

~ ~ ACCIDENT PREVENTION/INSURANCE RISK ~ ~
INFORMATION
 DECEMBER 2014



ATTENTION: STATE ACCIDENT PREVENTION CHAIRMEN

As a reminder for those of you who have not turned in your 2014 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.

CLOSING TIME CHECKLIST

In the past few years, we have had claims involving improper procedures at closing time; management should appoint a responsible person to use the closing checklist in the *Accident/Claims Prevention* manual. If at all possible, money should not be left in the Lodge overnight.

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AVOID PUBLIC ADJUSTERS FOR PROPERTY LOSSES

It has come to our attention that some Local Lodges have obtained public adjusters after experiencing a property loss. This should not be done.

Hiring a public adjuster will delay adjustments and cost the Local Lodge money that will not be reimbursed as part of a claim. Public adjusters frequently make a pitch to handle a loss and ask the Local Lodge to sign a contract. Such contracts usually include paying the public adjuster a significant percentage of the total recovery.

Please review Page 57 of the *Accident/Claims Prevention* manual for more information.

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. Anyone responsible for the service of alcohol (employee or volunteer) 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. Anyone caught violating this policy will be immediately relieved of their duties.

COLD WEATHER PIPE DAMAGE

As winter weather approaches, it is time for Lodges to take the steps needed to avoid winter weather claims, including frozen pipes and sprinkler system damage. The Lodge facility should be assessed and plans made to avoid such occurrences during the coming months. Insulation can be installed and exposed pipes can be wrapped.

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)**



Since October 2012, Local Lodges have been made aware of a voluntary Workers Comp program available through Lockton Risk Services that provides individually written policies and offers the following benefits:

- ◆ By using the “clubs not otherwise classified” rate, this program has the potential to offer Lodges a lower rate when compared to rates typically used.
- ◆ There are no surcharges made under assigned risk plans or for small groups.
- ◆ In most states, Local Lodges have the option of obtaining coverage for volunteers (an important benefit for Lodges that raised concerns when the secondary medical payments were eliminated under the Master Liability Program). However, the following exceptions must be noted:

State Sponsored Workers Comp (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"> • Arkansas • California • Connecticut • Michigan • New Jersey • Tennessee • Texas • Wisconsin

Eligible Lodges that wish to learn whether they would benefit from this voluntary program must contact **Lockton Risk Services directly at 1-877-735-6349** with questions or to obtain a quote.

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

*Updated December 2014; this letter available for download: <http://www.elks.org/resources/accident/>

OFFICERS/TRUSTEE BONDS

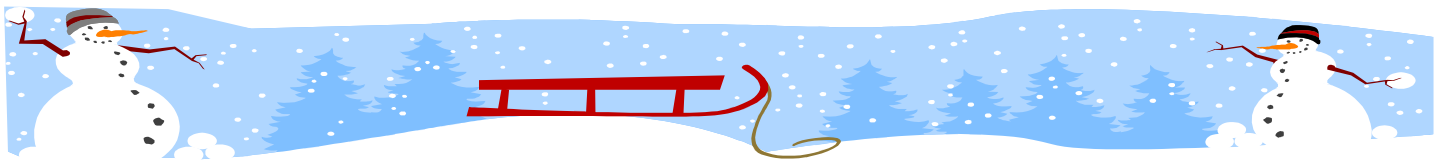
Those required to be bonded under the Statutes of the Order are covered under the Crime coverage included in the Property Plus Program (refer to the Property Plus Program Insurance Guide available from Aon or online at Elks.org). No separate bonds are needed; those Lodge that purchase separate bonds are paying for an unnecessary expenditure.

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.





FLOOD/EARTHQUAKE COVERAGE

Lodges are routinely informed that the Self-Insured Property Plus Program does not provide flood/earthquake insurance. When Lodges receive their annual renewal packets, information is included about the potential need in this area of risk; however, each Lodge should review its own potential for loss and make inquiries.

To some extent, flood and earthquake coverage can be obtained at an additional cost, but each Lodge should be aware of the potential risk applicable to its location.

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 the Lodges 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.

WINTER ICE/SNOW REMOVAL

Every Lodge should review its plans for removing snow and ice from sidewalks, stairs, parking lots, etc.:

- ◆ Any work done by volunteers or contractors should be noted in a log to maintain a record of the Lodge's efforts to maintain a safe facility.
- ◆ If the Lodge has a contract with a snow removal company, the contract should clearly indicate the snow removal schedule and indemnify the Lodge for non-performance.
- ◆ Any off-limit areas that are not plowed or salted should be clearly marked and/or blocked.

Ongoing awareness and reaction to changing weather conditions is important

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.

CHILD SUPERVISION

All Lodges should establish and strictly enforce the policy that children of members and guests are to have full and active adult attendance and supervision while on Lodge premises. Children should not be allowed to roam free throughout the Lodge or its facilities, including but not limited to the Lodge club areas, swimming pools, tennis courts, or any other recreational areas. It should also be a priority for all Lodges to comply with local laws by keeping minors out of areas where alcohol is being served. If members or guests refuse to comply with the Lodge's rules, these members or guests should be barred from using the facilities.





D&O/EMPLOYMENT PRACTICE COVERAGE

It has been pointed out many times in the past that the liability coverage available under the Master Liability Program does not provide D&O or Employment Practices coverage.

Under a D&O/Employment Practices policy, the D&O portion provides protection for allegations of wrong doing that may include claims of discrimination with regards to the membership selection process; negligent acts; breach of duty; or errors and omissions related to the management of the Lodge. The Employment Practices portion provides personal injury coverage for employment related claims and includes coverage for sexual harassment, discrimination, and wrongful discharge.

This coverage is now available, to a greater or lesser extent, under many policy forms issued locally. However, we believe that the plan offered by Aon Affinity Services gives the broadest coverage and also provides a special discounted premium for Local Lodges.

This coverage will provide all officers and directors (including trustees) with an immediate defense, not just a possible promise of later reimbursement of expenses. This form also provides coverage and defense to the Lodge entity. Under many other policy forms, the carrier is only required to reimburse expenses after the fact, and many also only provide coverage on individual officers or directors leaving the Lodge to pay for its own defense if it is named as a defendant.

The decision of whether a Local Lodge needs this coverage is one that must be made by the individual Lodge; however, we do strongly urge each Lodge to review its own circumstances in order to properly assess potential exposures. If any Lodge has employees; substantial operations; significant property holdings; or substantial assets, it is suggested that a close review be conducted to determine if this protection is needed and a quote for such coverage be obtained. Without D&O/Employment Practice coverage, the individual assets of officers and/or members could be in jeopardy.

Please feel free to contact me with any questions or concerns. To obtain information and a quote, call Deborah Downey of Aon Affinity Services at 1-800-421-3557.

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 online at Elks.org. 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).

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.

