



# County Connection

News from the Washington Counties Risk Pool

March/April 2011

## Two Earn CPO Certificates



The County Training Institute (CTI) is a collaborative partnership committed to strengthening and promoting leadership capacity of elected officials and county employees in Washington state, providing resources to enhance skills, receive meaningful and relevant training, and update work-related knowledge.

The collaborative partners who have contributed to make CTI possible are:

- Washington State Association of Counties and their Affiliates
- Washington Association of County Officials and their Affiliates
- Washington Counties Risk Pool
- County Road Administration Board

Part of the mission of CTI is to make meaningful and relevant training available to the contributing partners' members. The Certified Public Official Program (CPO) is based on a combination of requirements, including core curriculum courses, elective courses, and completion of the Newly-Elected Training. CPO courses are open to all county elected officials, appointed officials, county employees or affiliates.



Thad Duvall, Douglas County Auditor, who completed the CPO program last year, recently commented, "I have always been interested in taking advantage of educational opportunities to increase my skills and ability. The challenging nature of my position requires a constant effort to keep up with change, manage risk and find better ways to get the job done. The Certified Public Official program has provided me with just such an avenue. The training classes have been excellent. I am proud to have



achieved the CPO designation."

Now, two more WCRP members have also completed their CPO course of study and will receive their certifications. They are Terri E. Miller, Pend Oreille County Treasurer and Jessica Albert, Yakima County Clerk's Office Supervisor.

Terri Miller, elected this year as Treasurer, has worked at Pend Oreille County for 21 years, with a majority of that time in the Treasurer's Office. She enjoys learning new things and felt the CPO program was an efficient way to learn, as well as helping her do a great job! She is happy the Risk Pool offered so many classes during the last few years that counted toward the CPO program.



Jessica Albert began working in the Yakima County Clerk's Office 12 years ago, almost directly after finishing college. She has a strong appreciation for how our government works and wanted to learn more about it, as well as managerial skills to be able to provide more extensive customer service.



Both Terri and Jessica applaud the involvement of the Risk Pool in the County Training Institute, and especially the CPO program with class offerings that are very relevant to their day-to-day business with co-workers and the public.

Congratulations to Thad, Terri and Jessica for achieving this worthy goal!





## ROSE ELWAY RECEIVES CERTIFICATE

At the recent 2011 Spring Conference and Board of Directors Meeting held at Suncadia, President Marilyn Butler (right) presented a Certificate of Appreciation to Rose Elway, Grays Harbor County. During the 22+ years she served on the board, Rose attended 73 meetings, an 86% attendance record! From 1988 to 2011, Rose served as the Alternate Director. She was also a member of the Executive Committee from 1993 to 1995 and again from 2001 to 2011. During 2005, she served as the Risk Pool President and Board Chair. Rose is retiring in June and she will be missed!

### Executive Committee

#### 2010/11 President

Marilyn Butler, Skamania County

#### 2010/11 Secretary/Treasurer

Steve Bartel, Spokane County

#### Other Members

- Tammy Devlin, Thurston County
- F. Lee Grose, Lewis County
- Rose Elway, Grays Harbor County
- Steve Clem, Douglas County
- Randy Watts, Whatcom County
- Andrew Lampe, Okanogan County
- Keith Goehner, Chelan County
- Jay Winter, Walla Walla County
- Mark Wilsdon, Clark County

#### Risk Pool Staff

##### Administration

- Vyrle Hill, Executive Director
- Sue Colbo, Auditing/Accounting Officer
- Claire Thompson, Assistant/Editor

##### Claims

- Susan Looker, Manager
- Candy Drews, Senior Analyst
- Mike Cook, Senior Analyst
- Tammy Cahill, Representative
- Lisa Daly, Assistant

##### Member Services

- David Goldsmith, Member Services
- Jill Lowe, Loss Control Coordinator

To access *County Connection's* e-version, go to [www.wcrp.info](http://www.wcrp.info)

To receive by email, send your email address to [claire@wcrp.wa.gov](mailto:claire@wcrp.wa.gov) or call (360) 292-4480. Got story/photo ideas? Please submit them to the email address above.

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**WASHINGTON COUNTIES  
RISK POOL**

Created by Counties for Counties

## Executive Committee Elections in July

Four seats on the Risk Pool Board's Executive Committee will be up for election at the Annual Board Meeting in July. **Rose Elway** (Grays Harbor County, appointed, West, small deductible) is retiring effective June 30, 2011. Whoever is elected for her open position will take office immediately after the election, then assume a full term from October 1, 2011 through September 30, 2014. Expiring on September 30, 2011 are the positions held by **Keith Goehner** (Chelan County, elected, East, medium deductible), **Lee Grose** (Lewis County, elected, West, large deductible), and **Tammy Devlin** (Thurston County, appointed, West, large deductible). All are three year terms extending from October 1, 2011 to September 30, 2014.

Committee members are chosen from Board Directors and Alternates, and are limited to one committee member per county. Pool bylaws require that committee members represent the diversity and interests of member counties, east and west. The Executive Committee, acting as a Nominating Committee, selects at least one nominee per position. Nominations are also accepted from the floor. The Board also elects the President and Secretary/Treasurer, and may consider nominations from the Nominating Committee for these offices.

If you are interested in serving on the Executive Committee or would like to make a nomination, please contact President and Nominating Committee Chair Marilyn Butler at [butler@co.skamania.wa.us](mailto:butler@co.skamania.wa.us) or Executive Director Vyrle Hill at [vyrle@wcrp.wa.gov](mailto:vyrle@wcrp.wa.gov) by June 15th for the committee's consideration.



# MEMBER SERVICES



**David Goldsmith,**  
Member Services  
Manager

## Spring Conference Workshops

Two new workshops were recently conducted at the WCRP Spring Conference held at Suncadia. The first workshop was by invitation for newly elected officials, specifically County Commissioners and Council Members, Sheriffs and Prosecuting Attorneys. The second workshop was for newer appointed WCRP Board Directors and Alternates.

**Newly Elected Officials:** Fourteen newly elected member-county officials attended a four hour session reviewing the history and operations of the Risk Pool. Topics included why and how it was formed, how it operates like and unlike a typical insurance agency, basic language and terminology, as well as the operating philosophy of the Pool and how this philosophy differentiates the Pool from other insurance options. The day concluded with real life case exercises in which attendees were asked to evaluate the cases presented and determine whether to take the cases to trial or settle and, if settling, for how much. This exercise was an eye-opener for many as to what they felt was the value of a case and what a jury or mediator ultimately awarded.

**Board Directors and Alternates Workshop:** Twelve newer or newly appointed WCRP Board Directors and Alternates participated in the evening session looking specifically at the role of a Pool Director as opposed to the role of a representative from a Member County. It is often a difficult act to balance the needs of the County and the needs of the Pool members, especially when these two come into conflict. This session dealt with the responsibility of being appointed a

Director of the Board which governs the Pool and its operation. A Director’s responsibility includes: establishing the Vision, Mission and Direction of the organization (the strategic plan); ensuring the financial health of the organization (setting program assessments); ensuring adequate and appropriate staff to carry out the mission (setting annual budgets); directing the operation (approving annual work plans); and maintaining effective communication with their member county (being the spokesperson for the Pool at the County level). The purpose of this training was to lay the groundwork for individuals to better understand the expectations the organization has of its Directors as they balance their responsibilities both to the Pool and their respective Counties.

Both trainings were well received and are being offered in a one-on-one format (in an abbreviated version) for those newly elected officials and appointed directors unable to attend. Individuals can contact Claire (360-292-4490) to schedule the one-on-one trainings. We will attempt to coordinate the trainings with the upcoming courthouse visits. We thank those who took the time to attend and look forward to catching up with the rest of you over the course of the spring and summer.





# MEMBER SERVICES



**Jill Lowe**, Loss Control  
Coordinator

## **Preparation... Or Luck?**

Last summer I took a vacation to the East Coast. As with any extended travel, I made sure that several people knew my schedule. I purchased trip insurance. I contacted my dog and cat sitter a ridiculous number of times to make sure that she remembered she was taking care of them. The trip went off uneventfully. My baggage arrived as expected. I did not have any automobile accidents and my dog (Emily) did not go blind as I dreamed one night in New York City.

One of my first duties when I came to the Risk Pool was to draft a model risk management policy. The policy was sent out to county risk managers nearly four years ago. With the recent changes in claims handling policies, I recently rewrote the policy to incorporate those changes. In addition, I have attempted to expand the policy beyond the requirements of the risk pool to address additional liabilities that counties must plan for. The revised policy "Risk and Claims Management" was sent to county risk managers and it can also be found on the Pool's webpage in the reference library.

Now, nothing went wrong on my trip to the East Coast. I traveled confidently knowing that I had my travel insurance; I let family and friends (and animal sitters) know that all was well while traveling. This time, I was lucky. But being a frequent traveler, I know that I was simply lucky. The odds are that something will, in fact, go wrong on a future trip and the cost of my insurance will be redeemed many times over the actual cost.

Does your county have a risk management policy? If not, it's time to ensure that your county does. While you might have been lucky in the last few years, your time is running out. Luck only lasts so long. When something bad happens, you will realize how much work has been saved by having a written policy in place. If you don't have a risk management policy in place and it comes time to defend an employee, adopt a contract, or seek assistance from your risk management committee, you will begin to see why putting a policy in place is worth your effort.

Two years ago I purchased travel insurance for my 18 year old daughter who was traveling to Europe. While staying at a hostel in Paris, most everything of value was stolen from her luggage. Luckily, she had her important documents and credit card in her hidden waist belt. She remembered that I told her prior to departure that in order to make a lost property claim she would have to report the loss to the police. This was too intimidating in a foreign county in a language she did not speak. The police were not called and the lost property claim denied.

Moral of this story:

1. Adopt a county risk and claim management policy if you have not already done so. If you have done so, be sure to compare the revised model policy to make appropriate changes.
2. Find the Model Risk and Claims Management Policy on the Washington Counties Risk Pool website [www.wcrp.info](http://www.wcrp.info)
3. Be prepared to take action when needed.
4. Do not allow your 18 year old daughter to travel to Europe.



# Helpline NEWS



**Here are the latest Questions of the Month from the Helpline for WCRP Members' HR Express Update:**

**March Question:**

We have an employee who has a 26 year old daughter who still lives at home. This daughter has a small child who also lives with them. The daughter has recently developed seizures and our employee has requested FMLA to take time off to help care for her daughter and her grandchild while the doctors try to get her medication figured out. Since the daughter is over 18 years of age, does this employee qualify for FMLA under these circumstances?

**Response:**

Generally, an employee has no entitlement to FMLA leave to care for an adult child (see 29 CFR 825.112 and 29 CFR 825.122, available at [http://www.dol.gov/dol/allcfr/ESA/Title\\_29/Part\\_825/Subpart\\_A.htm](http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_825/Subpart_A.htm)). The exception to this is if the adult child is "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence (see 29 CFR 825.122 at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=48d6ee3b99d3b3a97b1bf189e1757786&rgn=div5&view=text&node=29:3.1.1.3.53&idno=29>).

The FMLA defines a son or daughter as "a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and 'incapable of self-care because of a mental or physical disability' at the time that FMLA leave is to commence. (1) 'Incapable of self-care' means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs).

Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc. (2) 'Physical or mental disability' means a physical or mental impairment that substantially limits one or more of the major life activities of an individual." See 825.122 (c) at:

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=48d6ee3b99d3b3a97b1bf189e1757786&rgn=div5&view=text&node=29:3.1.1.3.53&idno=29>.

Additional guidance as to the definition of a disability is found in subparagraphs (h), (i), and (j) at [http://edocket.access.gpo.gov/cfr\\_2001/julqtr/29cfr1630.2.htm](http://edocket.access.gpo.gov/cfr_2001/julqtr/29cfr1630.2.htm). While the adult child of the employee in question may have a serious health condition for purposes of the FMLA (as certified by their health care provider), whether the respective employee parent is able to take FMLA leave to provide the child with care depends on whether her daughter is "incapable of self-care because of a mental or physical disability" as defined by the FMLA and ADA, as noted above. If not, the employee cannot take FMLA leave, and would be entitled only to whatever other time off from work the employer provides pursuant to policy, practice or an applicable contract (if any).

In other words, the fact that the subject employee's daughter "recently developed seizures" does not mean, necessarily, that she is incapable of self-care" due to a disability. The employer would be entitled to information from the employee (who should obtain it from her daughter's physician) to make this determination. The employer can conditionally designate FMLA leave until it is certain that the leave qualifies or not, at which point the conditional designation or the FMLA

*(Continued on page 6)*



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designation altogether can be removed, respectively. If the latter, then the employer should provide any time off which is at least consistent with company policy and past practice, where no FMLA applies.

Source: HR Risk Management HELPLINE for WCRP Members, [www.hrhelpline.com/wcrp](http://www.hrhelpline.com/wcrp), March 2011

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## **April Question:**

*We have an annual company party for all employees, board of directors, supervisory committee, and guests. This year we are looking at a local cabaret which does sketch comedy and music. The sketches can be very racy and sexual in subject, and language can be quite fowl. As HR, I do not think this is a good option for a company party. What is our potential risk? Is there any legal risk to this being a company sponsored outing?*

## **Response:**

Is attendance at the company party required or if employees do not attend, will it unfavorably impact them? If so, that factors greatly into the employer's liability for what occurs at the company party. There could be liability if there is a situation where an employee finds the material objectionable; if the employee feels forced to listen and be present, the employer could face claims of harassment or hostile work environment.

Also keep in mind that the employer may have more exposure to liability for conduct which can be viewed as harassment or as discrimination where there was a "foreseeable risk" and the employee's

attendance was within the "scope of employment." Even if attendance is voluntary, employees who find the content offensive may take exception to the choice of having to either listen to something they find objectionable, or forego the social outing altogether, and this can result in negative morale and resentment issues. Guests who take issue with the content may view this as a negative reflection on your company.

As well, an employer can be held responsible for the actions of non-employees with respect to the harassment of employees in the workplace. Generally an employer can be liable in this situation if it knows or should have known of the conduct and failed to take immediate and appropriate corrective action. This kind of "third-party harassment" does not bring with it more or less liability than harassment that occurs at the hands of an employee; it all falls under the same laws. In either case, the employer has an obligation to make sure its employees aren't subjected to an environment filled or injected with conduct that is improper or unlawful. It is arguable whether racy or sexy jokes will fall under the definition of harassment, but again if employees are required to listen to objectionable material, the employer could expose itself to possible harassment, discrimination and/or hostile work environment claims. Accordingly, such a locale may not be the best choice for a company party.

Source: HR Risk Management HELPLINE for WCRP Members, [www.hrhelpline.com/wcrp](http://www.hrhelpline.com/wcrp), April 2011

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## HR *HelpLine* Available

Did you know that WCRP members can access a 24-hour hotline to address personnel and HR management issues?

*HelpLine*, provided through the Pool's reinsurance carrier ACE, employs knowledgeable legal counsel and practitioners to answer questions, discuss situations and point you to other resources.

By far, the most expensive claim the Pool handles is one involving personnel. Not only are these expensive, but time consuming and disruptive to the organization. *HelpLine* can help get early counsel before an issue becomes a claim. It's *free* to users and may save your county a lot of money. Please take advantage of this service!

### The Employer HELPLINE Includes:

- \* Toll-free (phone) and website (email) access to employment law attorneys from a national law firm.
- \* Personalized answers and legal advice to your organization's *unique* HR and employment law questions. All communications are documented and are strictly confidential with attached attorney-client privilege.

\* Answers no later than the end of the next business day. There is no limit to conversation time nor is there a limit to the amount of questions you can ask.

\* Responses to 50 types of human resource and employment law issues, from Wage/Hour or FMLA questions, to complicated harassment or termination situations. You don't have to be in crisis to benefit from these proactive resources!

### Online Support & Resource Center:

Access the Online Compliance Resource Center that includes federal and state news/regulation changes updated daily, state by state regulation comparison charts, over 90 sample human resource policies, important HR forms & posters and other valuable center support tools.

### Monthly HR *Express* Updates & HR Alerts:

Keep your organization informed of continuously changing state and federal workplace regulations...direct to your email box! Each HR *Express* Update also includes popular Questions of the Month, Case Digests of the Month, and breaking HR news/alerts.

**Contact your Risk Manager for help in accessing Helpline services.**

## RON MARSHALL APPOINTED TO JUDGESHIP

In February 2011, Ron Marshall, Cowlitz County's Chief Civil Deputy Prosecutor, was selected to serve as that county's newest District Court Judge. Mr. Marshall has practiced law in Longview for more than 30 years, including 17 years for Cowlitz County. He spent his entire legal career in Cowlitz County since graduating from the University of Oregon School of Law. Marshall, 57, won the appointment over seven other candidates vying to replace Judge Michael Evans, who left the court in January after being appointed to the Cowlitz Superior Court bench by Governor Chris Gregoire.

The county held a public meeting

before the Cowlitz County Commissioners and a panel of advisors on February 10th to hear presentations from the candidates seeking the position. The final decision was made by the commissioners.

During the recent swearing-in held at the Hall of Justice, Marshall opened the ceremony by conducting the Castle Rock Men's Ensemble in a rousing performance of "The Star Spangled Banner." After the oath was administered by Superior Court Judge James Warne, Marshall's wife, Jean, helped him don his robe. Marshall said he will "endeavor to maintain a judge's qualities of freedom from bias, consistency and a healthy dose of empathy."

**Congratulations to Ron!**



# TRAINING & EVENTS



## April-May, 2011

**Conducting Excellent Performance Evaluations** will be offered in 3 more locations—Chelan, Spokane and Mason counties. You may register online at [www.wcrp.info](http://www.wcrp.info) and click on the Training link. Earn 4 elective CPO credits.

## April 28, 2011

**Collision Investigation**, Spokane County. You may register online at [www.wcrp.info](http://www.wcrp.info).

## May, 2011

**Employment Law Do's and Don'ts** training will be offered twice. This class will provide a more in-depth analysis of the legal issues presented during the Management and Supervisory Training course. You may register online at [www.wcrp.info](http://www.wcrp.info) and click on the Training link.

## May-June 2011

**Management & Supervisory Training** will be offered five times during the months of May and June, in Spokane, Yakima, Chelan, Lewis, and Skagit counties. You may register online at [www.wcrp.info](http://www.wcrp.info) and click on the Training link.

## July 20-22, 2011

WCRP 2011 Summer Conference and Annual Board of Directors Meeting, Marcus Whitman Hotel, Walla Walla, WA.

## November 2-4, 2011

WCRP 2011 Autumn Conference and Board of Directors Meeting; Campbell's Lake Chelan's Waterfront Resort, Chelan, WA.

**You can get more information, access driving directions,  
and register for classes and events at:**

**[www.wcrp.info](http://www.wcrp.info)**

**SAVE THE DATES!!**

**JULY 20-22, 2011  
WCRP CONFERENCE AND  
ANNUAL BOARD  
OF DIRECTORS MEETING**

**MARCUS WHITMAN HOTEL  
WALLA WALLA, WA**

**Look for a separate flyer detailing the agenda (distributed in May),  
and the May-June edition of *County Connection*.**