



# Protecting Your Program With Paper

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# Disclaimer

This presentation contains general information only. It is not intended to provide specific legal advice. Adventure and recreation providers should consult with legal counsel in the jurisdiction(s) in which they operate. Counsel should be experienced in recreational law and familiar with laws specific to the operation.

## Understanding some terms:

Protecting your program - managing your program's risks of legal liability. (Silo 2 of your risk management plan).

“Paper” includes electronic messaging and agreements. (The “road map for the enemy” fallacy.)

# Protecting the Client (“deep grass”)

- Disclosures (information exchange –suitability).
- Emergency response.
- Environment and premises.
- Policies and practices.
- Gear.
- Records
- Administrative support (pay, logistics, morale).
- Selection, training, and supervision. (client and staff)

# Protecting your program ("clippers")

- Contracts (vendors and participants)
- Limited liability operating entity
- Insurance
- Practices and policies (yours and others')
- Emergency action plan
- Release (participant) agreement
- Understand applicable standards and laws

# Perspective

Your goal is, or should be, running a quality program—not avoiding lawsuits.

# A Quality Program

- Takes care of its clients.
- Keeps its promises and meets expectations.
- Maintains good relationships before, during and after the activity.



# **But accidents will happen, and you can be sued.**

- We are adventurers. We embrace risks.
- We are not infallible.
- We sometimes oversell ourselves.
- Expectations may not be aligned.
- Competencies may not be aligned.
- Ours is a litigious society.
- Most parents are lawyers.



# Areas of Program Protection

- Promotion
- Standards, practices and policies.
- Agreements – with vendors, contractors, participants.
- Operations – logs, reports, reviews, etc

# General requirements of writings

- Accuracy (truth)
- Clarity
- Spelling and grammar
- Reflect prevailing policies / practices

# Promotion

- Words, images and audio
- Be accurate – tell, and show, the truth
- Reduce the surprises; the “must knows”
- Anticipate and address expectations
- Disclaimers – (“we cannot / we will not..”)
- Avoid reps re safety, staff capabilities, etc

# Standards, practices and policies

- Yours and others'
- Write them down
- Make sure they are understood
- Be clear re tolerance for deviation
- Revisit regularly, with staff (and client?)  
input

# Agreements

- What the law requires – clarity, competency, meeting of the minds. consideration, lawful purpose.
- Retention issues
- Periodic review (applicability / law)

# Agreements with vendors

- Who is expected to do what, when and for what compensation?
- Expectations of quality/standards
- Protection of one party for claims arising from the acts of the other – indemnity.
- Excused non-performance, termination
- Applicable law and venue

# Agreements with Participants

- Elements
  - Activities
  - Risks
  - Inherency of Risks
  - Assumption of Risks
  - Release
  - Indemnity
  - Other (medical, media, etc.)
- Enforceability
- Applicability to minors

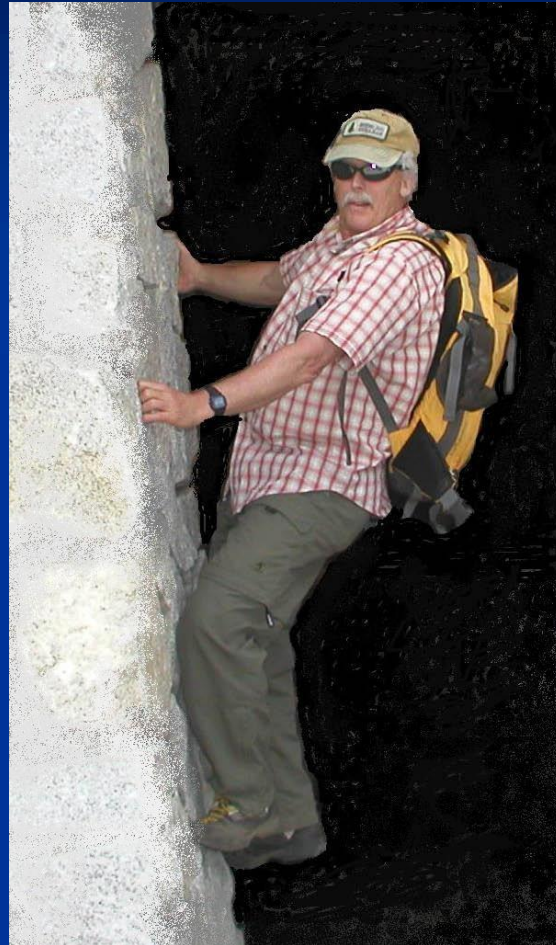


# Operations

- The emergency response plan
- Staff evals, incident reports and logs
- Reviews, internal and external
- Repeat: the “road map for the enemy” fallacy
- Staying ahead of social media (and risky postings)



# Questions....



# ...and answers



**THANK YOU!**



# Analyze-Manage-Inform

- Analyze and align your mission, activities and risks.
- Manage the risks that remain.
- Inform the client of expectations, activities and risks.

