insurance Group Atlanta, GA

Ruby Butler Saluda County Emergency Management Division Saluda, SC

Mitch Camp Vought Aircraft Industries, Inc. North Charleston, SC

Clair Campbell Campbell & Associates Charlotte, NC

Alicia C. Charleston Wausau Insurance Companies Alpharetta, GA

W. Christopher Cooper Cooper Insurance Services Travelers Rest, SC

Patrick Daniels The Dick James Law Firm Greenville, SC

Veronica DeHart FCCI Insurance Group Duluth, GA

Monty Desai The Dick James Law Firm Greenville, SC

Gail Duke Clarendon Health System Manning, SC

Tabitha Emanuelli Sowell, Gray, Stepp & Laffitte, LLC Columbia, SC Stephen Evans Evans Law Firm Greenville, SC

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Carol Hegedus American Rehabilitation Services Mooresville, NC

Dick James The Dick James Law Firm Greenville, SC

Todd Kincannon Barnes, Alford, Stork & Johnson Columbia, SC

Christine Latona Campbell & Associates Charlotte, NC

Jane Lyons Vought Aircraft Industries, Inc. North Charleston, SC

Wendy Mason Gallagher Bassett Services Ft. Mill, SC

Julie K. McCoy-Lincoln Gallagher Bassett Services Ft. Mill, SC

Kevin Moss Michelin North America Greenville, SC

Joan Nix GENEX Services, Inc. Charlotte, NC Nanette Powell Horry County Solid Waste Authority, Inc. Conway, SC

Suzanne Price American Rehabilitation Services Lamar, SC

Joyce Prichard BOSE Health Services Blythewood, SC

Leesa Rice Gould & Lamb, LLC Bradenton, FL

Matthew Riddle Young Clement Rivers, LLP Charleston, SC

Jim Rogalsky TechHealth Tampa, FL

James Stansfield Montgomery Insurance Charlotte, NC

Urvi Satariya Honda North America Torrence, CA

Michael Spane Hawkeye Detective Agency, LLC Lexington, SC

Robert Steadman Saluda County Emergency Management Division Saluda, SC

Steve Vardas Pharmacy Management of America/Emeric, Inc. Lexington, SC

Heather Vardell Sowell Gray Stepp & Laffitte Columbia, SC

Katie Veatch Willson Jones Carter & Baxley, LLP Mt. Pleasant, SC

Daniel Visser Advanced Therapy Solutions Spartanburg, SC

Kathy Wilson Amerisure Insurance Company Charlotte, NC 32nd Annual SCWCEA Educational Conference on Workers' Compensation

October 19-22, 2008 Marriott's Hilton Head Resort Hilton Head Island

Doug Crossman Receives Lifetime Member Award

By: John Croft, Harris & Graves, PA



The South Carolina Workers' Compensation Educational Association (SCWCEA) presented Doug Crossman with its Lifetime Member Award at the 31st Annual Conference in Myrtle Beach this October. The award is presented in recognition of a member's distinguished service to the Educational Association. Lifetime Member Committee Chair, Johnnie Fulton, said, "I cannot think of anyone more deserving of this award and am pleased that the Board agreed."

Doug Crossman served both the Educational Association and the citizens of South Carolina with distinction. He played a pivotal role in the creation of the Educational Association 31 years ago. He also served on the Educational Association's first Board of Directors. He was "always in the thick of everything," said Stan Lacy of Collins & Lacy, PC. Concerning Mr. Crossman's role with SCWCEA, he added, "To call him a founding father would not be far from the truth." Mr. Crossman also served as Vice President of SCWCEA. A "prime mover" for Kids' Chance South Carolina, according to Mr. Lacy, Doug Crossman was one of the people who "made it happen." Mr. Crossman served as one of the first Presidents of Kids' Chance and remained highly involved in the organization.

Mr. Crossman served as the Director of the Second Injury Fund. He was hired there in 1977 and served the Fund until his retirement. The Lifetime Membership Committee recommends potential recipients to the Board of Directors for approval. The award requires each recipient to have been an active member of the Educational Association for ten years, having served as either an officer or director, reached the age of 50 and made significant contributions to the legal profession. Previous recipients include Jim Reed, Hugo Spitz, Doug McKay, Paul McMillan and John Nabors.

From the Executive Director continued

Very few hotels in South Carolina have enough rooms and meeting space for a conference as large as the 2007 Educational Conference. The Medical Seminar is also too large for most South Carolina hotels. No Charleston hotel of sufficient size to accommodate either conference will allow exhibit booths. Exhibitors help defray the cost our attendees pay. SCWCEA will work to place other conferences or seminars in Charleston, but Myrtle Beach and Hilton Head are likely the two South Carolina options at this time for the Educational and Medical Conferences.

On-site registration. SCWCEA is working to expand the capacity and efficiency of the registration process by undertaking initiatives to train on-site staff more thoroughly and earlier and making redundant mechanisms available on-site. There may also need to be changes in the pre-conference registration process to reduce the on-site registration time.

In summary, your comments and survey responses were overwhelmingly positive. SCWCEA will be working diligently to improve upon all of the items mentioned and to otherwise provide you with more successful conferences in the future. Mark your calendar now and make plans to attend the 2008 Medical Seminar, February 24 – 26, 2008, at the Marina Inn at Grande Dunes in Myrtle Beach.

Thank you all for a successful year!

Donna R. Croom

What a Conference Registration Covers... and Doesn't

In the surveys from the 2007 SCWCEA Educational Conference, a significant portion of the responses indicated that the conference costs were an average to good value. We want our membership to understand what their registration pays for and recognize the value it represents. SCWCEA will constantly work to improve the service it renders and overall conference experience, while minimizing the cost to our members.

The SCWCEA Educational Conference early bird registration rate for members was \$250.00, which is below the average for similar southeastern states. The standard duration for these conferences is similar, 2.5-3.0 days. The conference hotel room rate for the SCWCEA conference was one of the lowest for these conferences. While no two organizations offer exactly the same substantive program or overall conference, we believe the South Carolina conference affords an equivalent or better product for a significantly lower attendee cost.

Conference expenses for large gatherings at a major hotel are significant. Soft drinks and bottled water provided at breaks average \$4.50 each. An average meal in a hotel frequently runs \$30.00+ per person after taxes, gratuity and service charges are added. A box lunch with drink costs approximately \$15.00 each. Meeting room rental charges can easily run \$3,000 to \$8,000. A room set-up with a raised podium, microphone, projector screen and LCD projector costs approximately \$2,700. The printed conference program is approximately \$2.00 per copy. These expenses are significant when the group is as large as the SCWCEA conference.

There are also program expenses, such as speaker fees, speaker travel costs, bands and entertainment, printing of handout materials for distribution, pipe and drape for exhibitors, and much more.

Hotels will frequently reduce charges, such as meeting room rental charges or other expenses to the sponsor organization, in exchange for increasing the nightly hotel room rate charged to attendees for the conference room block. One of the goals of the SCWCEA Board of Directors has been to minimize the room rates conference attendees must incur.

This year, SCWCEA established and enforced a refund policy for all of its events and conferences. Generally, guarantees for meals and room set-ups must be provided to the hotel in advance so adequate quantities of food and beverage can be ordered. Once these numbers are provided, your participation has been paid for regardless of whether or not you attend or cancel.

We understand that occasionally there are circumstances beyond your control that impede your participation. The SCWCEA will require evidence, such as a dated obituary in the event of a death or a doctor's note for those who have medical emergencies, to be considered on an individual basis before refunding monies after the conference deadline date.

One of the biggest methods to maintaining a lower conference registration cost is achieved by spreading fixed costs over a larger pool of registrants. Marketing the conference to attract the greatest number of registrants becomes important. SCWCEA upgraded the website to make it easier for non-members to find out about the conference and further marketed the conference to non-members directly. That effort resulted in a large number of new non-member attendees from South Carolina and 22 other states. (Now the goal is to get those non-member attendees to join SCWCEA, become members, and get actively involved. That effort is underway.)

2008 One Day Seminars: Coming to a City Near You

The South Carolina Workers' Compensation Educational Association is taking the One Day Seminars on the road during April and May 2008.

Destinations include Atlanta, Charleston, Charlotte, Columbia and Greenville.

Look for more details on registration and program content in future months.

SCWCEA Chronicles

What a Conference Registration Covers... and Doesn't continued

A second way to offset the registration cost to individual attendees is to bring in additional revenue through conference sponsors and exhibitors. These methods require packaging services and exposure to bring value to the sponsor and exhibitor. SCWCEA greatly expanded the number of exhibitors and sponsors at the 2007 conference over previous years. We have solicited input from these sponsors and exhibitors as to how their conference experience could be improved in the future to help ensure their return sponsorships and exhibits next year.

Finally, the best way to confer value to a conference attendee, regardless of the cost of the conference, is to provide the best educational program possible; with the most informative and enjoyable speakers; in pleasant settings where attendees can effectively and informally meet with clients, colleagues, potential suppliers of goods and services, and other business associates; with minimal distractions.

The conference survey results, discussed in a separate newsletter article, indicate that attendees were overwhelmingly pleased with these aspects of the 2007 SCWCEA Educational Conference. We will continue to focus on all of these aspects with the goal to provide outstanding value at a reasonable cost for the SCWCEA membership.



The SCWCEA Board

of Directors and Staff

wish each of you a

Happy, Safe Holiday Season and

a prosperous New Year!