

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~
INFORMATION
 DECEMBER 2011



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 2011. Please return it to my attention immediately, so that I may include the figures from your report in my reports to the Insurance Subcommittee.

REMINDER

Effective April 1, 2012, all Property Plus Program policies will have an April 1st renewal date. Aon provided information about this change in the form of correspondence, which was sent to all Lodge Secretaries in October (with a reminder letter set to go out in January). Any questions should contact the Elks Team at Aon (1-800-421-3557).

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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 the maintenance costs of a covered facility. 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.

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.



STAIR SAFETY

In recent months, there has been an inordinate number of claims involving stairs. While most of these claims involve contributory negligence on the part of the claimant, others involve elderly patrons.

It is important for every Lodge to remember that secondary medical payments are no longer available (effective April 1, 2011), which means the Self-Insured Master Liability Program will deny most of these claims.

To properly defend the Lodge from such claims, each Lodge should make sure that all stairs are in good condition, including skid strips and handrails. In addition, stairs that do not conform to required standards should be blocked off when possible with appropriate signs and directions posted. When a situation involves feeble or disabled persons, proper supervision and/or assistance should

be considered (warn people to watch where they step).

The same advice also applies to outside stairs. Warning signs and mats should be used when weather conditions cause wet walking surfaces; outside stairs must be treated to remove ice and snow.

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.

KNIFE USE

Every year, we have a large number of reported claims that are caused by a claimant who gets cut while using a knife. For the most part, these are minor injuries with no negligence of any attributable to the Lodge. In these minor cases, it would be in order to make an incident note in the Lodge file and put a band-aid on the cut; this is especially true based on the fact that second medical claims are no longer covered. However, it would also save the Self-Insurance Program the expense of claims adjustment and save the Lodge from having a claim on their record.

Furthermore, it might be a good idea for the Lodges to assign cutting tasks to those who are experienced and demonstrate that they are able to handle a knife properly.

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.



DANCE FLOORS

Dancing facilities are used to a greater extent during the holiday season. Each Lodge should review their operations; the following are some areas to consider:

- **Physical Condition:** Few claims involve the physical condition of the floor; however, appropriate repairs and/or changes in the configuration should be made if the floor is in need of repairs or is constructed in a dangerous manner.
- **Maintenance:** The majority of these claims involve improper maintenance; improper waxing to be more specific. Many feel that waxing should not be done at all. If it is done, others believe that specific non-skid wax (there are flooring products available that are specifically labeled as “non-skid”). Unfortunately, wax is applied during the Lodge maintenance process without removing the original wax, which can cause hazardous conditions. All dancing surfaces should meet O.S.H.A. required Static Coefficient of Friction (S.C.O.F.) of 0.50 non-skid. The fact that a Lodge has a dance floor creates a hazard, so it is absolutely necessary that proper maintenance be done for the benefit of the members and guests.
- **Policing Use:** When the dance floor is used, it is essential that dance participants or any other unauthorized persons not be allowed to spread additional wax or powder to make the floor more slippery. In addition, it is the management’s responsibility to ensure that dangerous moves or actions are curtailed to protect all parties.



FIRE EXTINGUISHING SYSTEMS/KITCHEN HOODS

Two changes in commercial food preparation techniques have been an impact on fire protection:

- Vegetable cooking oil, which helps lower the fat and cholesterol content of food, also burns at a higher temperature than animal fats. These fires are more difficult to extinguish.
- Energy efficient cooking appliances are now used extensively in restaurants. Highly insulated fryers help reduce fuel consumption and cooking times, but they also keep cooking oils and appliances hotter longer. In return, that makes extinguishment of fires more difficult.

In the past, fire suppression systems were not tested with these specific hazards in mind, so new test protocols had to be developed. All manufacturers that sell fire suppression systems after November 1998 must comply with the new standards. Testing by fire equipment manufacturers showed that, while dry chemical systems could knock down the UL 300 test fires, they were not completely effective because the fires would restart and continue to burn due to lack of cooling. To achieve the required cooling effect, the design of the fire suppression systems were altered to increase the amount of wet chemical extinguishing agent used. The wet chemical fire suppression systems, with their increased number of appliance nozzles, were effective in completely extinguishing the UL 300 test fires; the appliances affected were fryers, griddles, ranges, char broilers and woks).

In addition, we have been told that manufacturers have ceased making replacement parts for the old dry chemical systems, and many areas will not allow non-UL 300 systems to be installed in commercial cooking operations, which is a NFPA regulation (not found to be a state law). Every Lodge should review its individual circumstances and plan to make appropriate changes.

USE OF LODGE FACILITIES

If the Lodge allows any outside group or individual to use the Lodge facility for any purpose, the Lodge management must refer to Pages 10-11 of the *Liability Insurance Program Booklet*. The Lodge should adapt these instructions for use in a specific situation.

A written agreement developed along these lines must be used in every instance; An agreement that only deals with fees and services is not sufficient.





INTERNS, INMATES OR THOSE DOING COMMUNITY SERVICE

It has come to our attention that some Lodges may allow the use of the above individuals for service at the Lodge in a misguided attempt to save money or provide assistance. In most cases, such individuals won't be considered employees covered under the Lodge's workers comp policy. There is also the possibility that they could sue the Lodge under the Self-Insured Master Liability Program if injured.

When such persons are allowed to work at the Lodge, it is a certainty that the court, jail or school will not indemnify the Lodge, so any claim filed would have to be defended under the Master Liability Program; we have had several claims in the past arising out of this sort of situation. A further consideration is that some of the persons could present a danger to Lodge members and/or the facilities. Under no circumstances should such arrangements be entered into by any Lodge.

FILING LIABILITY CLAIMS WITH GALLAGHER BASSETT SERVICES

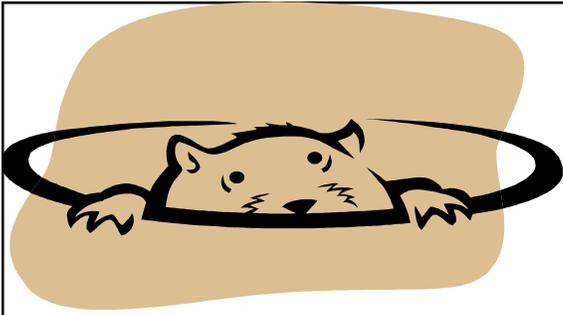
- Never file a claim made by an employee. Claims that involve work injuries should be sent to the Lodge's separate workers comp insurance company. If the Lodge does not have workers comp insurance, they must pay all the expenses because the Self-Insured Master Liability Program WILL NOT cover these claims.
- If the claim involves allegations of discrimination, sexual harassment or wrongful discharge, the claim must be reported to the Lodge's separate D&O policy. If the Lodge does not have a D&O policy, the Lodge will have to pay all the expenses involved in these claims because the Self-Insured Master Liability Program will not cover these claims either.
- The Self-Insured Master Liability Program will not pay for damages to automobiles, trailers, RV's, etc. that are parked at the Lodge, regardless of whether they are damaged by vandalism, storms, falling objects or any other causes not directly related to acts of the Lodge. Everyone parks at their own risk, the Lodge is not a guarantor (put up signs).
- The Self-Insured Master Liability Program will not pay for automobiles allegedly damaged by golf balls or any balls used in sports.
- As of April 1, 2011, there is no secondary medical coverage; the Self-Insured Master Liability Program will no longer pay deductibles or co-pays not paid through an individual's hospital coverage.
- Lodges should avoid sending a relatively blank sheet to Gallagher Bassett. When a Lodge has information that someone has observed an accident, a possible injury or an event that resulted in a possible claim but does not have the name of the potential claimant or any substantial data, the Lodge should insert an incident report in its file and report this matter only when more data is received. If anyone has any concerns about such an incident, they can call the Grand Lodge Insurance Department at 1-773-755-4715.

EMPLOYEE/MEMBER THEFT

In the last year, we have had several cases of substantial crime losses involving employees, officers and members. Almost all of these claims could have been avoided or at least substantially mitigated if good practices and common sense had been used by the Lodge's management.

- Procedures must be established to provide checks and balances. In any operation, this can be done by not allowing any one person to have control over all aspects of the process.
- Internal audits should be conducted without prior notice; all external audits should include a full review of all operations concerning the handling of money or the processing of invoices.
- It is also strongly recommended that a two-signature procedure be established.
- No individual or group should be allowed to incur debt or obtain access to credit for the Lodge without approval of the Lodge or Grand Lodge if necessary.





PARKING RV'S AND OTHER VEHICLES IN LODGE PARKING LOTS

We have had many requests for information about the proper handling of RV's parking at Lodges and the parking of automobiles in a Lodge's parking lot. The following repeats prior instructions indicating the need for Lodges to make RV owners sign an indemnity agreement if they park at the Lodge (this applies in all cases, regardless of whether they pay/donate a fee:

USE AGREEMENT FOR RV'S AND TRAILERS FOR LODGE NO. _____

In consideration for being allowed to park my unit in the appropriate area designated by the Lodge, I hereby agree to indemnify and save harmless the Lodge from any and all claims and expenses arising out of my use of the facilities, except for the sole negligence of the Lodge.

I further agree that no claim for damage to my property will be made against the Lodge under any circumstances and that any rights of subrogation for damage to my property are waived.

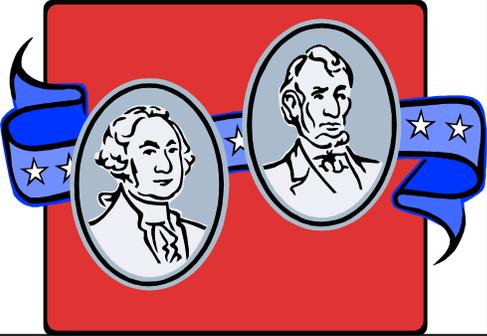
Unit Owner

DATE

Also, all Lodge parking lots should have signs posted that state: "Anyone who parks in the Lodge's parking lot parks at their own risk. The Lodge is not responsible for any damage to vehicles parked in the Lodge's lot".

WORKERS' COMPENSATION

- No coverage is provided under the Master Liability Program: the Master Liability Program does not, under any circumstances, cover any claim made by an employee of the Lodge. Therefore, every Lodge must obtain valid Workers' Compensation coverage in the state of its location. It is strongly recommended that all Lodges obtain a minimum premium policy, even if the Lodge has no regular employees. This is recommended because, if any employees make a claim (even a frivolous one), the Lodge will have to defend itself at its own expense unless a Workers' Compensation policy has been obtained.
- Volunteer coverage may be available: In some states, volunteer coverage can be obtained at a very little additional cost when a Lodge obtains a Workers' Compensation policy. If such coverage is obtained, any volunteer injured while working for the Lodge will receive payment for all medical bills and other benefits for the injury as determined by the specific state. Since this varies by state, the matter must be reviewed by each individual Lodge.
- Do not report Workers' Compensation claims to Gallagher Bassett: When the Lodge has an injured employee, this incident **MUST NOT** be reported to Gallagher Bassett. This claim **MUST BE** reported to the Lodge's Workers' Compensation carrier. Reporting this type of incident to Gallagher Bassett confuses the issue and may result in state violations for not reporting to the Lodge's own Workers' Compensation carrier in a timely fashion.
- O.S.H.A. Inspections: To comply with an unlikely inspection by O.S.H.A.. Each Lodge should maintain the employer's first report of injury as well as other data, a log indicating the name of the injured with the date of accident and reporting and an indication of the type of injury. These should be available for any O.S.H.A. inspector.





LIQUOR IN THE LODGE

The Order's record, with reference to alcohol related claims is a good one and continues to improve, but all Lodges must remain vigilant. One mistake, one neglectful officer or employee can cause great damage to the Order.

Each Lodge must constantly review its procedures related to the service of alcohol. Here are some major points:

- Servers, employees and volunteers must be trained. While we recommend that they receive formal training, it is a requirement in some states.
- Servers must refuse service to anyone who is even approaching intoxication, including any officers.
- Patrons must never be allowed to serve themselves (i.e. never have an open service keg).
- Servers must never drink on the job or after their shift is over.
- All applicable liquor related laws must be complied with.
- All Lodges might attempt to include alcohol use by members in the Drug Awareness Program.

LEASING PORTION OF LODGE OR OTHER BUILDING

On some occasions, Lodges will lease a portion of the Lodge building to other businesses. In some cases, I have observed that Lodges have badly managed this process. The Lodge has accepted a lease prepared by the tenant, prepared an inadequate lease written by a non-lawyer or a person not familiar with the proper terms required to protect the Lodge. The following are some major points that must be followed:

- Make sure that the tenant's business or occupancy does not present a hazard or increase the risk of fire or other fortuitous events. Don't rent to a paint store or manufacturer, fireworks store, furniture finishing store, heavy manufacturer, etc.
- The lease with the tenant must have a section in which the tenant indemnifies and holds harmless the Lodge for any and all claims by individuals, including employees of the tenant arising out of the tenant's operations, except for the sole negligence of the Lodge. The tenant must also name the Lodge additional insured under the tenant's general liability policy. If asked, the Lodge may give the tenant evidence of the Lodge's insurance under the Self-Insured Master Liability Program, but we will not name the tenant additional insured under the Elks self-insured policy under any circumstances. The Lodge may agree to a mutual waiver of subrogation clause that will require the Lodge and the tenant to rely on their own property insurance to respond to any damages to the Lodge's building or contents or the tenant's contents. (Each party must make a claim against its own insurance company. The insurance company can't attempt to subrogate against the other party.)
- The Lodge should have appropriate and speedy recourse to evict the tenant for non-payment of rent or conducting dangerous or potentially dangerous activities.
- Long-term leases or leases involving large financial numbers must be approved in accordance with the Statutes of the Order.
- Use common sense and make sure that there is proper consensus in the Lodge. The renting of a separate building not housing the Lodge should follow the same process but, if a tenant will occupy the total building, the Lodge may want to require that the tenant obtain fire insurance in the proper amount naming the Lodge and provide expenses, including taxes and any maintenance.

Please make note that this process of leasing should not be considered unimportant and relegated to haphazard treatment by members or trustees who have little knowledge or experience in this area of business.

