

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~
INFORMATION
 DECEMBER 2013



ATTENTION STATE ACCIDENT PREVENTION CHAIRMEN

This is a reminder for those of you who have not turned in your 2013 Accident Prevention Activities Status Report/Resource Log. Please return these forms to my attention immediately, so that I may include your state's information in my reports to the Insurance Subcommittee.

NEWLY UPDATED LIABILITY CLAIM FORM

In the very near future, an updated liability claim form will be made available on the Elks website that gives you the option of completing the form online and submitting it directly to Gallagher Bassett via email. This form will be available to Lodge officers and managers at www.elks.org/grandlodge/manuals/.

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ILLEGAL GAMBLING PROHIBITED

Gambling that is held to be illegal by Federal, state or local jurisdictions where a Lodge is located is a violation under the Statutes of the Order. While such violations could result in the loss of the Lodge's Charter, they could also result in the loss of a liquor license, 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.

Lodges 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 look for ways to help brother and sister Elks who may benefit from this.



NO DRINKING ON DUTY

It is the policy to never serve anyone approaching intoxication. Whether an employee or a volunteer, anyone responsible for the service of alcohol must follow this rule or be discharged. The same should also apply to anyone responsible for the service of alcohol who is observed drinking alcohol while on duty. Lodge management is asked to post a sign that prohibits anyone responsible for the service of alcohol from drinking alcohol while on duty (bartenders and wait staff):

NO DRINKING ON DUTY

The practice of ANYONE drinking alcoholic beverages while on duty is unacceptable and strictly prohibited.

This applies to both volunteers and paid employees. NO exceptions.

Anyone found drinking while on duty will be immediately relieved of their duties.

Bartenders are instructed not to serve alcoholic beverages to anyone on duty. Bartenders who violate this policy will be immediately relieved of their duties.

GOLF COURSE DAMAGE

For those Lodges with golf courses, coverage can be obtained under the Property Plus Program for damages caused by wind or vandalism that would cover damage to the greens and trees (\$150,000 limit costs \$500 with a \$1,000 deductible). Contact the Elks Team at Aon at 1-800-421-3557 to confirm this coverage is in place.

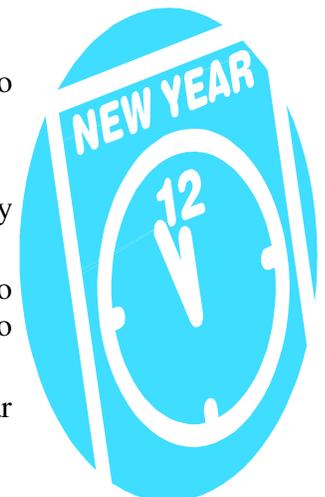
RESTROOM MAINTENANCE

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 help ensure there is no water on the floors or any other hazard that could cause 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.



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



By now, all eligible local Lodges should have received 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 lower rates 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).

Workers Comp Offered Through the State (Monopolistic States)	States That Do Not Allow Coverage for Volunteers
<ul style="list-style-type: none"> ◆ North Dakota ◆ Ohio ◆ Washington ◆ Wyoming 	<ul style="list-style-type: none"> ◆ Connecticut ◆ New Jersey ◆ Texas ◆ Wisconsin

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

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.

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 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.

MOTORCYCLES

Many Elks members participate in organizations or groups that promote motorcycle riding in general but also as a way to generate charitable funds. The Self-Insured Master Liability Program does not provide coverage for riders or for their participation in such events. Lodges that facilitate such events or receive charitable donations from motorcycle riders are strongly urged to exclude the consumption of alcoholic beverages and to demand the same of participants. Consuming even one alcoholic beverage increases the chances for an accident when operating a motorcycle, which already requires increased driving skills and is less forgiving.





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.

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 because 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 Lodges in these hazardous areas.

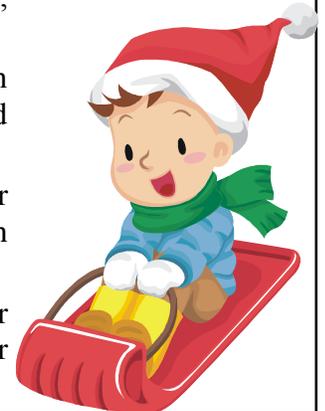
CHILD SUPERVISION

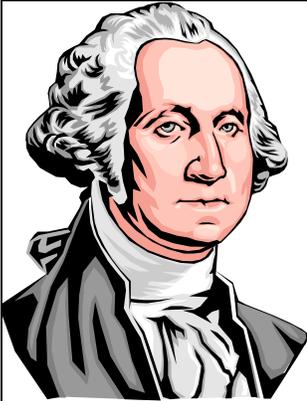
Don't let members, guests or anyone using the premises allow children to play or in any way use the Lodge premises or facilities without appropriate adult controlled supervision. This should rule should be strictly followed without exception.

SLIPS AND FALLS

For the Elks Self-Insured Master Liability Program, the "slips and falls" category is, by far, the most frequently reported liability claim category. As the average age of our membership continues to rise, Lodge management must be more vigilant in their efforts to prevent such claims:

- ◆ Slip-resistant walking surfaces with a COF (Coefficient of Friction) greater than 0.60 should be used whenever possible. Any new or replacement flooring must meet this standard.
- ◆ Only use floor treatments and cleaners that are designed for non-skid flooring.
- ◆ Refrain from cluttering up walkways with clutter or displays that could cause a distraction or reduce visibilities.
- ◆ Limit access to areas with known hazards, such as multi-level flooring, stages, stairways and ramps. When in use, these areas should be monitored and controlled.
- ◆ All stairways (external and internal) must comply with state and local codes; handrails must be installed as required.
- ◆ Good lighting must be utilized in high traffic areas inside the Lodge as well as in outdoor areas, such as in parking lots or other areas used by Lodge members and guests.
- ◆ Outdoor maintenance must be done throughout the year. During the winter months, ice and snow should be removed from steps, walkways and parking lots in a timely fashion. Note when snow removal/salting is done and maintain records
- ◆ Restrooms should be monitored on a regular basis to make sure that spills or other hazards are eliminated in a timely fashion. Note when facilities are inspected or cleaned and maintain records.





SERVICE OF ALCOHOL OFF PREMISES

There has been a trend where commissary corporations or others with contracts with event sponsors attempt to have not-for-profits act to serve alcoholic beverages at such events for a percentage of the proceeds but the not-for-profits must provide the liquor insurance.

Those entities presently holding events or entities with concession contracts will attempt to have not-for-profits become responsible for liquor liability by providing some share of sales of such items. This is not acceptable.

The Elks can not afford to allow Elks Lodges to misuse the Self-Insured Master Liability Program in this fashion. If the Lodges were insured by individual policies, they would not be allowed to function in this way in most cases because of underwriting rules.

As has been stated previously, there have been recent verdicts of over 100 million dollars entered against other not-for-profit organizations where service was provided at such outside events.

The Elks Self-Insured Master Liability Program assumes the first million dollars of each and every occurrence. The local Lodges' assessments are predicated on the normal exposure derived from Lodge operations—not on expanded, less controllable exposures outside the Lodge. **With that in mind, it was decided that certificates of insurance naming anyone additional insured will not be issued for any Lodge when an event involves serving alcohol to the public.**

The rule with the service of alcohol is that no person approaching intoxication is to be served under any circumstances. This is harder to do—if not impossible—in an event circumstance.

The Order can not allow other organizations to use the Self-Insured Master Liability Program in this improper fashion. The Self-Insured Master Liability Program includes liquor coverage for service at the Lodge.

Lodges should not assume they should participate in a commercial service that benefits other organizations or presents an exposure not related to the operation of the Lodge facility.

LODGE BUSINESS OPERATIONS

As I have previously requested, I would ask all state accident prevention chairmen to let me know if Lodges in their state associations have substantial business operations not directly related to the day-to-day operations of the Lodge. In no case should (or will) the Elks Self-Insured Master Liability Program provide any coverage to others involved in any business operation of any sort.

In this review, one should consider:

- Large facilities rented to others.
- Commercial business enterprises.
- Operation of large commercial events.
- Large business operations or services conducted at the Lodge or away from the Lodge premises.
- An endeavor or business activity where there is an attempt to utilize the Elks Self-Insured Programs to provide insurance to other corporations or individuals.

In order to maintain low per capita assessments for the Order, nobody can be allowed to attempt to improperly obtain coverage for activities not directly related to the core activities of the Order.

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).





ANIMALS IN LODGES

We recently had several cases where members or employees had their dogs in or around the Lodge premises that resulted in a biting incident and a claim being made against the Lodge.

To date, we have defended the Lodge in these cases and directed civil actions to the owner of the animal; however, the defense of the Lodge in these cases is an unnecessary expense. This situation should be avoided.

I can think of almost no situation where a member or an employee should bring any pet on the Lodge premises, except in the case of a needed service dog.

LODGES OWNING SUBSTANTIAL COMMERCIAL BUSINESSES

Some Lodges own large commercial buildings or shopping centers, which should be insured under a separate business policy. The Self-Insured Master Liability Program cannot be used to provide coverage to such commercial operations, but this does not mean coverage could not be applied for the risks associated with the rental of a small portion of the Lodge building.

LEGAL REVIEW

In addition to leases, each Lodge should periodically review all contracts or any other instruments that may presently bind the Lodge or obligate the Lodge at some future time. Such actions should not be taken by the elected officers or hired managers without legal review by the Lodge attorney or persons who have knowledge of the potential legal ramifications. If there are unfair contractual arrangements at the present time, the Lodge should attempt to make appropriate changes. Under the wrong circumstances, accepting what appears to be a trivial document may cause the Lodge great harm. Never provide indemnification to anyone without proper review by the legal advisor.

STAIRS

We continue to have members and guests who fall on stairs; especially stairs associated with entryways. Most are caused by the injured party not paying attention or by their physical condition, but all Lodges must attempt to eliminate any conditions on the premises that contribute to the users' already existing problems.

- Make sure that all stairs are in good repair; add non-skid strips or material and make sure they are replaced when needed.
- To the extent possible, make sure stairs meet code requirements. If there is any deviation from code requirements in existing stairs that cannot be readily corrected, warning signs might be displayed that could read something like "narrow steps", "wide steps", "steep incline", etc.).
- In almost all situations, a railing is required. For stairs with two-way traffic, railings should be provided on both sides. If the stairways are very wide, a railing in the middle might be used.
- Do not block or clutter entrances to stairways with notices, signs or other such equipment.
- In inclement weather conditions, make sure that outside stairs are clean and properly treated. Make sure that inside stairs are cleaned to remove moisture or debris tracked in from the outside.

