

December 2012 Accident Prevention Newsletter

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~
INFORMATION
 DECEMBER 2012

Merry  *Christmas*

ATTENTION STATE ACCIDENT PREVENTION CHAIRMEN

This is a reminder for those of you who have not turned in your Accident Prevention Activities Status Report/Resource Log for 2012. Please return it to my attention immediately, so that I may include the figures from your report in my reports to the Insurance Subcommittee.

HANDICAPPED RAMPS

We have had a number of cases where people have misused such ramps and have fallen. In some cases, persons with no handicap use such facilities rather than the normal route and fall because of the incline.

Where possible, use should be limited to persons for who the ramp was designed.

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ILLEGAL GAMBLING PROHIBITED

Gambling that is held to be illegal by the U.S.A., the state or the political jurisdiction where a Lodge is located is a violation under the Statutes of the Order. Such a violation could result in the loss of the Lodge's charter. Such violations could also result in the loss of a liquor license and in substantial fines and the prosecution of officers, trustees, employees and members.

Lodge management should not tolerate such actions by any members or guests. Even the appearance of allowing or condoning illegal acts of this sort in the Lodge can result in penalties by the Order, by local police authorities and by regulating bodies.

HOLIDAY CHEER

Please make this holiday season a safe one for all our members, guests and the public in general by following all requirements regarding the service of alcohol. Do not serve drinks to anyone approaching intoxication. This is a necessity to help everyone.

Each Lodge should also seriously consider dealing with any known problem drinkers; handle the problem by cutting them off or limiting their drinks. Above all else, devise a means to help such persons reduce their use or dependence. This problem may not occur in every Lodge but wise leadership will want to review the matter and deal in a helpful way with brother and sister Elks who might benefit from this.



FLOOD/EARTHQUAKE

It has come to the attention of the Insurance Department that some lodges are not fully aware of the fact that the mandatory Property Plus Program has coverage limitations.

To some extent, coverage for the specific hazards above can be obtained at an additional cost, but each lodge should be aware of the potential risk applicable to its location.

At each annual renewal date, the servicing agent is supposed to inquire about any potential need in this area of risk, but each lodge should review its own potential for loss in these areas and make inquiries of the servicing agent.

Flood insurance is available under governmental programs that the servicing agent can explain to you. Each Lodge should know if it is in a flood plain.

Recently, some lodges suffered flood losses that were not insured. They were not aware that they were in a 100-year flood plain.

Earthquake coverage is sometimes available, but it has a relatively high cost if the lodge is in one of the more hazardous zones (most lodges do not have this coverage).

Earth subsidence may not be covered under any policy forms.

Each lodge should be aware of both types of coverage available and specific risk potentials for the lodge in these areas of hazard.

REMOVAL OF HAZARDOUS MATERIAL

It has come to our attention that some Lodges have been presented with problems related to the removal of hazardous material such as asbestos, lead, etc.

It is imperative that the Lodge management properly handle such situations to avoid potential injury to workers, members or guests. It is also very important that ALL local, state and Federal regulations and or laws and procedures are followed. Mishandling can result in fines in the thousands and tens of thousands of dollars. In addition to any fines, some properties could be closed or quarantined.

If such substances are to be removed, this work can not be done by volunteers or regular workers. This work must be done by properly certified contractors.

RESTROOM MAINTENANCE

Each year, we receive a number of claims involving slips and falls in Lodge restrooms caused by water on the floor (people washing their hands, leaking pipes, leaking toilets, etc.), which is frequently the contention of persons presenting the claim.

To avoid these real (or imagined) claims, a Lodge should:

1. Conduct inspections at reasonably scheduled intervals to make help ensure there is no water on the floors or any other hazard that could case someone to slip and fall.
2. Make sure that Lodge restrooms have adequate lighting.
3. Make sure that all Lodge restrooms are in good condition; prominently display "Out of Order" signs and prevent access when/where appropriate.
4. Consider having a service agreement with a qualified plumber who agrees to provide expedited service when issues arise. It is likely that a plumber who agrees to do this will do so without any charge other than for actual work done.

These claims can certainly be avoided if a Lodge inspects restrooms on a regular basis during normal hours of operation to ensure conditions are safe.



PROBLEM AREAS

- Stages or raised areas: Properly block these areas. Don't allow traffic without safeguards such as railings, signs or fences.
- Stairs: Make sure that stairs are in good condition with hand rails and appropriate signs where necessary.
- Parking lots: Make sure that surfaces are in good condition or don't use them. No parking or speed bumps. Make sure that they are well lit at all times and that they are cleared of ice and snow in the winter time.
- Cars parked in Lodge parking lots: Lodges are not responsible for any damage to parked cars. The owner's insurance must apply. Any claim submitted by a Lodge will be denied payment.
- Injured workers: When an employee is injured, the Lodge is required to report it to its workers' compensation carrier. If the Lodge does not have such coverage, the Lodge must pay the claim out of its own pocket. The Master Liability Program never covers such claims.
- Dance floors: No waxes or other substances can be used on dance floors. If dancers are unruly, dance in an unsafe manner or jeopardize other dancers, the Lodge management should take control and stop the offending parties.
- Serving alcohol: It is most important that a person even approaching intoxication is never served alcohol.



FALLS AT ENTRANCES

Even before the winter season has begun, we seemed to have had a number of claims where people fell at the entrance to a lodge. Sometimes, there has been inclement weather, some minor blockage or a variation in floor levels but, many times, such falls occurred without any reason except for the actions of the injured party or the fact that the party was older or had some limited capacity to walk.

Every Lodge should take special care to inspect the various entrances of the lodge to make sure that they are in proper order. If there are entrances that might pose a problem for an older or feeble person, it would be wise to post warning signs, provide assistance or direct access to another entrance that is more user friendly.

As I have said, many of these types of claims are not caused by the lodge's negligence but, if creative thinking is used, the lodge can avoid a claim by actions that cancel the ineptitude of the prospective claimant.

USE OF LODGE FACILITIES

It has come to our attention that some Lodges use questionable or downright bad judgment in allowing individuals or groups to use Lodge facilities.

We have had several cases where male "exotic" dancers have used the facilities, which resulted in claims.

We have had other claims arising out of parties or events conducted by motorcycle gangs, ethnic gangs, bare-fisted tough men and questionable commercial activities that could possibly place a Lodge's Charter in jeopardy. Other high risk events such as gun bashes, motorcycle runs or events open to the public involving the service of alcohol are questionable.

Where was the Lodge's leadership when these bad decisions were made? These bad decisions frequently result in losses to the Self-Insured Fund and, more importantly, to the good name of Elkdom.





STATE ASSOCIATION'S STATE MAJOR PROJECTS

1. State accident prevention chairmen are alerted to the annual letter sent to state presidents and secretaries pointing out that **the state major project is not insured under the Self-Insured Master Liability Program.** Separate independent coverage must be obtained.
2. State associations should have D&O/Employment Practice coverage. This coverage can include all state entities, including the major project. Remember, if a Lodge is sued for employment discrimination, wrongful discharge or harassment, the claimant might also name the state association as a defendant. If the state association does not have D&O coverage, it will have to pay for its own defense, even for a frivolous claim.

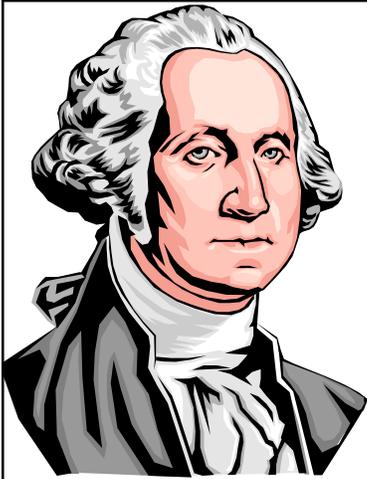
LEGAL REVIEW

The beginning of the Lodge year is a good time for every Lodge to take stock and review the status of its legal health. The following are some of the steps in this procedure:

- What is the legal status of the Lodge? Is it a corporation or an unincorporated association? What is the status of any affiliated or related entities? Does the Lodge management know where legal documentation is located? Are required filings and registrations maintained appropriately? (In general, it is recommended that Lodges and any necessary affiliated corporations be established as not-for-profit corporations in the state of its domicile).
- What contracts or obligations has the Lodge assumed and are all assumptions of liability or established obligations of the Lodge appropriate, necessary, and for the benefit of the Lodge and its members? The officers and trustees should know of any obligations and maintain proper records.
- Are contractual obligations established on an equitable basis with no conflict of interest or any appearance of a conflict of interest present?
- Does the Lodge have written personnel policies and work rules?
- Are contracts submitted to the Lodge for acceptance reviewed by the Lodge attorney or persons knowledgeable in contract matters?
- Has the Lodge anticipated the possible need for emergency services and have they previously executed service contracts with repairmen, plumbers, electricians, etc.? Such contracts should provide indemnification to the Lodge and any service contract must provide evidence of liability insurance, including contractual liability coverage and naming the Lodge as additional insured on the contractor's policy. Make sure that the indemnification includes the employer's obligation to protect the Lodge from any claims made by the service contractor's employees.
- Is the management of the Lodge aware that it is generally unacceptable to indemnify other individuals or corporations?
- Are the financial and business records of the Lodge properly filed for retrieval and provided with back-up redundancy?
- Has the Lodge prepared a rental or use contract to be signed by individuals or corporations using the Lodge on a basis allowed by the Statutes of the Order? In this agreement, the entity using the Lodge should hold the Lodge harmless for activities under their control and provide evidence of insurance coverage (see Pages 10-11 of the Liability Insurance Program booklet).

There are many other subjects to be considered (see the Accident/Claim Prevention Manual—Fifth Edition).





LEAD PAINT

All lodges should determine if lead paint has been used in the lodges that might be accessible to children.

More importantly, if the lodge has any rented properties, it should be clearly established that all lead paint has been removed from the interior or any areas accessible to children. In most areas of the country, the existence of lead paint in these areas constitutes a violation of local or state law.

The Master Liability Program excludes coverage for claims arising out of exposure to lead paint, so any lodge involved in a claim of this type would have to pay for its own defense and any settlement or judgment that might occur.

A claim of this type could bankrupt most local lodges. Proper and prudent management can avoid this loss potential.

VOLUNTARY WORKERS COMP PROGRAM FOR LODGES (CAN INCLUDE VOLUNTEER COVERAGE)

In the near future, eligible local Lodges will receive a communication from Lockton Risk Services offering participation in a voluntary Workers Comp program. This program provides individually written policies that offer the following benefits:

- ◆ This program can provide rates on a lower level by using the “clubs not otherwise classified” rate, which is lower than the rates usually applied.
- ◆ There are no surcharges made under assigned risk plans or for small groups.
- ◆ Most importantly, coverage can be obtained for volunteers in most states if the Lodge chooses to do so.

Offering volunteer coverage may help those Lodges that were concerned by the fact that secondary medical payments were eliminated under the Master Liability Program. However, the following exceptions must be noted:

Workers Comp Offered Through the State (Monopolistic States)	States That Do Not Allow Coverage for Volunteers
◆ North Dakota	◆ Connecticut
◆ Ohio	◆ New Jersey
◆ Washington	◆ Texas
◆ Wyoming	◆ Wisconsin

It is recommended that all eligible Lodges obtain a quote to see if they would benefit from this voluntary program. Please contact **Lockton Risk Services at 1-877-735-6349** with any questions.

Do not call the Elks Insurance Department or Aon Affinity Services.

DISCRIMINATION/SEXUAL HARASSMENT POLICY

Every Lodge should establish a policy in this regard. Lodges should refer to Pages 13-17 in the 5th Edition of the Accident/Claims Prevention Manual as well as the separate booklet titled: “Discrimination and Harassment Guide” (Code 10900), which is available through the Grand Lodge Shipping Department.

If a Lodge adopts the policies found in the booklet and implements these procedures, the Lodge will have reduced the possibility of a damaging claim.

In addition, every Lodge should of course obtain D&O/Employment Practice Coverage through the discounted program offered by Aon (1-800-421-3557).





INFLATABLE “BOUNCY HOUSES”

It has come to my attention that some Lodges rent or in some way obtain the use of such devices for parties or special events; however, it is highly recommended that such devices not be used.

According to an article in the Chicago Tribune, there has been a 15-fold increase in injuries involving such devices since 1995. Between 1990 and 2010, 64,657 children were injured were treated as a result of injuries involving inflatable bounce houses, which averages out to about 31 children treated each and every day.

Using such equipment with a large number of children of different sizes, weights and ages increases the chances of injury. Any use of such equipment is not recommended. Additionally, the Elks Self-Insured Master Liability Program will not provide coverage under any circumstances for the company renting the equipment to an Elks Lodge or the owner of the equipment.

LIFE SAFETY IN LODGES

In areas occupied or used by members or guests, Lodges should have appropriate safety devices such as fire, smoke and carbon monoxide detectors. If a Lodge owns any facilities that are rented out or used by individuals as living quarters, these same devices should be provided.

Furthermore, any facilities should be free from lead pain and asbestos exposure (the Master Liability Program does not cover any alleged claims from these sources).

Entrances and exits must be accessible and properly constructed/configured. In every case, all fire safety, zoning and construction code provisions must be complied with.

CHILD SUPERVISION

Don't let members, guests or anyone using the premises allow children to play or in any way use the Lodge premises or facilities without appropriate adult controlled supervision. This should be a strictly followed rule without exception.

SUPERVISION OF LODGE FACILITIES

It is the duty and obligation of every Lodge to ensure that Lodge operations are supervised. Lodges that have open access to Lodge facilities are not properly serving members and guests.

Lodges that provide members with key cards for 24/7 access to Lodge facilities are ignoring their duty to protect members and conduct activities in a safe manner.

Over the years, we have had several incidents involving saunas and hot tubs that resulted in a person's death.

Many other incidents involved injuries while utilizing pools, workout facilities and the general use of Lodge facilities. In several cases, fires have resulted from unlimited access to facilities.

Lodges must remember that both the Master Liability Program and Property Plus Programs are self-insured programs, with a large part of the costs paid by the Elks (the first 1 Million Dollars of every liability claim and the first \$750,000 of every property claim).

Therefore, it is important to avoid claims, which means it is even more important to provide proper control and supervision of Lodge property.

