



A Perfect Safety Record Slip Slides Away

Even the best intentions can turn to disaster, as this case shows. Here's how to avoid the same fate.

BY MELANIE L. HERMAN

Recover Now¹ is an alcohol-recovery center for adults. This nonprofit organization has an excellent reputation in the community. Funders have applauded the organization's success in helping a diverse mix of clients cope with substance abuse and turn their lives around. The executive director of Recover Now has focused a great deal of attention on the facility's appearance. The attractive landscaping has been effective in countering the early resistance the nonprofit faced when it established the treatment center in a quiet residential neighborhood. Efforts to keep the interior spotless have been instrumental in keeping morale high among residents and staff.

One task associated with keeping the facility clean is the twice-weekly mopping of all floors and staircases. One day, a client was walking down the main staircase when he slipped and fell on the wet stairs, sustaining soft-tissue injury with a possible disk injury and bone fragment in the elbow. The client underwent medical treatment, and the tab was \$6,700, including surgery to remove a bone chip in the elbow.

The injured client sought \$85,000 for his injury and his pain and suffering.

The Investigation

The insurer interviewed the staff and claimant, requesting a description of the incident. The staff couldn't remember whether the cones normally arranged at the top and bottom of the stairs were in place on the day of the fall, and there were no witnesses. The claimant clearly sustained some injury on the premises, and the insurer recognized that it would be difficult to dispute his version of events. The question of whether the client injured his back severely enough to warrant possible surgery in the future raised concern about a possible adverse verdict if the case went to trial. The insurer concluded that the nonprofit organization would be assessed at least a portion of responsibility for this accident, perhaps as much as 75%. If a back injury were to develop, the case would have had a potential value of between \$175,000 to \$300,000, depending on the plaintiff's recovery.

The Outcome

The case went to non-binding arbitration. The arbitrator recommended an award of \$6,700 for medical expenses plus \$15,000 in general damages. The insurer decided that accepting the arbitrator's proposal

was a prudent course of action, given the possibility of a large verdict. The client accepted the arbitrator's proposed settlement, and the case was closed.

Loss Prevention Analysis

This claim illustrates how well-intentioned efforts at a nonprofit can

This column marks the debut of a new department in Nonprofit World. "Case Files" is dedicated to helping readers understand some of the typical claims filed against nonprofit organizations and the risk management steps that could have made a difference in each instance. The scenarios featured in this column are adapted from actual claims files at the Nonprofits' Insurance Alliance of California (NIAC) and the Alliance of Nonprofits for Insurance, Risk Retention Group (ANI-RRG). NIAC and ANI-RRG are part of a group of 501(c)(3) insurers owned and governed by nonprofits. For more information, visit www.insurancefornonprofits.org or call 800-359-6422.

Melanie Herman is executive director of the Nonprofit Risk Management Center, 1001 Connecticut Avenue, NW, Washington, DC 20036, www.nonprofitrisk.org, 202-785-3891). The Center, an independent nonprofit resource center, provides free technical assistance, practical publications, risk assessment software, customized training, and competitively priced consulting services.



This case points out the importance of following safety precautions consistently.

nonetheless lead to injury. It also points out the importance of following safety precautions consistently. Though working to keep its facility clean and safe, Recover Now neglected to adhere vigorously to a basic safety measure: using brightly colored cones or other signs to indicate a wet surface.

While clients and visitors may fall on your premises for no apparent reason, often these incidents can be linked to an obvious hazard. Consider the following risk management precautions to avoid these incidents:

- 1. Train all staff members—paid and volunteer—to be alert to the possibility** of hazardous conditions and to respond by either correcting the hazardous condition or notifying the appropriate person so that the condition may be remedied.
- 2. Assign responsibility to a staff member (your “inspector”)** to tour your premises periodically to look for obvious hazards. Loose carpeting or tiles, slick surfaces, broken steps, debris, and spilled liquids are hazards that can be addressed simply and for less money and effort than responding to a single incident.
- 3. Keep a maintenance log** to ensure that reports of potentially hazardous conditions are recorded and then followed up. If a hazard is logged but not reported as corrected within a reasonable amount of time, it should be checked and, if not already corrected, made a priority.

4. Explore the possibility that your premises may pose a hazard at particular times, such as during adverse weather conditions or when a particular activity is going on at your facility, such as:

- the weekly or daily cleaning routine
- special events
- tours
- the serving of meals
- client activities, such as recreational programs or group activities.

Consider how your premises could pose additional risk during these activities. For example, your organization may serve meals only during special events. The serving of food and beverages could result in a spill. During the winter months, visitors may track snow into your lobby, leaving hard-to-see puddles on your tile floor. Before any special event or major activity at your facility, have your “inspector” do a walk-through to look for hazards that may be associated with the event, such as an extension cord strung across a path that visitors will use.

- 5. Schedule cleaning and other maintenance activities during times when there is reduced traffic** in the areas to be cleaned. Visiting hours aren’t the best time to schedule mopping of staircases and lobby areas.
- 6. Respond with compassion** when someone is injured on your premises. Provide assistance, and encourage the person to obtain a

medical assessment. Contact the person the following day to express concern and find out how they are feeling. However, it’s usually best not to promise any compensation or insurance coverage until the facts are investigated.²

- 7. Use an accident reporting form** to record critical details at the time of the accident, such as time of day, lighting, presence of witnesses, and other conditions. If possible, take photos of the area at the time of the accident. The contemporaneous recording of this information will be very helpful in defending any claim that might result.

The Lesson

Empowering your paid staff and volunteers to feel responsible and accountable for the safety of your clients is an important first step in reducing the likelihood of accidents. Assigning someone in your nonprofit to conduct regular inspections of your premises is an important second step. Doing so will help you identify and address hazards before they cause injury. And remember that whatever safety precautions you develop—from using cones to demarcate wet floors to taping down extension cords—you must use these strategies consistently to ensure their effectiveness.

Footnotes

¹The name of this organization is fictional, but the factual description of the claim is based on an actual claim at the Nonprofits’ Insurance Alliance of California (NIAC).

²For details on following up on injuries and reducing risk, see these *Nonprofit World* articles: “How to Handle a Crisis” (Vol. 12, No. 1), “Risk Management: Slippery Slope or Moral Imperative?” (Vol. 16, No. 3), and “How to Cut the Risk of Lawsuits” (Vol. 17, No. 3).

These resources are available from the Society’s Resource Center, 608-274-9777, Ext. 221, www.danenet.org/snpo