

Submitted by Darryl Myers

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~
INFORMATION
 SEPTEMBER 2012



2012 ACCIDENT PREVENTION SEMINAR

If there are any state chairmen invited to the upcoming seminar who have not turned in their form, please do so immediately. Without this form, we are unable to book an airline ticket or make room reservations. If you find you are unable to attend this year's seminar, please notify the Insurance Department as soon as possible.

Additionally, anyone who has not turned in their Activities Status Report for 2012 should turn it in as soon as possible or have it with them when attending the scheduled seminar, so that I may include the figures from these reports in my reports to the Insurance Subcommittee.

**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
<ul style="list-style-type: none"> ◆ North Dakota ◆ Ohio ◆ Washington ◆ Wyoming 	<ul style="list-style-type: none"> ◆ Connecticut ◆ New Jersey ◆ Texas ◆ 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.

Inside this issue:

Dance Floors	2
Avoid Public Adjusters for Property Losses	2
Roof Maintenance	2
Service of Liquor	2
D&O/Employment Practice Claims	3
Closing-Time Checklist	3
Child Supervision	3
Automobiles/Trucks/Buses	4
Stages/Elevated Areas	4
Halloween	4
Telephone/Cable/Antenna Towers	5
Bingo	5
Washrooms	6
Serving Alcohol Off Premises	6



**OUR KIDS ARE BACK IN SCHOOL,
 SO PLEASE DRIVE SAFELY.**

DANCE FLOORS

Many years ago, we had a number of claims involving dance floors on a yearly basis. In recent years, the message has been passed that under no circumstances should wax, powder or sand be placed on dance floors and that any member or guest who does it or tries to do it should be banned or disciplined (the use of non-skid floors is preferred).

There have been several claims recently alleging the use of a substance on the dance floor. This must be stopped. Management must exercise proper control.



AVOID PUBLIC ADJUSTERS FOR PROPERTY LOSSES

It has come to our attention that a few Lodges have obtained public adjustors when the Lodge experiences a loss. This should not be done.

Hiring a public adjustor will delay adjustments and cost the Lodge money that will not be reimbursed as part of the claim.

Public adjustors will frequently make a pitch to handle a loss and ask the Lodge to sign a contract. Such contracts usually obligate a Lodge to pay a significant percentage of the total recovery. Please see Page 57 of the *Accident/Claims Prevention* Manual for more information.

ROOF MAINTENANCE

Each year, many legitimate roof claims are submitted under the Self-Insured Property Plus Program. Unfortunately, we also receive a few claims involving water leakage and/or damage to contents, which are caused by failing to properly maintain the roof.

Regardless of the building material involved, all roofs suffer wear and tear and will eventually need to be replaced; however, this lifespan can be extended through proper maintenance.

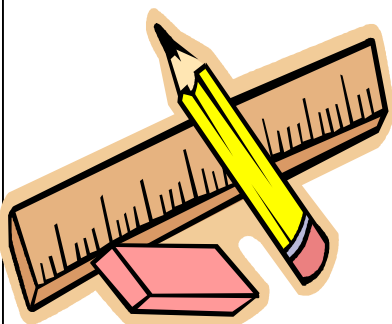
The purpose of the Property Plus Program is to pay for fortuitous losses; it is not to pay for a covered facility's maintenance costs. This means that the Property Plus Program will not pay to replace a roof when a claim is made that involves a Lodge's lack of maintenance or necessary replacement.

SERVICE OF LIQUOR

The first principle in the service of alcohol is to never serve anyone approaching intoxication. It is the Lodge's duty to do this and to control all aspects of service. Don't let others buy drinks for anyone who might be approaching intoxication. The Lodge must find this out when serving and stop service to the one who is approaching intoxication and others in the group if it is believed they will pass drinks on to offending individuals.

Never allow patrons to serve themselves (no beer kegs, etc.).

The Lodge management and the employee must know that their job depends on the strict enforcement of this policy.



The service of alcohol must not be viewed as a means of finance for the Lodge. It must be viewed as a privilege that the Lodge extends to members and their guests, a privilege that has strict rules. This is not a commercial bar/restaurant situation, this is an accommodation for the membership under inflexible rules.

It is better to cut a party off or not serve them at all in the first place instead of generating a million-dollar claim.

Outdoor activities make controlling the service of alcohol difficult, but it must be done. If it is impossible to monitor it, don't serve alcohol at all.

HAPPY HALLOWEEN

D&O/EMPLOYMENT PRACTICE CLAIMS

As it has been pointed out many times in the past, the Master Liability Program, which provides liability coverage for all Subordinate Lodges, does not provide D&O or Employment Practices coverage.

Under the D&O/Employment Practices policy now available, the D&O portion of that policy 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 of that policy 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 Elks 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 required only 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 or not this coverage is needed by a Subordinate Lodge is one that must be made by the individual Lodge; however, we do strongly urge that each Lodge review its own circumstances in order to properly assess the possible 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. It is strongly suggested that a quote for such coverage be obtained. Without such coverage, the individual assets of officers and/or members could be in jeopardy.

To avoid these types of claims, all Lodges should establish work rules and establish a discrimination policy (the "Accident/Claim Prevention Manual" and the "Discrimination and Harassment Guidelines" booklet provide instructions in more detail). Lodges that establish such rules and procedures and follow through with them have a better chance of avoiding claims.

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.

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.





AUTOMOBILES/TRUCKS/BUSES

As a repeated thought, no Lodge should ever own an automotive unit:

- There is no coverage of any sort under the Self-Insured Master Liability Program.
- The Lodge would have to buy local insurance, which is expensive. The Lodge would probably not be able to get more than one million dollars coverage with the potential for getting considerably less than that. If a Lodge were to have any type of catastrophic loss, especially involving buses, the low limits of coverage could result in a judgment that would take all of a Lodge's assets.
- There is no logical business or efficiency reasons for any Lodges to own any vehicles licensed for road use.

STAGES/ELEVATED AREAS

In recent months, we have received a number of reports of people tripping over areas higher than adjacent areas or falling off stages/elevated areas. Most of the time, these claims resulted from the inattentiveness of the injured party and are caused by being on a stage taking photographs; attempting to greet performers; trespassing in restricted areas; or celebrating. On elevated areas, injuries are caused when someone fails to notice different levels (even when they are marked), or trespassing in areas not open to public use.

Every Lodge should review the physical plans to eliminate or lesson such hazards:

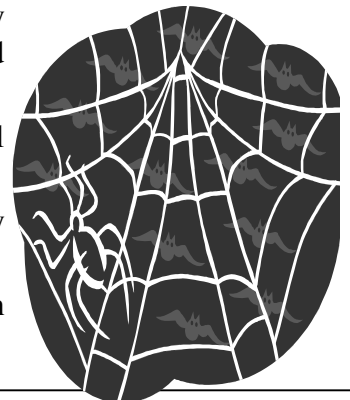
- Properly mark all changes in elevation where public use is required.
- Block improper use of all stages or elevated areas not to be used by public and strictly enforce policy.
- Raised dance floors should be properly marked, preferably by paint and/or lights.
- Eliminate such hazards to the extent possible.
- Place railings around stage areas, especially in the back and on the sides.
- Don't allow seating or standing arrangements on a stage to be crowded or too close to the edge.

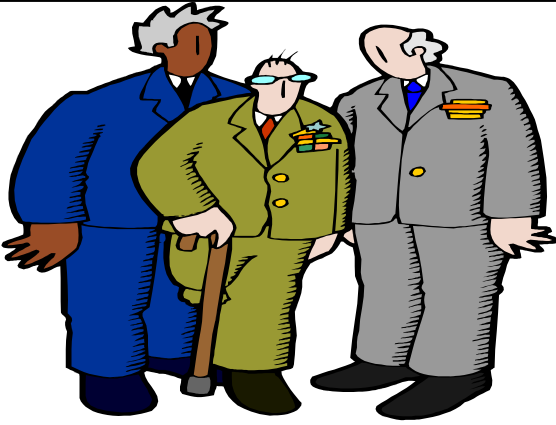
This type of claim is avoidable if Lodge management does its job properly.

HALLOWEEN

Many Lodges have various types of activities at Halloween, such as haunted houses, costume parties, etc. The Lodge should carefully review the plans for these activities to make sure they are conducted in a safe manner:

- Construction of any props or facilities should be done properly and in a sturdy fashion with a recognition of the prospective traffic and the abuse of wear and tear expected during celebrations.
- All fire codes must be followed; every effort should be made to ensure that all materials are fireproof or fire resistant.
- Planning for crowd control must be done to avoid potential injuries caused by panic or heavy attendance.
- Any food served during these events must be handled in a sanitary manner in compliance with health code regulations.





TELEPHONE/CABLE/ANTENNA TOWERS

Many Lodges have contacted the Insurance Department about offers made by telephone or cable companies wanting to construct facilities on Lodge locations (these were long-term leases (five years) with automatic five-year renewals on a continuing basis. **These contracts/lease arrangements are always written to favor the commercial entity; under no circumstances should any Lodge sign such arrangements without demanding changes. All such contracts/leases should be properly reviewed.** The following are key points that need to be changed or reviewed:

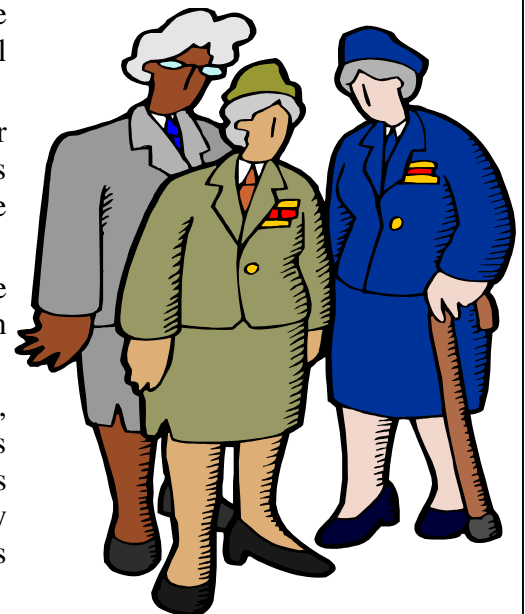
- All arrangements must be approved by the State Sponsor and Grand Lodge.
- Almost without exception, the monthly rental fee offered is too low; an increase in the offered price can be negotiated. Lodges must not settle for less than a monthly rent increase that coincides with the fair consumer price index.
- **Under no circumstances is the Lode to indemnify the offering company for any damage to that company's property and, most importantly, for any injury to any person or property arising out of the use of property. However, the offering company must indemnify the Lodge from any and all claims arising out of that company's use of the property; provide a waiver of any subrogation; and name the Lodge as additional insured on the company's general liability policy with coverage limits of at least one million dollars.**
- Under the agreement, the leasing company should not unduly hamper Lodge operations, nor should the Lodge be responsible for creating, maintaining or servicing means of access to the antenna or tower.
- The Lodge should limit access to the Lodge land and/or building premises except as required to maintain or service such towers or antennas.

This is a circumstance where the Lodge management must use good judgment and seek proper competent advice.

BINGO

As we have stated before, a large number of claims presented involve bingo players who usually non-members with ailments and/or physical limitations who are usually quick to make a claim (with the exaggeration of alleged injuries much more likely). Lodges must be vigilant in this area to reduce claim possibilities.

- Keep all walking areas clean and free of obstructions. Make the aisles wide enough and do not crowd seating at tables; people will find a way to trip when tables are crowded.
- Maintain control throughout the event; do not allow pushing or shoving. Discourage attendees from using more hazardous entrances or exits to control an orderly flow of foot traffic; Lodge management must have monitors on hand for crowd control.
- If weather conditions become hazardous during the event; Lodge management should provide appropriate announcements to warn attendees to be cautious as they leave the bingo hall.
- If outside organizations use Lodge facilities to host bingo events, the Lodge should control their use in the same fashion as recommended above. Additional, these outside organizations should indemnify the Lodge; agree to follow your safety procedures regarding crowd control; and name the Lodge as additional insured under their general liability policy.





WASHROOMS/LOCKER ROOMS

These are areas where falls occur. Each Lodge must review their situation and eliminate hazards.

- Lodges must properly place instructions and warning signs.
- Keep these areas clean and free of any debris. During times of heavy use, it is wise to log inspection and cleaning times.
- To the extent possible, eliminate potential hazards. If this cannot be done, place warning signs; such as in an area with several levels or where moist conditions are likely to create slippery floors.
- If possible, place the towel dispenser and the garbage container in the sink console rather than across the room. This will avoid water dripping on the floor that can cause many spills.
- In the shower areas, place railings or hand holds. These are useful to persons with disabilities as well as an aging membership.

SERVING ALCOHOL OFF-PREMISES

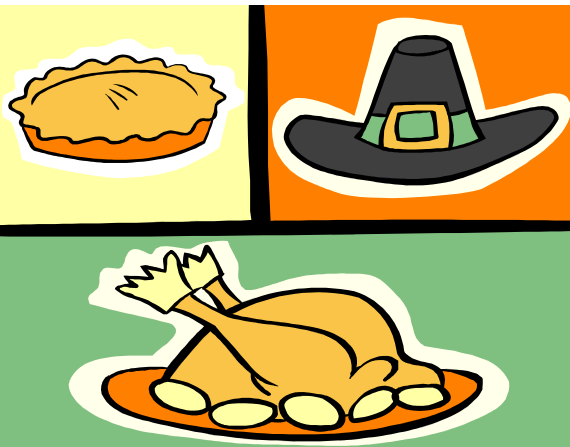
There has been a trend where commissary corporations or others that have contracts with event sponsors attempt to have not-for-profits act to serve alcoholic beverages at such events for a percentage of the proceeds but require that the not-for-profits must provide the liquor liability insurance.

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 the sales for such items. This is not acceptable.

The Elks cannot afford to allow Elks Lodges to misuse the Self-Insured 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 one hundred 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 the Lodge's operations, not on expanded, less controllable exposures outside the Lodge. **With that in mind, it has been decided that certificates of insurance naming anyone additional insured will not be issued for any Lodge if 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 in an event circumstance, if not impossible.

The Order cannot 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 the commercial service of alcohol that benefits other organizations or presents an exposure not related to the normal operations of the Lodge facility.