



# Spring 2011 ISSUE 15

## *Risk Management Tools for Swim Clubs*

*For More Information Contact*

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## ***Risk Management Tools for Swim Clubs***

One of the most important ways swim clubs can manage the risk of costly liability suits and claims is by transferring that risk to others. This can and should be done whenever feasible. The opportunity presents itself frequently when outside, non-member groups, such as recreation leagues, school groups, and similar organizations, are allowed to use your pool.

Your club has two powerful tools available to use in transferring risks of loss associated with such activities which it does not directly control: hold harmless and waiver of subrogation clauses in a contract with the users and certificates of insurance.

While it is not always feasible to require every user to provide evidence of insurance for accidents or injuries which may occur as a result of their activities, it is prudent to do so whenever possible.

In many instances you can exercise more control than you might otherwise think possible with the execution of a contract with the group conducting the activity. For example, an agreement with a scout troop should include the name of the responsible adult, the number of adults who must be present for a given number of youngsters, the pool areas and equipment permitted to be used and the days and hours of use. Use should only be permitted when pool employees are present and pool rules should be enforced. Activities not permitted should also be spelled out.

If this minimum level of control cannot be exercised or the activity of the user group presents an inordinate amount of risk, then you should consider withholding permission to use your club.



A certificate of insurance should be obtained from the user group and presented to your club's Board of Directors far enough in advance to verify its validity. A certificate of insurance will state the name of the insured entity, the coverages afforded, the limits of coverage, the inception and expiration dates of the policies and other related information.

When requesting a certificate of insurance from others, you should establish the coverages you wish to be shown. Make an assessment of the risks presented by the proposed activity. Then determine whether general liability, auto liability, and/or worker's compensation are required, and ask the user group to satisfy these insurance requirements.

Once a certificate of insurance is received, the following important items require your attention.

1. Your club should be named as an additional insured on the certificate with respect to the commercial general liability insurance. The scheduled activity and location to be covered should be shown as well as any significant coverage limitations or exclusions. Without this language on the certificate and in the event of an injury, you may have to sue the user group to indemnify your club. This is important since your club will certainly be the primary target of any claim brought by someone who is injured.  
  
If the using group has employees, it should be required to show evidence of worker's compensation coverage. The using group should also be required to have automobile liability insurance, covering owned, non-owned and hired autos, especially if group transportation is provided.
2. If the certificate does not appear to have been prepared properly or if it was not recently issued, contact the agent who issued it to verify its authenticity and to request a new, corrected certificate. Many invalid and improper certificates are issued.
3. Keep track of all certificates of insurance you receive and file them in a way which will permit a fast and accurate review for current status. Place copies in a chronological file to be reviewed periodically to make sure there have been no policy expirations without receipt of a new certificate. This is especially important when the user groups' activity occurs over an extended time and past the expiration date of coverage on the certificate you have on file. You cannot depend on the user group or their agent to do this for you.

Certificates of insurance should also be obtained on a regular basis from all contractors and vendors providing goods and services to your club. These certificates may require a careful examination, depending on the nature of services provided.

The following service providers should be required to present your club with a current certificate of insurance on an annual basis:

- Pool management companies
- Pool repair/maintenance companies
- Landscape and lawn cutting contractors
- Food and beverage vendors

These certificates must evidence the existence of adequate commercial liability insurance, workers compensation and automobile liability coverages. Your swim club should be shown as an Additional Insured on the certificate with respect to the provider's commercial general liability policy.

If you ever have any questions or concerns regarding the adequacy of the insurance coverage shown on a certificate of insurance or the financial strength of the companies providing coverage, send us a copy of the certificate for our review.

While it may be difficult to completely transfer the risks associated with the use of your swim club by outside groups or organizations, obtaining proper evidence of insurance and utilizing contracts which clearly delineate the responsibility of the parties involved, can go a long way in mitigating such risks. You can also rest assured, as an officer or director of your organization that, having implemented a comprehensive risk management plan, you have exercised due care and diligence in protecting the interests of your swim club for such activities.

