

"THE CIRCLE OF SAFETY"

CONSUMER AWARENESS ADVISOR

*News and Tips to Make Your Life Easier, Safer and Happier!
For Friends and Clients of PCALIC, LLC*

P.O. Box 933·Hanover, Pa 17331·www.PCALIC.com·1-800-673-2558



Brian Barrick
Author, Consultant
President, PCALIC,

DON'T DELAY in reporting incidents that occur at your facility!

Does your policy cover a claim when the incident is reported during the policy period or only when the claim is made during the policy period? PCH Mutual covers claims of which the incident is reported during the policy period. So don't delay in reporting incidents to assure insurance protection. It's easy and fast to report an incident:

1. Log onto www.pcalic.com and enter your user login area. Click on "Forms" and then click on "Click here to report an incident".
2. Call your account manager and report the incident over the phone.
3. Fax a copy of the incident report to us at 717-630-1188.

In July 2008, The United States Court of Appeals for the Ninth Circuit, applying Oregon law, held that an insurer does not need to show prejudice in order to deny coverage on late notice grounds under a claims-made and reported policy. In an Intermediate California Court of Appeal it was ruled that there was no coverage for a lawsuit filed during the relevant policy period because it related to a demand letter received by the insured during the prior policy period, which the insured failed to file timely with the insurance company of the prior policy period.

Be Safe In The Kitchen This Holiday Season

Whether it is a weekday family dinner or most special dinner party or event, it seems that in our day and age people gather in the kitchen area. Entertainment and socialization in the home is often held in the kitchen or in the kitchen/family room areas.

Kitchen safety and safety practices are critical to a happy and safe event.

One of the first rules of safety in a kitchen and kitchen environment is that water and electricity do not mix. If you must involve water and/or using the kitchen sink it's best to remove all electrical appliances from the immediate area.

If you are using an electric element on your stovetop range it is best not to utilize the electric plug on that same range. It is amazing how rubber electric cords seem to fall onto a red hot electric element that is in use. Such a cord that touches a red hot element will quickly begin to burn and smolder. Smoke and a fire can result - setting off other flames.

Appliances that are used or just used should be kept away from children. If they are still hot, then let them cool well. Push these appliances back far away from the counter so that they do not fall over, scalding guests. Always ensure that the appliance is cool to the touch before putting it away.

If the electrical appliance has a removable power cord (say for example an electric frying pan), ensure that the cord is disconnected from the wall power sockets before removing it from the appliance. Since the cord is still plugged into the ac power source it will still be "live", and dangerous, when disconnected from the appliance, but not yet from the power source.

Lastly in terms of kitchen appliances that have sharp attachments. These can cut, if the power is still on. For the benefit of your guests and their children, ensure that these appliances are not plugged in when not in use. You can never be too safe with electrical appliances.



Don't be caught With Your Pants Down

Make certain that the information you provide on your insurance application and any supporting documents are accurate and true OR you may face the possibilities of not being covered should a claim occur. In August 2008, The United States District Court for the Western District of Pennsylvania, applying Pennsylvania law, held that an insurance company was permitted to rescind a professional liability policy based on misstatements made by the insured on the application. The court also held that no coverage as a result of the policy application warranty, dishonesty and personal profit exclusion.

Continued from Page 2....

In conclusion, the community wins many cases. However, you must take particular care in being aware of the above categories of risk when caring for a vulnerable population in your community. Proper documentation and incident reporting procedures as well as policies and procedures can be the best defense should you need to defend an incident that occurred at your community.

Important Dates to Remember:



December 24th-Christmas Eve
December 25th- Christmas Day
December 31st- New Year's Eve

It Won't Happen To Me....**Ooops**, I Guess It Can

The plaintiff, almost 100 years old living in a community in New York State, claimed he slipped on a bath mat and sustained head injuries. He later died and the family brought suit against the facility. The entire case hinged on if the ALF had provided a bath mat. Since records from the ALF revealed that it was common practice to provide bath mats (regulations required it), and the plaintiff (family of deceased resident) could provide no proof that they did not, the ALF (defendant) prevailed.

Fortunately, fewer cases involving assisted living and personal care (as opposed to nursing homes) reach the reported volumes of appellate and other reported cases, but those that do exhibit the following 5 (five) trends:

- Slips and falls
- Sexual molestation
- Wandering
- Neglect
- Employment Practices

Keep in mind that even though you may have a good case and may not be found negligent, you still may have the cost of defending your facility should a lawsuit occur. However, being prepared and proactive can reduce these expenses as well.

The earlier New York case stressed the importance of documenting every regulatory requirement and keeping track of those requirements. To our knowledge, computer tracking systems are not available to keep track of every detail of housekeeping, you must have a systematic method for record keeping. It is also of great importance that the very elderly be carefully monitored for their ambulatory capabilities.

In AL, a state known for favoritism to defendants, a resident fell while dressing herself while being attended to by a staff member. The community won a motion for summary judgment because the plaintiff did not supply any expert testimony regarding negligence by the community as it applies to falls. The ruling was based on "Careful scrutiny of...expert testimony fails to disclose any substantial evidence of the established standard of care which should have guided the caregiver in dressing the resident; absent proof for the controlling standard, there can be no deviation from caregivers deviation from the standards." Basically what this means, as long as due attention is given the resident for falling; some falls will result without negligence on the part of the community. The plaintiff must make the case. And, the community must have the proper procedures in place for incident reports and documentation to rebut the case.

Sexual Abuse and Molestation becomes complicated because the molester has a superior advantage over the victim, be the victim elderly or retarded, etc. This is the reason that background checks and careful investigation be completed on all employees to make certain of no knowledge of any known sexual assaults. In a NY case in 2006, The NY Appellate Court found that the community was not negligent in a sexual abuse case because it had not created the condition that created the danger. As the community had completed proper investigation and found no prior indications to make them believe the volunteer would engage in this activity. The act did not occur in the course of the community business activity. And the community had a reporting system that would allow the resident to feel comfortable reporting the incident without fear. However, in another case in WA State, a resident claimed rape by an employee of a community. In this case, the justice pointed out that there is a special relationship between the caregiver and the resident; therefore, special protection must be made for the safety of the resident. Sexual molestation is a foreseeable event in this setting and special precautions to prevent it must be made. There is a duty to by the community to prevent negligent supervision and hiring. A large number of cases involve residents wandering from the community.

In CA a resident's son-in-law was seeking damages for emotional distress when his grand-mother-in-law was missing from the community. In WI a judgment in excess of \$1,000,000 was made for a similar cause of action. In FL a resident wandered off the grounds and drowned in a canal. The court said, "Where a defendant's conduct creates a foreseeable zone of risk, the law will generally recognize a duty placed upon the defendant either to lessen the risk or see that sufficient precautions are taken to protect others from the hardship that the risk poses." Again the court stressing the special relationship between the resident and the community.

(Continued on Sidebar)

WELCOME!

We would like to welcome our recent new insured's:

Anthony Ray Jones-Washington
Red Oak Assisted Living-NC
Turner Seque Home- Michigan
Tamela Davidson- Washington
Brookhavens RC Center-Texas
Brookstone Village, LLC-Idaho
Karen Katimbang-Washington
Durham Ridge -North Carolina
Carol Galles-Washington
Judy Rosecrans-Oregon
Brightstar Homes & Services-GA
Ioan Termure-Washington
Kinston Assisted Living-NC
NaviGroup Venture LLC- MI
Raylynn Hill-Washington
New Age Living-MD

Thank You! Thank You!

We would like to thank the following for referring their fellow friends and family to PCALIC for a quote:

- June's House
- Henry's Personal Care Home
- Kansas Adult Family Home
- Dakota Care
- Clez Human Services
- Roseline Rowan
- Valerie Johnson



Remember: Each individual that refers someone to us for a quote will receive a \$5 Gift Card to Starbucks! This is a perfect way to enjoy your coffee on us.



Brian at the WSRCC Conference
October, 2008



Hard at Work at our
Agency Planning Meeting
October, 2008



Board of Director's
Meeting, November 2008



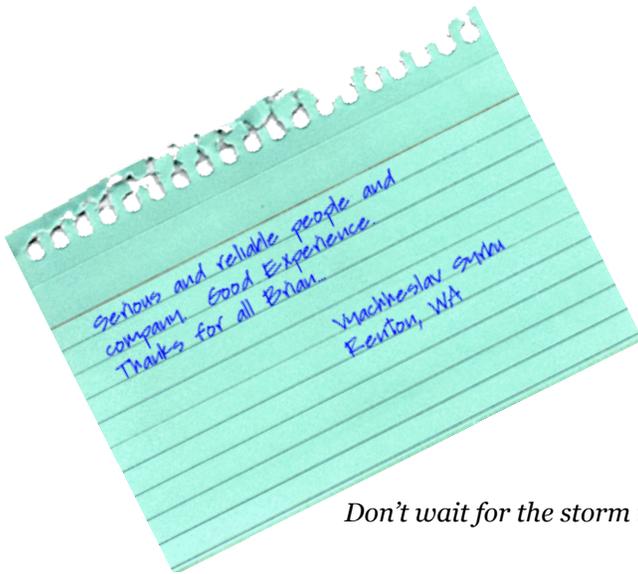
Be on the lookout for a gray envelope next month! Inside: Your chance to win a Wii Game System for your Adult Care Home!



PCALIC, LLC
P.O. Box 933
Hanover, PA 17331
Return Service Requested

PRESORTED
STANDARD
U.S. POSTAGE PAID
MAILED FROM ZIPCODE 17331
PERMIT NO. 38

“Your company has helped keep me from going out of business due to the high cost of insurance. You provided affordable and much needed liability insurance.”-Geneva Avery, Ladywood AFC Home



*Don't wait for the storm to pass – learn to dance in the rain.
Author Unknown*



Inside This Issue...

- Be safe In The KitchenPage 1
- It Won't happen to me...Oops, I guess it can.....Page 2
- Report Incidents that Occur!.....Sidebars
- Don't get Caught with your Pants Down.....Sidebars



Out page 3 and see how many individuals received free coffee just for talking about us!