



Quarterly Insight into Current Insurance Concerns for Churches

# the *steward*

## Bounce Houses Take Flight

Both figuratively and literally! In May of this year the news widely reported an incident in which a “bounce house” lost its moorings and took flight with children aboard. It all ended well enough without life threatening or permanent injuries. Two years ago, in 2012, CNN issued a report on the soaring injury rate associated with inflatable bounce houses. Yet, these entertaining devices have become ubiquitous at child oriented events, including Vacation Bible Schools. We have been asked for our opinion of them, and whether there are policy restrictions.

First, there are no current coverage restrictions in the Insurance Board program for our participants. Nevertheless, our opinion of them is one of concern. They are a variation of a trampoline, with similar injury potential. When two children’s heads collide, or one falls upon another, someone gets hurt.

So the question is, how much hurt are you willing to tolerate in order to provide a “good time?” Parents are beginning to have reservations about youth football, because of what we now know about repeated head injuries. The horror

of horrors, however, is a spinal cord injury. While we want our children to get exercise and have a good time, do we really want to sponsor an instrumentality in which someone else’s child may be permanently injured?

Hoping that we have now sufficiently alarmed you and made the hazard clear, we want to provide you some guidelines for their use, quoted from the CNN article:

- *Based on developmental abilities, don't let children under the age of 6 play in these inflatable devices.*
- *Having one child play at a time is the safest, but that's not very realistic (or much fun), so only have children of similar age and size play inside these bouncers at one time.*
- *Horseplay, flips and somersaults should be prohibited; that kind of play leads to the most dangerous injuries.*
- *Always have an adult present when these devices are in use -- but not inside with the children. Adults should be in a position to observe and intervene if children are engag-*



*ing in horseplay or doing flips and somersaults.*

Source: “Bounce House” Injuries Skyrocketing, CNN, 26Nov2012 Link: <http://www.cnn.com/2012/11/26/health/bounce-house-injuries/>

We would encourage, where possible, that the vendor supplying the bounce house operate and supervise its use, while providing you a hold harmless agreement and proof of insurance to back it up. Whether you, or a vendor, is supervising, you should assure that the rules above are being followed.

# Is Your Church A Dangerous Place?

People do get hurt at church. And if you knew who, you might be more concerned about preventing those injuries. Recently we have been tracking the demographics of who is getting hurt due to Medicare's more diligent enforcement of their right to collect medical payments from other insurers.

A table has been provided here which we will explain: By far, the highest frequency of injury is to people over age 65. The next highest frequency is children and young adults age 20 and under. However, between these disparate groups there is a great difference in the causes of injury.

Elders are injured most often on interior surfaces, stairs, parking lots and sidewalks. Young people are usually injured at play, whether on playgrounds or during athletic events. In addition, speaking only to "medical payments" coverage, the elder group accounts for 57% of the cost. Young people heal quickly or have minor injuries, while elder victims take longer to heal and require more expensive treatments.

|                | Number of Medical Payments Claims |       |       |       |       | Total |
|----------------|-----------------------------------|-------|-------|-------|-------|-------|
|                | 2008                              | 2009  | 2010  | 2011  | 2012  |       |
| Ages           |                                   |       |       |       |       |       |
| 1-20           | 32                                | 23    | 28    | 23    | 19    | 125   |
| 21-35          | 8                                 | 8     | 4     | 6     | 3     | 29    |
| 36-50          | 9                                 | 15    | 10    | 4     | 7     | 45    |
| 51-64          | 16                                | 19    | 32    | 14    | 24    | 105   |
| >65            | 47                                | 34    | 61    | 53    | 41    | 236   |
|                | 112                               | 99    | 135   | 100   | 94    | 540   |
| >65 Share Freq | 42.0%                             | 34.3% | 45.2% | 53.0% | 43.6% | 43.7% |
| >65 Share Cost | 54.1%                             | 44.3% | 48.9% | 75.7% | 56.7% | 57.7% |

To prevent these elder injuries, you have some work to do. To help evaluate your church's elder injury risk, we suggest that you do an "impaired walkabout." Older folks may walk with a "shuffling gate;" they don't pick up their feet. And they may not see well, especially in transitioning from dark to lighted spaces. Try this: put some ten pound weights on your ankles, and your darkest sunglasses. Take a spin around your narthex, sanctuary and other facilities and see how you do. When you approach stairs from

above, can you clearly see each step? Is there a convenient hand rail? Is your sanctuary really dark and your narthex really bright? Are thresholds easy to surmount? What is the condition of carpet? Is someone cleaning up wet floors during the wet months? When an elder is seriously injured as a result of a fall, the remainder of his/her life may be impaired and their quality of life reduced by chronic pain or post-surgical infections. Is that what you want for your congregants?

## just do it >>>

Your summer workout! Seven laps around the church. After a miserable winter for most of us, as this issue of The Steward arrives, it is finally summer, time to do a little inspecting.

It takes a little focus to do a thorough inspection. You can't just stare at the facades. You need a system. We are grateful to Paul Clouser, a contractor friend, who has provided a system that we will show you here. Put on some comfortable shoes. We're going to do some laps.

**Lap 1** – Inspect your roof. Bring binoculars if your roof is high. Check for missing or loose shingles, debris or anything unusual about the surface. Look at chimneys for missing mortar or bricks. Look for debris and blocked drains on flat roofs. Carefully examine the attachment of metal flashings to walls. Evaluate surface conditions and take note of excessive ponding (standing water). Take pictures.

**Lap 2** – Inspect your gutters and downspouts. Look for missing or damaged sections, debris or signs of water overflowing the gutters. When were they last cleaned? Did you have large icicles last winter that may have pulled gutters away from the building? Are downspouts flow-

ing freely or overflowing at ground level close to walls?

**Lap 3** – Inspect your overhangs. Make sure there are no animals or birds nesting there. Sealing them out permanently can be a challenge. Warning: Be sure they have left before sealing.

**Lap 4** – Inspect your siding, including masonry. Make sure there are no holes or damage. Look for soft spots on wood siding, which indicate water intrusion or poor drainage. Even brick can deteriorate this way. Note vining plants that can do damage, especially to old soft mortar.

**Lap 5** – Inspect your windows inside and out for proper operation, rot and gaps. Check sills especially under sash and where they join storm windows. You might poke around with an awl or screwdriver. Though paint may appear intact, it may be rotting underneath.

**Lap 6** – Inspect your doors from inside and out for operation and gaps. Frost may impair operation. Water intrusion may cause swelling. Emergency exit doors need to work easily.

**Lap 7** – Check your foundations, noting cracks, voids near walls, or water accumulation. Verify



that downspouts are freely flowing into storm drains or routed away from foundation walls.

Now you have an inventory. Next, you will need to set priorities and develop a budget. You must decide whether the work will be done by licensed contractors, maintenance staff or volunteers. We recommend that you keep elder volunteers off ladders. Recognize that "more caulk" is usually a very temporary solution to conditions requiring more substantial repair.

And just to be clear, we want to emphasize one point: If you have flat roofs, it is critical that you inspect drains for blockage, especially if you have trees nearby, including pine trees. If water can "pond" on your flat roof, it will find any defect to intrude to your interior.

# So....Who Owns Your Sermon Anyway?

Pastors have an extraordinary intellectual and creative burden to provide a weekly sermon that inspires, cleanses and even entertains, for virtually the same audience. How much more “under the microscope” can one’s efforts possibly be? For this effort we would expect there is a great deal of ownership assumed.

*This is my work. This is my pride and joy. This is a reflection of me and my faith. Except you (the pastor) don’t own it.*

Especially because of the proliferation of social media, from web pages, to Facebook, and live streaming and YouTube, copyrights have become a live issue, and an elusive one at that. And it is an issue that should concern clergy whose pastoral role involves a large measure of literary creativity.

*Section 201(b) of the Copyright Act states “(i)n the case of a work made for hire, the*

*employer or other person for whom the work was prepared is considered the author ... and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.” \**

Copyright law generally provides that an employer owns the work product of its employees. That means, for example, the copyright for this document, albeit authored by a single employee, belongs to the Insurance Board. If the work is created pursuant to employment, and the author is not thoroughly qualified as an “independent contractor,” the work belongs to the employer. That is, the precise employment relationship matters in the determination of copyright. For clergy that can be tricky.

Therefore, based upon the principles above,

the copyright for sermons produced in the course of employment for a church, is the property of the church. Unless a Call Agreement (or other writing) makes specific provisions for copyrights, clergy may not own sermons or other work they produce “on church time.”

Recently the UCC has added copyright language to its standard Call Agreement. The language leaves copyrights with the pastor while providing an unlimited license to the church employer. We suggest that the Call Agreement be considered a living document, and this issue provides an example of an evolving issue for which you, pastor or congregation, may wish to have some clarity.

\* -- *The Essential Guide to Copyright Law for Churches*, Richard R. Hammar, Christianity Today International, 2010, p 16.

## **when trust just isn't enough >>>**

As we have an opportunity to visit our churches “in the field” through our loss control engineering partner (ACS Group), we find a consistent shortcoming. It’s not broken steps, potholes, or leaky roofs. Instead we find a lack of financial controls; there are no detailed written documents that describe the conduct and supervision of financial transactions.

Some churches will make reference to their by-laws as the document governing finances. With virtual certainty we can state that will not be enough. In fact, it would be very cumbersome to articulate financial controls in by-laws in great detail. Changes in banking, staffing and other circumstances may require changes in financial controls. For example, beginning use of a credit card, or electronic payroll reporting, or electronic giving may require process changes. Since changes to by-laws commonly require a vote of the congregation, a cumbersome process in itself, there is the risk of adopting procedures without proper authority if the by-laws are not changed.

Often the by-laws broadly define the duties of the treasurer. The description is in sufficient detail to provide a great deal of “apparent” authority to the treasurer without sufficient checks and balances. A companion problem is the treasurer who holds the office perpetually. “Jim was a CPA. He likes doing this stuff. Let him do it.” In this situation, Jim is likely to believe he is not accountable to anyone, and he is beyond reproach. When a conflict arises regarding the finances, Jim may not be as willing to assist as the church would like; sometimes resulting in the church backing down because they don’t want to offend Jim. This is a recipe for disaster!

Our recommendation is that the treasurer’s role be circumscribed, that (s)he report to a finance committee, but be a non-voting member. There should be an audit committee, of which the treasurer is not a member. The finance committee defines financial processes and policies (authority), and the treasurer carries them out (responsibility).

If you do not now have robust financial controls, there is no need to re-invent the wheel. Each of our served denominations has published a “Treasurer Handbook” of some kind, and they are linked on our website. See Safety Solutions/Church Management. The handbook should address major transactions, to include counting of offerings, banking, purchasing, payroll, credit cards, electronic payments, etc. These procedures should be reviewed in the course of an annual independent audit. The objective of an audit is not to find fault. Rather, it is to assure that processes are working and to recommend improvements.

There are several stages at which an audit can be conducted that become progressively more difficult. Routine audits are easy. An audit that is initiated because of issues of integrity and trust will be difficult. As cases in point, see our Lessons from Loss on the back page.



## “We’re From the IRS”

So an IRS agent shows up at your church one day, where you have a pre-school with a number of employees, and asks why you haven’t paid payroll taxes in 2011 through 2013. Gulp! Of course, as a church officer you realize that you are personally liable for the payment of taxes. Whether funds are missing by theft or incompetence, you still owe the taxes. We’re talking six figures here!

The business manager admitted to not paying the taxes, but at the time of this writing it is not clear whether this was a matter of incompetence or personal gain was intended. This is an important distinction since “incompetence” is not a covered loss under the Crime policy. The taxes are still owed regardless of the cause. The church has also found that a tuition fund is short on the order of \$70,000.

If tax money and other funds were stolen, this loss will be in the neighborhood of \$300,000.

**The Lesson:** At a minimum, this loss highlights the importance of an **independent annual audit**. Other approval routines might have prevented the failure to pay taxes if it was an oversight. If the tax funds were being diverted, “separation of duties” should have prevented it. There were tax returns to be signed along the way which should have been reviewed and verified by the treasurer.

**What is an “independent” audit?** – An independent audit is one performed by persons who are not involved in the routine financial transactions of the organization. Ideally this is done by an accounting firm. Since this may be expensive for some churches, it can be done by an independent audit committee. Neither business manager, nor the treasurer can provide an “independent” audit nor may they dictate the terms of an audit. We provide links to an independent audit process on our website under **Safety Solutions/ Church Management**.

## Phantom Payroll

In our American culture we go to great ends to keep a secret what people are paid. In stark contrast, the U.S. military publishes tables that make it pretty easy to calculate what any soldier makes based on rank and years of service. In order to keep pay levels a secret we may resort to practices that create an opportunity for theft, which can occur in a couple of ways. One is the ability to create a phantom employee who no one will know about, or in the alternative, pay oneself too much.

In a recent case, it was found that the person handling payroll was paying herself an additional \$4,000 or more per pay period. This went on for some time before the payroll service company began to question it. But not before the loss accumulated to over \$150,000 in excess payroll. The larger the gross payroll, the easier it is to slip in a few thousand extra.

**The Lesson:** Clearly, the bookkeeper in this case was able to run the payroll process with complete independence and no oversight or approval routine. While a payroll service may run some checks to verify new hires, generally they process what is given to them by the customer. Therefore, an approval process (separation of duties) is required at the church level. At least two people will need to know how much everyone is earning.

The same applies to giving. How much each congregant gives to your church cannot be a secret held by one person. To do so permits syphoning of funds. Accounting for cash requires controls as well; deposits should be done by the counters on the same day, not the financial secretary on the following day.

Finally, budgets have a part to play. If we know that payroll (or any other line item) is budgeted at \$x,xxx/month, we have cause to question when that number is consistently exceeded. The finance committee should have a regular accounting of budgeted expenses against actual payments. Valuable resources can be found on our website to help your church not experience the same devastation. Look under **Safety Solutions/ Church Management**.



**INSURANCE BOARD**  
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UCC + Disciples + Presbyterian

The Steward is the joint effort of:

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*For a number of reasons, churches have increasingly become landlords to vacant buildings. Because of a number of serious losses occurring in vacant buildings recently, it has become necessary to limit the coverage for vacant buildings. And such buildings will be rated differently from occupied buildings.*

*Buildings are “systems,” and they react to their environment. The most profound damages result when pipes rupture either from a mechanical defect or from freezing. Typically, water will flow for days in the basement, and mold starts quickly. Mold can literally destroy a building. As well, the furnace will be drowned by water coming in faster than it can go out through floor drains. Sometimes someone checks on the property and finds the damage. Other times an extraordinary water bill may prompt curiosity.*

*In some climates it may be appropriate to maintain heat in a vacant building. We recommend that the water be shut off at the street, pipes be drained and toilets winterized as in a recreational vehicle. If the heat is a hot water or steam system, the general supply must be shut off and drained while maintaining a make-up water supply to the boiler system.*

*Power interruptions or power surges (during electrical storms) may also play a part. Assure that systems requiring electricity, including alarm systems, continue to operate properly after a storm or power outage.*