

# Recovery & Resolution



A LEGAL NEWSLETTER FOR  
HEALTH CARE PROFESSIONALS

Graham Lundberg & Peschel *Founded 1979*

## On-The-Job Injury: Should Your Patient Have Two Attorneys?

**Inside this month's R&R...**

**Top Five Reasons to Refer Your Patient for an Impairment Rating on page 2**

**Responding to an Employer's Request for Information on page 2**

**Follow Up to the AMA Impairment Seminars on page 3**

**Locations Throughout the Puget Sound Area on page 4**

**W**hen your patient is injured on-the-job, a Labor and Industries claim will be opened. Your patient may need an attorney who handles workers compensation claims exclusively to guide them through the L&I claims maze. However, in certain situations there may be an additional claim that your patient can make if there is a third-party at-fault for the injuries sustained while on-the-job. In this case, a separate attorney should handle the potential third-party claim.

Examples of third-party claims are when your patient is injured while working as a delivery driver and is involved in a car accident. Not only will your patient have a Labor and Industries claim, but also a third-party claim against the at-fault driver. Other scenarios include injuries working on construction sites, injuries stemming from use of machinery and other products and injuries while working as a temporary employee at a work site.

If there is a third-party at-fault for your patient's injuries, your patient will receive a letter from the Department of Labor and Industries asking them to elect to either hire the Department to represent their third-party claim, or to indicate that they will be retaining their own attorney. The Department of Labor and Industries is interested in obtaining a recovery for the amount that it pays for medical bills, time loss and Permanent Partial Disability (PPD). If your patient elects to have Labor and Industries represent their interest, it is important to know that the Department is only seeking to obtain

recovery for its own subrogation. Although the patient may receive a financial recovery it may be limited by statute and the Department will be making all the decisions regarding how the claim will be handled.

If your patient is unsure whether they have an independent third-party claim arising out of an injury on-the-job, they should consult with an attorney so a third-party claim can be opened if appropriate. Additionally, the attorney can provide advice as to whether they should have independent counsel or allow the Department of Labor and Industries to pursue the patient's claim.



**Plan to Attend Our Legal Educational Seminar...**

**What You Need to Know about "Insurance Medical Examinations"**

**See page 3**

# Top Five Reasons to Refer Your Patient for an Impairment Rating

1. Your patient has reached maximum medical improvement (MMI) but will continue to suffer symptoms that will not change substantially, with or without treatment, over the next 12 months.
2. Impairment ratings based on American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment – 5<sup>th</sup> edition are widely recognized and accepted by courts, arbitrators and juries.
3. When properly used, it is difficult for an insurance company or defense attorney to controvert findings and conclusions based on the AMA Guidelines – 5<sup>th</sup> edition.
4. Referral to an independent medical doctor for an AMA Guidelines – 5<sup>th</sup> edition impairment rating is not medical treatment, but rather an assessment of your patient's medical condition at MMI.
5. A permanent impairment rating based on AMA Guidelines – 5<sup>th</sup> edition will assist our firm in doing the best job possible to make your patient whole under Washington law, and allow your patient to continue to receive maintenance care as needed in the future for the permanent condition.

---

## L & I – How Should a Physician Respond to an Employer's Request for Information?

Regardless of the type of claim, Labor & Industries (L & I), third-party or private pay, a primary obligation of the physician toward his or her patient is confidentiality. The physician-patient



privilege should always be on the mind of the physician and perhaps most importantly, the office staff.

In L & I claims, employers are often times concerned, or at least curious as to the medical status of their employee, especially when they are having to pay for lost wages. Staff who are unaware of how to handle a request from an employer for information may be led to believe that the employer has a statutory right to obtain medical information regarding the patient/employee. *At no time should a physician or staff member provide any information to an employer without first requesting a medical authorization.* Additionally, the patient should be contacted along with their attorney and L & I to ensure the authorization has not been revoked.

Employers do have a statutory right to view information contained in the L & I claim files and records

of the injured worker pursuant to RCW §51.28.070. Specifically, "Employers or their duly authorized representatives may review any files of their own injured workers in connection with any pending claims." It is imperative that all staff understand that this statute only gives the employer the right to view the information contained in the claim file maintained by Labor & Industries. Any request from the employer to view the L & I claim file must be directed to the L & I claim representative. The statute does not allow an employer to request information directly from a medical provider without first providing a valid medical authorization.

It is important that medical providers err on the side of caution whenever they receive any request for information, either written or oral and remember that their duty is to the patient, not the employer.



# Follow Up to GLP Seminars on the AMA Guide To Impairment 5<sup>th</sup> Edition

Many chiropractors, medical doctors and acupuncturists were able to attend our recent series of educational seminars on American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment, 5<sup>th</sup> edition. The latest edition of the AMA Guides was released in November 2000, and contains some significant and important advances for patients suffering from long term health conditions of a musculoligamentous nature stemming from typical automobile accident claims and other claims where one person negligently causes harm to another. For example, the new AMA Guides permit consideration of subjective complaints and pain in assessing permanent impairment.

Impairment is defined by the guides as "a loss, loss of use, or derangement of any body part, organ system or organ function." Such impairment may result in decreased ability to perform activities of daily living such as personal hygiene, recreational activities, family and home care obligations, and simple tasks like walking, standing or sitting for even short periods of time. Impairment can be a good basis for determining disability and the AMA Guides are not designed as a tool for determining long-term inability to perform regular work.

An AMA Guides based impair-

ment rating can be a powerful and convincing tool for you, your patient and our law firm in obtaining the best possible result and recovery for a long term injury. Referring your client to a medical doctor that performs impairments under the AMA Guides will often validate and support your medical findings that your patient will

continue to suffer long term musculoligamentous pain from automobile and other accident claims.

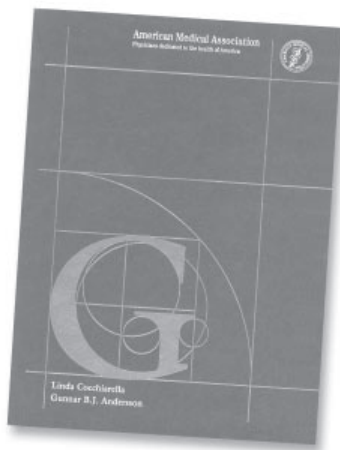
Keep in mind that referring your patient to a medical doctor for an impairment rating is not referring that person for additional medical treatment.

Impairment ratings under the AMA

Guides are designed strictly for assessment purposes.

We strongly encourage all health care professionals to get their own copy of the American Medical Association Guide to Permanent Impairment, 5<sup>th</sup> Edition. If you do not already have your own copy, you may obtain one by calling the AMA Press at 800-621-8335 or by going to their Web site at [www.ama-assn.org](http://www.ama-assn.org).

If you have any questions or concerns about the legal implications of having a permanent impairment rating done for your patients, do not hesitate to contact our law firm and any of our experienced attorneys or skilled paralegals will be happy to assist you and answer your questions.



## FREE SEMINARS

Graham Lundberg & Peschel welcomes you and your office staff to attend a **FREE** Educational Seminar.

What You Need To Know About...

### Insurance Medical Examinations...

Thursday, **October 24**  
**Everett** – Howard Johnson Hotel

Thursday, **October 31**  
**Bellevue** – Best Western's Bellevue Inn

Wednesday, **November 6**  
**Tacoma** – Cliff House Restaurant

Thursday, **November 7**  
**Federal Way** – Best Western Executel

Wednesday, **November 13**  
**Puyallup** – Best Western's Park Plaza

Thursday, **November 14**  
**Tukwila** – Best Western of Southcenter

Wednesday, **November 20**  
**Lakewood** – Lakewold Gardens

Thursday, **November 21**  
**Port Orchard** – Tweten's Lighthouse

Enclosed is an RSVP form. Plan to attend this exciting and informative seminar.

- All Seminars: 12:30 – 2 pm
- Complimentary Lunch Will Be Served!
- This Seminar is for Doctors, Therapists and their Staff!
- Doctors of Chiropractic Earn Continuing Education credit





*Attorneys at Law*

**W**e are a team of legal professionals working together to advocate for the injured while being recognized in the community for providing the highest level of service.

**Our Attorneys**

John Graham  
 Scott F. Lundberg  
 Brian J. Peschel  
 Kenneth B. Golden  
 Cydney Campbell Webster  
 Sean A. Ayres  
 Angela DeWig  
 Kenneth Barry Dore  
 John Webber  
 \*John Williams  
 Rodney G. Zerr  
 Tara Eubanks – Intern  
 Ben Lambert – Intern  
 \*admitted in Ohio only

**Our Paralegals**

Patricia Clanton  
 Patti Cryder  
 Kimberly Cutting  
 Johnnie Dano  
 Kathleen Gottlieb  
 Judy Hanson  
 Lora Harris  
 Grace Stephens  
 Heather Webb

**Our Administration**

Arlene Bolger  
 Tamara Briggie

**Administration, cont.**

Diane Daniel  
 Thelma James  
 Brian Jones  
 Heather Kelly  
 Debbie Lee  
 Martha McDonald  
 Becky Moilanen  
 Tina Mulcahy  
 Lucinda Pieczatkowski  
 Tom Reger  
 April Stonebreaker  
 Celine Vogler

**CONVENIENTLY LOCATED**

For the convenience of your personal injury patients, we offer several meeting locations throughout Puget Sound and Peninsula communities. Attorney consultations are encouraged and always free.

- Auburn . . . . . 253-931-1111**
- Bellevue . . . . . 425-827-1111**
- Burien . . . . . 206-241-1708**
- Everett . . . . . 425-252-1111**
- Federal Way . . 253-946-1111**
- Gig Harbor . . . 253-853-5005**
- Lakewood . . . . 253-274-1111**
- Lynnwood . . . . 425-775-1111**
- Marysville . . . . 360-658-1111**
- Port Orchard . 360-876-5005**
- Puyallup . . . . . 253-845-1112**
- Renton . . . . . 425-235-1111**
- Seattle . . . . . 206-448-1992**
- Tacoma . . . . . 253-627-7701**

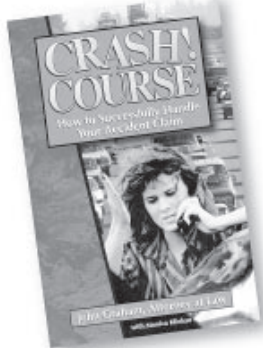
*Or Call Toll Free*

North Puget Sound area including King & Snohomish Counties  
**800-422-4610**

South Puget Sound area including Pierce, Kitsap & Thurston Counties  
**800-273-5005**

or visit us online...  
[www.glpattorneys.com](http://www.glpattorneys.com)

**Are Your Patients Asking Questions About Their Recent Accident And You Don't Know Where To Turn For Help?**



**YOUR PATIENTS NEED...**

**Crash! Course**

**By John Graham**  
*How to Successfully Handle Your Accident Claim*

Call our office for your complimentary copy at (800) 422-4610



*Attorneys at Law*

500 John Street  
 Seattle WA 98109

PRSR STD  
 US POSTAGE  
 PAID  
 #34  
 SEATTLE WA