

Natural Path to Health ~ Winter Fun!

Dr. Carol McIntyre

I hope you all enjoyed our recent snow storm. We all did. I was so glad our kids got to experience the snow in their own back yard. There was much sledding and fun in the snow. I even dug out a snow cave for the kids- a blast from my past as a young girl in NY on my grandparent's farm. Wonderful memories...

Keep yourselves warm and healthy. The flu has been very prevalent this year so support yourself with herbal teas that enhance your immune system and fight pathogens. REST is always the best medicine. When in doubt- remember the warming socks! If you don't know about this simply amazing treatment ask around

or stop into the office for a hand out with details.

New and exciting developments happening include:

- Group acupuncture (coming soon in March) at the office~ I just have to find the perfect comfy chairs... any suggestions give me a call. Thanks!
- Qigong classes: At the Senior Center every Friday morning from 9-9:30 AM starting February 14th. This class is free for anyone over 55 years old thanks to a grant obtained by the senior center. Others are welcome to join the class for my regular fee of \$7 drop in or \$20/month. Come check it out and bring a friend.
- doTERRA essential oils classes: Marie Krahn will be hosting an introductory 'medicine cabinet makeover'

class on Sunday, March 2nd at 5:30 PM. This is a great way for you to learn the basics about doTERRA essential oils and/or become more acquainted with the oils you may already have and are unsure of how to use. Karin Davenport will be hosting a class as well on Sunday, April 6th at 3:00 PM. This class will focus on skin care. Come discover what essential oils can help target different concerns you may have with your complexion.

Thanks for joining me. I appreciate your continued support and referrals. Thank you much.
Be Well~

About the Law

By Steven Leskin

Q~ We had some friends over the house this weekend. My dog bit one of my guests. My guest needed stitches in his hand. Am I responsible to pay his medical bills?

A~ The short answer is yes. In 2011, the legislature passed a law regarding dog bites. The law provides that a dog owner whose dog bites and injures another person is responsible for monetary losses. Monetary losses would cover such things as medical bills and lost wages.

The dog bite victim must show that the dog owner knew that the dog had a propensity to bite to recover "pain and suffering." So, for example, if the dog had attacked someone in the past, or if it was a particularly aggressive breed of dog, then those facts would show that the owner knew of the dog's nature to bite. If the dog owner has knowledge of the dog's aggressive nature, then the dog owner is responsible to pay for the victim's pain and suffering.

Your homeowners insurance may provide some payment for medical expenses regardless of fault for injuries on your property. Some homeowner's policies may exclude dog bite injuries, or dog bites by aggressive dogs. You will need to consult your policy.

You should be aware that you are required to report a dog bite which breaks the skin to the county health officer. You should also be aware that if the dog is dangerous, the dog may be ordered put down. Finally, failure to comply with either leash laws or "at large"

statutes may result in liability to you if your dog harms someone or something.

Q~ What was the first case decided in Oregon?

A~ The first case decided by an Oregon court was *Robert Thompson v. Jacob Bakenstos*. It was decided in "1853 A.D" during the December (and first) term of the court.

The case involved a trespass. Thompson stands as a lasting example to attorneys to follow the rules. In fact, it is a good example of an attorney malpractice case.

The issue on appeal in 1853 was whether one of the attorneys properly preserved his objections to jury instructions, and whether or not the objections were preserved as part of the case record. Jury instructions reflect the law given to jurors during a particular case. They are read by the judge to jurors. It is critical that the jury instructions accurately reflect the law. This is as true today as it was in 1853. If an attorney believes the jury instruction is inaccurate as given to the jury, he must object at the time of trial to the inaccurate instruction.

In *Thompson*, the attorney for the plaintiff objected to the instructions given to the jury by the judge. The defendant won the case. Making an objection to jury instructions was governed by Section 19 of the Practice Act (which is now known as the Rules of Civil Procedure.) That rule provided that if there was an "exception", the judge was to sign and seal a "bill of exceptions" and make the objection part of the case record.

Plaintiff's attorney only made a motion to allow the Bill of Exception-but that was insufficient. The motion was apparently allowed, but the Bill of Exception was not signed and sealed by the judge. Since it was not signed by the judge, it was not made a part of the record. Since it was not part of the record, the Supreme Court could not consider whether the correct jury instructions were given. Hence, the decision of the trial court in favor of the defendant stood as the final decision of the court.

This case, even 160 years later, still stands for the proposition that failure to preserve objections in the trial court may result in a lost appeal. And, it's also as true now as it was then: the plaintiff's attorney needed to call his malpractice insurance carrier.

Q~ My neighbor receives Social Security Disability. I see him outside working on his car, taking out the trash, and doing other work around the house. Is this welfare fraud?

A~ Social Security is mandatory insurance that all working people must purchase. It is a disability program run through the federal government to provide relief to workers and their families when covered workers become unable to work. It is "social insurance," not "welfare."

Over the years, I have represented a lot of people before the Social Security Administration. In order to receive benefits, an injured or sick person must present medical evidence of their disability. They must have medical records from doctors and hospitals to support their claim. My experience is that the medical community is very sophisticated at spotting false and inflated medical claims.

Since 1992, I am aware of only

one case where I know there was deliberate misrepresentations to the Social Security Administration. The claimant had stated that she had not worked in over a year. In fact, in the two weeks preceding her statement, she had worked in excess of 80 hours. I had documentation directly from her employer confirming her hours. When she refused to correct her statement about not working, I was required to withdraw from her case. I did so happily.

I think that the probability that someone will or could fake medical records is extraordinarily low. I also think that the incidence of doctors outright colluding with attorneys is exceptionally low. I just do not know how someone could produce outright fraudulent medical evidence.

To respond to your question, Social Security does not require a person to be bedridden. In fact, the rules recognize that a person can care for his or herself and be disabled. The incidental things your neighbor does around the house do not constitute work. That your neighbor is engaged in some around the house activities does not in and of itself mean that he or she is receiving benefits fraudulently.

Steven Leskin is an attorney in North Portland. He has been in practice since 1992. You can submit a question to him through www.ModestMeansLawOffice.com or through the Vernonia's Voice website.

Columbia Humane Society Featured Pet

"Gerald"



Gerald came to us as part of our last California transport. He is a very sweet guy that once you come meet him, he will steal your heart. This guy is around 5 years old. He weighs in right around 10lbs. We know he gets along well with other dogs and will be a grand addition to any family. He is very easy going and loves to go for walks with the dog walkers. His adoption fee is going to be \$165.00.

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