

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~

INFORMATION

MARCH 2008



SPECIAL PROJECTS

Some lodges are currently planning specific activities or projects for the lodge. In the conception of such projects or activities, the liability exposure generated should be considered and reviewed before any final decisions are reached. Some such considerations

- ◆ Current local, state and Federal laws and regulations.
- ◆ Does the project include the involvement of minors in work or hazardous circumstances?
- ◆ Are the recommended policies followed relating to adult contact with minors?
- ◆ Does the program require indemnification or insuring other entities or individuals (the Elks Insurance Program may not accept such arrangements)?
- ◆ Does the lodge have knowledge and experience to properly implement the project?

ELKS WHO HAVE RV'S OR RV GROUPS

In the past, we have provided information on this matter relating to RV owners within a lodge who have corporations, unincorporated entities, clubs, groups, etc.

As I have stated before, in the event of litigation, such corporations, unincorporated entities clubs, groups, etc. named as a defendant will most likely not be defended under the Master Liability Program. The lodge would be defended, but the RV group would probably not be defended and would probably be involved as third-party defendants if not initially named. In some cases, the individual RV owner might be responsible for paying for defense of the group and for any award to a plaintiff.

From a pragmatic point of view, the Master Liability Program will not provide certificates of coverage to a facility owner such as a park, campground or forest preserve. This means that these RV groups of any status will have to buy a separate general liability policy to issue certificates in order to satisfy owners or they can't make reservations. An alternative might be for each RV owner to get a certificate from their own personal insurance company, but this might not be accepted by the facility owners. Aon has a source to provide independent insurance coverage.

DEDUCTIBLE FOR PROPERTY PLUS PROGRAM

For all policies beginning with the April 1st, 2008 inception date, the minimum deductible will be \$1,000.00. This action is being taken to acknowledge the fact that local carriers throughout the country normally require this level of deductible. The higher deductible will help maintain lower expense levels for claims handling. Furthermore, higher deductibles will encourage loss prevention activities, but they will also reduce the assessment cost to the lodges.

Even higher deductibles are also available where appropriate that will act to further reduce the assessment costs to lodges.

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ALCOHOL SAFETY

In a meeting that is held by an accident prevention chairman or any other safety related meeting, the first topic (and probably the most important one) is the need to avoid alcohol related claims. The frequency of these claims is at an all time low for the Order, but it takes only one mistake or action of bad management to seriously punish the overall membership. Invariably, when serious claims of this type arise, it is clear that the claim could have been avoided if the management of the lodge had not been derelict in its duties. Frequently, such claims could have been avoided if the membership had recognized problem drinkers and sought help for them or insisted that they not drink at the lodge. Action could have been taken.

It should be emphasized that it is only a small fraction of lodges who do not do a serious and responsible job, but a very few can damage the Order financially and deprecate its reputation. It is the duty of all members to be a safety manager, especially in this area of activity.

CROWDED FACILITIES

Some Elks have events on occasions either for activities of the Order or for other organizations that result in large crowds. Unfortunately, in some cases, the subject of the event or the expected participants also present inappropriate exposure to both the safety record of the lodge and the reputation of the lodge and the Order in general.

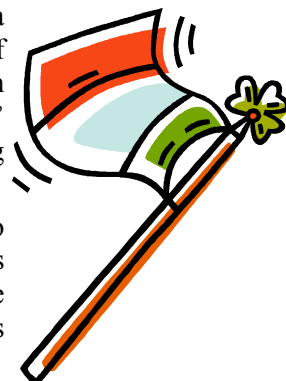
Each lodge must, without fail, properly review the life/safety aspect of any event to be held on the lodge's property. If there is any question about conducting a safe event, the event must be rejected.

- ◆ All state, local or Federal regulations or laws must be complied with.
- ◆ Occupancy limits must be complied with. There are no exceptions.
- ◆ Lodges should consult with local fire departments for help and guidance.
- ◆ All exits must be unblocked and open to allow rapid escape from the building.
- ◆ Emergency lights must be at exit signs.
- ◆ There must be security and crowd control. The use of off-duty police is allowed with proper approval of the police department; however, in no case can the lodge agree to indemnify the police department to provide insurance for the city. If hired security is obtained. The security firm must indemnify the lodge and name the lodge on the security firm's general liability policy.
- ◆ Each lodge should carefully consider who will be allowed to use the facilities. Good sense should prevail over the perceived need to get business. In the past, some lodges have allowed use by gangs, weddings where ethnic conflict was expected, business activities of a questionable nature, and questionable entertainment such as use by exotic dancers. Use by questionable groups can and frequently do result in the possibility of life/safety issues.
- ◆ All aspects of the use of the lodge facilities should be reviewed. Appropriate contracts should be signed by users who indemnify the lodge for claims caused by the negligence of the user.

CAMERAS AND THEIR ROLES THROUGHOUT THE LODGE

In the past, we have always recommended that every lodge have a Polaroid camera or a disposable camera available to record alleged conditions that a claimant may state as a cause of an injury. We can now add that, with the low cost of digital cameras, it may be better to obtain such a camera, which would make the retention and transmittal of pictures easier. The lodges' assistance in this regard is essential in keeping adjustment expenses for the Self-Assuming Master Liability Program to a minimum.

Also, depending on the circumstances of each lodge and local logistics, we would also recommend the installation of security cameras both inside the lodge and outside at entry ways and in the parking lots. We have been told that, presently, such installations are at affordable costs. The installation of these cameras improve security for all, establish management controls and provide protection for the lodge from exacerbated or bogus liability claims.



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 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 1 million of each and every occurrence. The local lodges' assessments are predicated on the normal exposure derived from the lodge operations, not on expanded, less controllable exposures outside the lodge. **With that in mind, it is has been decided that certificates of insurance naming anyone as additional insured will not be issued for any lodge if the service of alcohol to the public is involved.**

The rule with the service of alcohol is that no person approaching intoxication is to be served under any circumstances. This is harder, if not impossible, to do 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 that they should participate in commercial service that benefits other organizations or presents an exposure not related to the operation of the lodge facility.

USE OF INTERNS, PRISONERS 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 to assist.

In most cases, such individuals won't be considered employees covered under the lodge's workers' compensation policy, and there is the possibility that they would sue the lodge under the Self-Assuming 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. In the past, we have had several claims arising out of this sort of situation.

A further consideration is that some persons of this type could present a danger to lodge members and/or the facilities.

Under no circumstances should such arrangements be entered into by any lodge.

SPONSORING ATHLETIC EVENTS

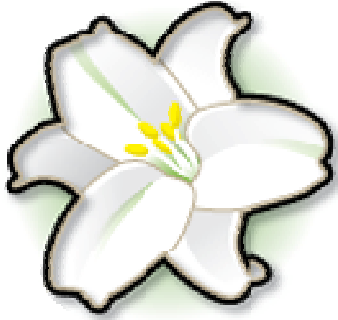
Some lodges sponsor athletic events such as track meets, basketball tournaments or baseball leagues. The facility owners may request that they be named as additional insured. Depending on the circumstances, the Master Liability Program may provide these certificates; however, this will not be done if the event is purely a fund-raising event.

It should be noted that, in many youth sports, the events are sponsored by a sports governing body or youth oriented organizations such as the A.A.U., YMCA, Boys & Girls Clubs of America, etc. These organizations have liability insurance available as part of their sanctioning process.

If a lodge that is sponsoring the event can't be covered under the Elks Master Liability Program, the funds to buy independent outside insurance can be obtained by assessing a fee on each team or participant to be used for this purpose.

In each type of event, the team management should indemnify the lodge sponsoring the event. Release forms should also be obtained from participants (parents if the participant is a minor).





HANDLING OF TOXIC OR DANGEROUS MATERIAL

Along with the April edition of the Grand Lodge newsletter, each lodge will receive a separate sheet that is a copy of a letter the Boulder, CO lodge was required to send to all lodges in the Order as part of its settlement with Governmental regulators. This letter discusses the lodge's mishandling of the removal of asbestos during the remodeling of the lodge. It has been mentioned before that this is a cautionary tale that all lodges should pay close attention to. Violations in this area can generate fines that would bankrupt most lodges but could also require the closing of the lodge. Furthermore, any allegations of personal injury are not covered by the Master Liability Program.

When asbestos or any other dangerous material must be removed during remodeling or construction, the lodge must hire a Government certified removal contractor. This is not a circumstance that is to be considered a "do-it-yourself" project or one where a member or friend has general knowledge of construction and is allowed to proceed because he offers to do the work. This is a specialized area. All lodges must get a certified contractor.

CHARITY COLLECTIONS USING ROAD BLOCKS

Under no circumstances should lodges sponsor or elks members participate in the stopping of traffic on public or private roads to solicit contributions for any cause of any type. The Master Liability Program will not issue certificates of insurance showing evidence of coverage for these types of events and will not in any way recognize such an event.

The Self-Insured Master Liability Fund was required to pay a small portion of a large settlement to a badly injured person who was hit by a car at a road block. In this case, a certificate of insurance showing evidence only was issued improperly. The lodge was not involved in the planning or implementation of this road block (nor did any Elk member participate), but the lodge was still sued.

A road block is an unsafe endeavor, even when the governmental body involved has police controlled road blocks, signs, etc. As we all have heard, workers involved in road work and as "slow down" signal personnel have a high incident of injury and deaths due to bad and speeding drivers. The same risk applies to charity road blocks. No Elks lodge should participate in this type of event.

ELKS MANDATORY PROGRAMS:

MASTER LIABILITY AND PROPERTY PLUS PROGRAMS

The two Programs in which all lodges must participate have been renewed for the coming year. This renewal starts April 1st on the same basis as last year. Where required, continuing evidence will be provided.

As explained in the Master Liability Booklet, the Master Liability Program provides 50 million dollars in coverage (the 2008-09 booklet will be directed to all lodges in May). The new booklet will be approximately the same as the 2007-08 booklet.

For this year, the Property Plus Program minimum deductible was increased to \$1,000.00.

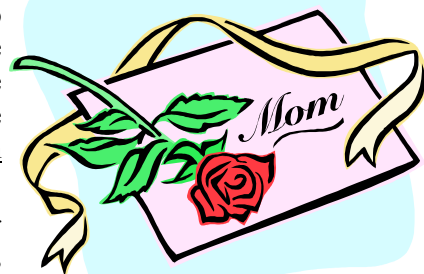
OUTDOOR AREAS

Every lodge should carefully inspect outside areas used during summer activities, such as picnic grounds, athletic fields, outdoor meeting areas, etc. Make sure that there are no hazards such as uneven footing, holes, blocks or hidden objects for people to trip or fall on. If only safe paths are to be used, clearly mark such paths and warn against deviation from such routes. It is important to closely inspect these areas because changes occur over the winter season.



LOANED VEHICLES

On many occasions, when a lodge has special meetings or visiting guests, local auto dealerships or others will loan vehicles to shuttle such guests. Unfortunately, the loaning party will, to a degree, nullify the gift of loaning the vehicle by asking the lodge to indemnify the owner or to be responsible for liability while using the vehicle as well as for damage to the vehicle. The Self-Insured Master Liability Policy can not provide coverage for these owners.



The owners of the vehicles loaned already have insurance under a fleet policy or other coverage, but the states have owner responsibility laws making the owner's insurance primary. Furthermore, the volunteer driver's "drive other car" coverage under their own car insurance policy would be secondary. If the owner/dealership will not accept this, it may be better for the lodge to reject the loan offer because "named non-owners" coverage that a lodge might try to buy would make the arrangement less than cost effective.

If the owner/dealership won't be reasonable, renting from Hertz, Avis, Budget, etc. might be preferable. Depending on the number of guests, it might also be better to lease a bus and driver, but make sure that the bus company indemnifies the lodge and provides evidence of insurance.

DIRECTORS & OFFICERS (D&O)/EMPLOYMENT PRACTICE COVERAGE

Each year, we send a cover letter to the lodge with the current year's Master Liability Policy Booklet (April or May). This cover letter recommends that the lodge obtain this coverage to protect the lodge and the assets of its officers, trustees and members acting on behalf of the lodge.

The Master Liability Policy excludes D&O claims brought against the lodge and individuals involving alleged wrongful acts of mismanagement, employment practices, membership claims and any personal injury claim related or arising out of such allegations (refer to Master Liability Program Exclusions on Pages 6 and 7 of the *Liability Insurance Program Booklet*).

The message in this cover letter is that the Master Liability Program only provides general liability coverage to the lodge and its agents for allegations involving bodily injury or property damage arising out of the alleged negligence covered under the general policy provided.

We have had a number of lodges who have failed to obtain D&O/Employment Practice coverage in the first place or failed to renew such coverage. These lodges have experienced problems. Some have actually gone bankrupt.

The management of each lodge should seriously review this exposure. A lodge may look for this type of coverage locally, but there is also a discounted program available through Aon Risk Services, our current service agent. A quote can be obtained by calling 1-800-421-3557.

ELKS MAGAZINE ARTICLE ON SAFETY

I would like to call everyone's attention to the article in the most recent issue of the Elks Magazine that tells the story of the Order's attempt to make all lodges safer and more useful to all members, guests or others involved in any way with lodge facilities.



This article pays tribute to and compliments the State Accident Prevention Chairmen, their assistants and the local lodges' accident prevention managers. Under the direction of the State Accident Prevention Chairmen, this large group of volunteers has substantially contributed to the Order, its members and their extended family.

The Order's efforts in this regard are unique and very effective in using the varied abilities of the membership to obtain real and substantial benefits for the local lodges and the members.

The availability of affordable insurance is a necessity for local lodges to function, maintain protection, and keep expenses reasonable; therefore, lodges must be safety conscious. The volunteers in the safety effort have assisted in the success to date. All members of the Order must help these volunteers to continue their essential work. We urge that all of the membership become active and contribute their assistance to the members of the accident prevention and safety effort.



FLOOD AND EARTHQUAKE COVERAGE

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

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

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

Flood insurance is available under governmental programs that Aon Risk Services can explain. 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 usually available, but it has a relatively high cost if the lodge is in one of the more hazardous zones.

Earth subsidence may not be covered under any policy forms.

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

PROPERTY PLUS PROGRAM

The Property Plus Program began in 1992 and provided a 20% reduction in the premium then paid by all lodges. In addition, the coverage for all lodges was increased or improved at no cost to the lodges. The following is a list showing other benefits of this Program:

- ◆ No co-insurance (which allows lodges to insure a building for a functional level of coverage rather than at replacement value).
- ◆ Replacement coverage.
- ◆ 50% increase in actual replacement payments if insured to 80% of the appraised value.
- ◆ Free appraisals.
- ◆ Better crime coverage.
- ◆ Business interruption.
- ◆ Computer coverage.
- ◆ Food spoilage.
- ◆ Bonds for officers covered as part of crime coverage.

It should be pointed out that this is a mandatory Program that all lodges with buildings must participate in. For this reason, coverage will be issued on a guaranteed basis.

In today's outside market, many of the lodges might not meet the underwriting criteria of some carriers and would find it hard to obtain coverage. Because of their locations, other lodges might have to accept seriously curtailed coverage or the total elimination of certain coverage. It should also be noted that many carriers will seek non-renewal of a lodge that presents one or two claims.

Over the years since 1992, the Property Plus Program has saved all lodges money and the Order millions in aggregate while providing a stable coverage level.

HAND-HELD KITCHEN EXTINGUISHER

In recent years, different oils with higher cooking temperatures are used in kitchens for deep-frying, etc. In the 3rd Edition of the Accident Prevention Manual, it points out that the older dry chemical units in kitchen vents are now obsolete. Such units now have a wet chemical component. We also want to point out that hand-held units in the kitchen must be refitted or replaced to contend with this changing hazard.

