

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~
INFORMATION
 SEPTEMBER 2007



ACCIDENT PREVENTION MANUAL

The Fourth Edition of the Manual must be reprinted in the first quarter of 2008. This manual is a working guide to assist the local Lodges in better safety, accident prevention and business practices.

I urge all State Accident Prevention Chairman, local Lodge Accident Prevention Managers and any other persons involved with the Order to direct any suggested additions, changes or corrections to the present manual to my attention.

Please send your suggestions to: **Sheldon H. Staubitz, Director of Insurance**
 (773) 755-4714 - INSURANCE@elks.org

2007 ACCIDENT PREVENTION SEMINARS

Any state chairmen who have not turned in the form sent to them for the accident prevention seminar, please do so immediately. We are unable to book an airline ticket or make room reservations for anyone who has not sent in their form.

For those of you who have returned the seminar form but have not returned the Activities Status Report, please return those completed forms to the Insurance Department as soon as possible.

REMOVAL OF HAZARDOUS MATERIAL

It has come to our attention that some Lodges have been presented with problems related to the removal of hazardous material such as asbestos, lead, etc.

It is imperative that the Lodge management properly handle such situations to avoid potential injury to workers, members or guests. It is also very important that ALL local, state and Federal regulations and or laws and procedures are followed. Mishandling can result in fines in the thousands and tens of thousands of dollars. In addition to any fines, some properties could be closed or quarantined.

If such substances are to be removed, this work can not be done by volunteers or regular workers. This work must be done by properly certified contractors.

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

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PROPERTY PLUS DEDUCTIBLES

Under the Property Plus Program, all Lodges should have at least a \$1,000.00 deductible. Outside insurance companies with small business policies all require at least a \$1,000.00 deductible and, furthermore; penalize or drop customers that present many claims.

Since the Order assumes the first \$750,000.00 of each loss under the Property Plus Program, it is of great importance to every Lodge to not use the Program to pay small or maintenance losses, and it is also important that each Lodge understand that the Program's objective is to protect the Lodges from large losses and to keep premiums as low as possible (a higher deductible also gives the Lodge a reduction in its premium assessment).

The cost of adjusting and paying each claim no matter how small is a minimum of \$500.00. It makes no sense for claims of a few hundred dollars to be submitted that could result in the adjustment cost exceeding the return to the Lodge.

Each Lodge should remember that payments made from the Property Plus Program is their money. To keep costs down for everyone, Lodges should be diligent in avoiding conditions that cause loss and not attempt to use the Program for maintenance. Every Lodge must also realize that the Program is to protect Lodges from catastrophic losses, not small ones.

To all Lodges - this is your money - act responsibly.



RENTAL OF LODGE PROPERTY/FACILITIES - USE OF LODGE BY OTHERS

We are frequently asked if others can use or lease part of the Lodge on a continuing basis or for special events or for infrequent periodic use.

Depending on each individual circumstance, this may be possible, but the using party should indemnify the Lodge and provide the Lodge with a certificate of insurance from their insurance company that names the Lodge as additional insured. There are instructions stated in the Liability Booklet on Pages 10-11 (also on Page 27 of the Accident Prevention Manual).

The Master Liability Program will not provide protection for caterers, those running a restaurant or food service or for anyone operating a business at the Lodge on a full or part-time basis. The using party must buy their own insurance

LEASING

In the past few years, the Order has suffered a number of losses where tenants have claimed damage to their property because of acts of the Lodge (leaking pipes, smoke, etc.). This should not happen where the Lodge leases a portion of its property because there should be a mutual hold harmless as to the property of both parties that accomplishes a waiver of subrogation. Both parties should insure their own property in the way they wish and not look to the other for payment, regardless of any allegations of negligence.

This is also true when the Lodge is a tenant. There should be no assumption of liability for damage of the landlord's property. This is the proper situation with regards to property of both parties. Any leases that do not accomplish this should be revised.

With reference to liability claims involving injured third parties (including employees of the tenant), the Lodge should receive its tenant's indemnification for all claims except where the Lodge is solely negligent. The Lodge should receive evidence of insurance naming the Lodge additional interest insured, including contractual liability coverage insuring the indemnification.





POTENTIALLY DANGEROUS AREAS IN THE LODGE

Every Lodge should take a close look at its facilities. Dangerous or potentially dangerous areas should be physically eliminated or securely blocked (not make-shift but permanent and substantial).

Stages or raised areas should have railings or should be blocked from use. Stairways not in use should be clearly marked and blocked. Entrances that are seldom used should be marked but not blocked due to safety reasons. A loud alarm system could be put in place to discourage those who won't or can't read signs.

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 has been decided that certificates of insurance naming anyone 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.

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 properly done in a sturdy fashion with a recognition of the prospective traffic expected and the abuse of wear and tear expected in celebrations.
- All fire codes must be followed and, to the extent possible, all materials should be fireproof or fire resistant.
- Planning for crowd control must be done to avoid potential injuries caused by panic or heavy attendance.
- Food served must be handled in a sanitary manner complying with health code regulations.



COMMUNICATION

It can't be emphasized too strongly that the accident prevention chairman for each state association must continue to repeat the basic message of accident prevention every year. This **MUST** be done to reinforce the safety message to new Lodge officers and managers.

REPETITION! REPETITION! REPETITION! REPETITION!



CLAIM REPORTS FROM LOCAL LODGES

As we have stated in the past, Lodges should do a better job of completing claim reports.

- The report must be completed by an authorized representative of the Lodge, NEVER by the injured party or their representative.
- Fill in all the spaces.
- If there is any indication that the claim is questionable or that the claim by the alleged injured party is misstated, please make such comments on the report.
- Any information helpful to the defense of the claim should be provided. If additional space is needed, add a page to the report.
- After any incident, the Lodge should attempt to take pictures of the site of the alleged incident. Each Lodge should have an inexpensive disposable camera available at all times.
- The Master Liability Program does not cover claims by employees injured while working. Such matters should be reported to the Lodge's Workers' Compensation Insurance Company, not the Master Liability Program.
- Damage/vandalism to cars or personal property that occurs on the Lodge premises or in the parking lot not caused by Lodge negligence will not be paid under the Master Liability Program. Such incidents should be reported and paid by the insurance carriers of the parties who own the property.

EMPLOYMENT DEFALCATION AWARENESS

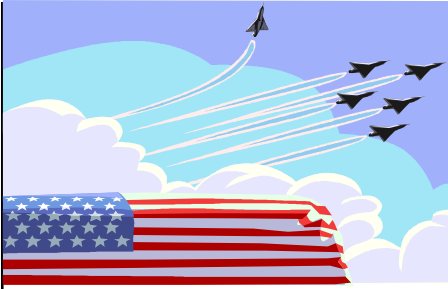
The accident prevention chairman should, on a continuing basis, remind the officers and management of Subordinate Lodges about the acts of infidelity by employees, officers or members that can lead a Lodge to bankruptcy or serious financial problems. Even small defalcations on a continuing basis (and over time) can lead to a weakening of the overall financial vitality of an organization. All too often, a Lodge is operating on a narrow survival margin. This type of incident can act as the final blow.

Every Lodge should always follow good accounting practices with a separation of functions to avoid one party having total control over expenditures or fundraising. This does not mean that the system has to be overly elaborate or overly difficult. A system to suit each Lodge will have separate functions to make sure more than one person is involved in every transaction. The elected officers should never relegate all functions to a paid manager or, for that matter, to the secretary or the chairman of the Board of Trustees. Periodic checks should be made on the operations, employees, and volunteers who handle the business of the Lodge.

The Lodges will almost always have some insurance under the Property Plus Program, but losses of this type are frequently hard to prove in order to make a full recovery. When there is a loss, the Lodge may never find out the proportions of the loss and may never be able to make a claim on the coverage available. This is especially true when the claim is experienced by a badly managed Lodge.

These losses can occur over a long period of time and can come from long-term trusted employees, officers or volunteers. Remember that, if any defalcations for any individuals are discovered (even minor ones), future actions by this individual may not be covered under the Property Plus Program.





RESPONSIBLE ALCOHOL SERVICE

The Order should be pleased with the low frequency of liquor related claims. While the frequency level was always relatively low, it would appear that this frequency has been further reduced in a substantial fashion. This emphasis on responsibility has been manifested by a marked increase in training programs for bartenders (both employed and volunteer), and a general awareness of accepted safety practices.

Each state accident prevention chairman must, on a continuing basis, keep this need for responsibility as a prime objective. Until it is universal, more training for all bartenders must be sought.

Each Lodge should review its own circumstances. If the Lodge perceives that it has members who may be problem drinkers, they should devise a means to provide those members assistance. Intoxicated persons or those approaching that state should of course not be served. This is a given but, in addition, the over-user or constant problem drinker should also be considered.

While the overwhelming majority of Lodges are trying to be responsible, there are a very few Lodges whose management has not always recognized their responsibility to the membership, the Order and the public and, by ineptitude or lack of concern, have not acted in a proper fashion. For this small minority, it is the job of each state accident prevention chairman and their assistants to educate and persuade these Lodges to change.

This small few is a burden to the Order and to those Lodges attempting to do a good job.

AVOIDANCE OF ACCIDENTS PAYS OFF

Safety pays dividends to Lodges that manage in a prudent fashion for many reasons over and above the obvious one of reducing expense for the Elks Self-Insurance Program.

- Involvement in any type of accident causes the expenditure of considerable energy by Lodge management in reporting and providing data for the adjustment of a claim. If the matter is litigated, officers and managers would be required to cooperate in the discovery of data, depositions and possible testimony at a trial. This all takes time and the expenditure of effort not directed to the Lodge's purposes.
- The occurrence of an accident may provide the Lodge with unfavorable publicity that is harmful to the Lodge's position in the community.
- The avoidance of accidents is an obligation that Lodge management must exercise to protect members, their families and guests.

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. In times of heavy use, it is wise to log inspection and cleaning times.
- To the extent possible, eliminate potential hazards. If this can not 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 cause many slips.
- In shower areas, place railings or hand holds. This is useful to persons with disabilities as well as an aging membership.





DANCING

We see a number of claims involving dancers. The Lodges do a good job of keeping the dance floors in good repair in almost every case. To a large degree, the management of the Lodges controls this activity but, each year, we have a number of claims, many of them serious, that are caused by over-impetuous actions by the injured party or by such actions by other dancers. We also have the situation where dancers put substances on the floor to make it more slippery.

The following are some major points to avoid claims:

- Make sure that the floor is in good repair with no obstacles or uneven areas. It is preferable to have non-skid flooring.
- No wax or other substances should be used or placed on the floor by unauthorized persons.
- Dancers should be encouraged to dance with proper shoes. Improper shoes or stocking feet could be a hazard.
- Dancers should be controlled so that they do not perform in a reckless fashion that could be dangerous to themselves or others.
- Signs might be posted to enforce the above-mentioned items, such as:
 - “Under no circumstances is any substance to be placed on the dance floor.”
 - “Proper shoes must be worn by all dancers.”
 - “Please respect your fellow dancers and do not dance in a fashion that may endanger your neighbor.”
- Most importantly, if a dance is held at the Lodge, there must be attentive members of management there to control activities.
- If an injury occurs, make sure the Lodge retains the names of other dancers who may have caused or contributed to the incident (bumped into injured party, put substances on floor, etc.). Also make sure to indicate the type of shoes the injured party was wearing and whether they were dancing in an unsafe manner.

BOND REQUIREMENTS FOR LODGE OFFICERS

No outside, separate or individual bonds are needed for Lodge officers, directors or trustees.

The bond requirement in the Statutes of the Order and/or the By-Laws for a local Lodge are automatically covered through the Lodge's Property Plus Program coverage. All Lodges with buildings are required to have this coverage. Even Lodges that use a temporary location or a part-time meeting facility can obtain crime coverage under the Property Plus Program if it is requested.

AVOID THE USE OF PUBLIC ADJUSTORS

In many areas of the country, “public adjustors” will make immediate contact with Lodge management when there is a large fire loss and allege that they can increase the settlement with the Lodge's insurance carrier. Frequently, the tactic used is to try to get a contract signed when there is confusion and there is a potential for action without full consideration of the consequences.

It is strongly recommended that no contract ever be signed with a public adjustor. Public adjustor contracts typically oblige the Lodge to pay 15-25% of the payment received. This payment reduces the amount the Lodge receives, and the Insurance Program does not pay for it.

All Lodges of the B.P.O. Elks are required by the Statutes of the Order to participate in the Self-Insured Property Plus Program. This Program has been in effect since 1991 and has provided improved coverage and reduced premiums for the Lodges of the Order.

Under the Property Plus Program, there are no coinsurance requirements and both the building and its contents are covered on a replacement value basis. This structure generally eliminates any basis for disagreement about recovery.

