



TEXAS PRIMA 2006 AWARDS PROGRAM

Each year Texas PRIMA recognizes selected public entity members for their successes. The Risk Manager of the Year and Risk Management Associate of the Year are two awards that honor individuals who exemplify the title through continual innovation and commitment to the Risk Management field. Risk Management Achievement Awards honor public entities with creative and successful risk management programs.

Nominations for the 2006 Awards Program are being accepted now. All nominees must be a current Texas PRIMA public entity member. Nominees for Risk Manager of the Year or Risk Management Associate of the Year must have been employed by the same public entity for a minimum of two years.

Applications and instructions for these awards may be downloaded from the website at www.texasprima.org. Information on last year’s award recipients is also available.

The deadline for nominations is Friday, September 8, 2006. Winners will be notified of their award in October and recognized at the awards luncheon during our annual conference on November 9, 2006 in Corpus Christi.

We encourage you to nominate a deserving individual for either the Risk Manager or Risk Management Associate award, as well as submitting your program, product or project to showcase as an example of innovation or excellence in our profession.

Questions may be directed to David Kester at 713-755-5586 or emailed to david_kester@hctx.net.

TEXAS PRIMA CONFERENCE UPDATE

The 2006 PRIMA Conference is scheduled for November 8th, 9th, and 10th in Corpus Christi, TX. The theme will be “Risk Management and All That Jazz.” The opening reception theme is the Roaring 20’s. So you will want to start putting your costumes together for a fun opening night.

We have a great line up of speakers and topics that will benefit everyone who attends. In addition to the door prizes, attendees will be offered a full bag of new Risk Management “tools” that can be used on the job.

Don’t miss this year’s conference in beautiful Corpus Christi!!

TEXAS PRIMA CONFERENCE SCHOLARSHIPS

Texas PRIMA is offering a limited number of conference scholarships to attend the 2006 Texas Chapter PRIMA Conference. The \$350 scholarships are available to public entity employees who have not attended the last two Texas PRIMA conferences. Funds may be used for lodging at the conference hotel, registration, and travel. Public entities include cities, counties, school districts, and many other special districts. Each eligible entity may receive one scholarship. For an application please visit www.texasprima.org or contact the Texas PRIMA office at 512/394-0719.

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Texas PRIMA is conducting a membership survey and we need your thoughts and opinions.

An electronic survey will soon be distributed to members. Texas PRIMA exists to foster the public risk management profession in public entities in Texas. This is achieved through a variety of educational and networking programs and publications. We want to know what you think we are doing well and what we can do better. The survey should take approximately 5 minutes and will provide the Board and committees with valuable information as we plan for the future. If you do not get the e-survey, please visit us on the web and click the survey link. Thank you for participating!



Scott Payne

Musings From The President...

Where has the summer gone? By the time you receive this newsletter, many of you will already have kids back in school or getting prepared to start back. I guess time really does “fly” when you are having fun!

Another event that will be here before you know it is the 17th Annual Texas PRIMA Conference & Exhibition. This year’s conference will be held at the Omni Bayfront Hotel in Corpus Christi, Texas, November 8 – 10, 2006. While you can expect the same high caliber educational sessions and networking opportunities as in previous years, there will be some significant changes in conference format this year.

Texas PRIMA is a growing, thriving organization... and that’s a very good thing! A side effect of that growth is that our conference has also grown to the size that most hotels simply do not have the necessary space to accommodate our group in terms of meeting rooms, the awards lunch, and exhibition space. At the same time, we are not big enough to have our group split over several different hotels while our educational sessions are conducted in some cavernous convention center (think National PRIMA in San Antonio in 2002). There are, however, some smaller convention centers that meet our needs... including the American Bank Center in Corpus Christi.

In utilizing the convention center for our educational sessions and exhibitor space, 2006 will be sort of an “experiment” to see if a convention center setting can work for our group. If it does, it will definitely open up additional options for future conference locations. Events and educational sessions will be held at the convention center on Wednesday and Thursday. There will be a shuttle between the hotel and the convention center – picking up on Shoreline and dropping off on Shoreline – a very short ride.

Another change stems from communication and feedback from our generous sponsors and exhibitors involving the exhibition hall hours. This year the exhibition will open with a reception Wednesday afternoon when sessions conclude for the afternoon. The exhibition hall will be open Thursday but will not be open Friday. I hope everyone will take time to visit with our corporate and risk pool partners. These partners offer many solutions for meeting the challenges public risk managers face daily. In addition to providing program solutions, their financial support ensures that the Texas PRIMA conference, as well as our other educational

opportunities throughout the year, remain an incredible value for your dollar. We’ll even sweeten the pot by providing light hors d’oeuvres, beverages, and a few special door prizes.

One of the truly special events at the PRIMA Conference is the recognition of our Risk Manager of the Year, the Risk Associate of the Year, and our Risk Management Achievement Award recipients. In this newsletter you will find an article about the program and information on how to obtain the necessary forms in order to nominate a co-worker, a peer, or even yourself for one of these awards. There are many risk management professionals and programs that are truly deserving of recognition so please consider submitting a nomination. You can’t win if you don’t play!

The award nomination process is one way of making your mark on our organization. Another way is by providing us with input on how Texas PRIMA is serving your needs. By now each of you should have received an email with a link to a membership survey. If not, you can access it from the PRIMA website at <http://www.texasprima.org>. Your honest feedback is vital in helping the Board provide programs, products and opportunities to meet the needs of the membership. If you haven’t already done so, please take a few minutes to complete the survey. If you have already submitted your comments, thank you for helping us serve you better.

And speaking of service, I am sad to report that Mark Barta, formerly with the City of San Angelo, has resigned from his Director position on the Board. Mark has taken a position with the firm of Boon-Chapman, specializing in helping corporations and public entities set up employee health clinics. On behalf of the entire Board of Directors, I want to thank Mark for his service and wish him well in his new adventure. We will certainly miss his energy and creativity.

The Board has appointed Dan Mansour, Risk Manager for Travis County, to fill Mark’s unexpired term. We are extremely happy and excited to have Dan join the Board and look forward to working with him.

Well, I guess that is enough for this issue. I look forward to seeing everyone in Corpus! Until then, submit those nominations and complete that survey... school is just starting and you already have homework!

*Scott Payne
President, Texas PRIMA
Risk Manager, City of Denton*

Notes from the Board of Directors Meeting

On July 14 & 15, 2006 the Board of Directors met in Corpus Christi to continue planning for the Annual Conference in November, and to further the progress on action plans developed at the prior Board meeting. Members in attendance were Scott Payne, Alan Smith, Cindy Kirk, Melissa Sullinger, Linda Spacek, Gary Urban, Joseph DePalma, Mark Barta, David Kester, and Tina Paquet.

During the meeting, Board member Mark Barta announced his resignation from the Board of Directors due to a job change affecting his eligibility to continue serving as a Board member. Mark's energy and dedication to the membership and Board will be sorely missed. The Board vacancy will be short-lived, however, as Daniel Mansour, ARM, with Travis County HRMD in Austin, Texas, was selected to fill Mark's position. Welcome aboard, Dan!

The Board also announced the theme for the November Annual Conference in Corpus Christi. Mark your calendars now for November 8 – 10, 2006 because you won't want to miss out on "All That Jazz."

New PRIMA Executive Director

The Public Risk Management Association (PRIMA) Board of Directors announced the selection of Lisa Lopinsky, CAE as its new Executive Director. Lopinsky assumed her new duties as Executive Director on August 14, 2006.

Prior to joining PRIMA, Lopinsky served for more than seven years as the Executive Director of the Foundation for Rural Service, the non-profit arm of the National Telecommunications Cooperative Association in Arlington, Virginia. During her tenure there, the foundation launched several exceptional educational programs, developed a college scholarship program for rural youth, established an endowment fund, and increased the foundation's size by four-fold.

Prior to joining the Foundation for Rural Service, Lopinsky was the Director of Global Marketing and Membership Development for the Association of Corporate Travel Executives in Alexandria, Virginia. In addition, Ms. Lopinsky also has held positions in the banking and government consulting industries. She has diverse and extensive experience in public affairs, marketing, fund raising, event management, governance, communications and membership development. A native West Virginian, Lopinsky is a graduate of West Virginia University.

MARK YOUR CALENDARS NOW!



Texas PRIMA 17th Annual Conference

November 8-10, 2006
Omni Bayfront Hotel
Corpus Christi, Texas

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PRIMA Converges on Las Vegas

Risk Management Professionals from across the nation and globe gathered in Las Vegas at the Paris Hotel and Convention Center June 10-14, 2006. Conference attendees participated in an action packed three days of educational sessions, networking and fellowship.



2005-06 PRIMA Central President James Huckaby (left) and Risk Manager of the Year David Kester

This was a big year for Texas in many respects. James Huckaby, Mesquite ISD, PRIMA President 2005-06 presided over conference and Linda Spacek, PRIMA Board of Director, City of San Marcos, served as the Conference Chairperson. Texas PRIMA members brought home

four awards and the highly coveted Risk Manager of the Year was received by David Kester, Director of Human Resources and Risk Management for Harris County. Awards were also received by the University of Texas System, Program Award Recipient and Tina Paquet, Insurance Manager for the City of Houston, received the Chapter Service Award recognizing her service to the Texas Chapter. Cindy Kirk, Director of Risk Management for the City of Bryan, was recognized as the 2006 International Exchange Program recipient. Cindy



Incoming PRIMA Central President Katharine M. Peeling



2006 International Exchange Risk Managers Cindy Kirk and Gerald Tait visit with the Midlothian Council in Dalkeith, Scotland to discuss the City of Bryan risk management program and tour the Council's operations.

traveled to the United Kingdom to attend the ALARM conference in June and visited her exchange Risk Manager, Gerald Tait, in Scotland. This Risk Manager of the Year program is sponsored by Trident Insurance Services

and the International Exchange Program is sponsored by Munich-American RiskPartners.

A celebration reception hosted by Texas PRIMA was held on Monday evening at the Café Ba Ba Reeba on the Las Vegas Strip. Over 100 Texas Chapter members and special guests gathered to congratulate award recipients and enjoy fellowship. Special thanks go to event sponsors: Argus Services Corporation, AS&G Claims Administration, Inc., CCS Holdings, L.P., Holmes Murphy & Associates,



Texas attendees at the PRIMA Annual Conference

McGriff, Seibels & Williams, Inc., Review Med, L.P., Scripnet, Inc., Texas Association of School Boards, TRISTAR Risk Management and Ward North America, Inc. Congratulations and thanks to all – Yeah Texas!

CD-ROMs of the Annual Conference Now Available!

Did you miss a session you wanted to hear at this year's PRIMA conference in Las Vegas? Or did you want to share one you loved with a colleague?

Well you can order them as single copies or as a set via CD! Just fill out the order form found at the PRIMA website and send it in, and soon you will be sharing the PRIMA experience with your friends, colleagues, and others. It is a great way to learn new information, share your knowledge with others, and keep the 2006 Annual Conference fresh in your memories. Simply visit our website or visit the link at: http://www.primacentral.org/meetings/2006_Annual_Conference/PRIMA_order_form_2006.doc

Next year's conference is scheduled for June 10-13 in Boston. For more information visit www.primacentral.org.

International Exchange Recipients visit with Texas PRIMA in Austin



(Left to right) Tracy Seiler, Cindy Kirk, Regan Rychetsky, Dan Stewart, Linda Spacek, Gerald Tait and wife Susan, Gary Urban and Cindy Purinton (Front)

Notice: Injured Employee Rights and Responsibilities

The Public Counsel, Office of Injured Employee Counsel, has developed and submitted a new notice of injured employee rights and responsibilities to the Department of Insurance and the Division of Workers' Compensation. Texas Labor Code Section 404.109 requires the notice to be adopted by the Commissioner of Insurance and the Commissioner of Workers' Compensation.

The Division is now providing the new notice to injured employees, which may be found on the Division's website at <http://www.tdi.state.tx.us/wc/information/workerrights.html>.

PRIMA Institute

PRIMA Institute (formerly known as GRMS) will be held in Grapevine, TX from October 16-20, 2006 at the Hilton DFW Lakes Executive Conference Center. The Curriculum will include: Foundations of Risk Management, Associate in Risk Management (ARM-54) Tutorial and Exam, and the Risk Management for Public Entities (RMPE-352) Tutorial and Exam.

Registration is available now by downloading the registration form from the PRIMA website (www.primacentral.org) and faxing or mailing it. To book your hotel room in the PRIMA block at the special rate of \$140 single or \$148 double occupancy, please visit: http://www.hilton.com/en/hi/groups/personalized/dfwahhf_2pr/index.jhtml

The room block is available from October 15 - October 20, but you must book your rooms by September 22nd to get the PRIMA rates.

For more information, please call the Education and Training Department at 703/253-1261 or email: hripley@primacentral.org.

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TDI Conference Separates Workers' Comp Component

The Texas Department of Insurance has announced that it would conduct its Compliance Conference on October 30, 31, and November 1, 2006. The conference will be at the Doubletree Hotel, IH-35 North, Austin, Texas.

A separate workers' compensation component will be conducted on December 4th and 5th. The agenda will include some of the topics from the prior TWCC Educational Conferences as well as new topics. All sessions will include a question and answer period.

Complete information is posted on the TDI and DWC web sites.

THE SAFETY CORNER: Tips When Falling

You may not be a trained athlete or an expert in karate or tae kwon do, but perhaps someone in the organization is. Someone with this expertise can talk to workers about how athletes fall without being seriously hurt. If the risk of fall injuries is high, it may be worth bringing in an outside expert for a session.

The cost is likely to be much less than a single fall or slip-and-fall claim.

The ideas here are not the only solutions to every slip, trip, and fall hazard. People vary widely in their flexibility, balance, and agility, so there is no magic bullet. Considering how often fall injuries take place, however, this problem deserves attention. We don't suggest karate lessons for employees, or gym mats for practicing how to fall, but discussions can be helpful. If employees can remember to "turn and roll" with a fall, they may avoid a painful injury.

- ◆ Roll with the fall. Bruise the meat; don't break the bones. Try to twist and roll backward, rather than falling forward. Roll into the soft tissues of your buttocks, thigh, and large back muscles. Doing this protects the back of your head and your spine.
- ◆ Turn quickly to look at the spot where your body will hit the ground. This will help turn your body to your side, rather than falling on your back. It avoids impact to the spine, concussion to the head, whiplash to the neck.
- ◆ Relax as much as possible when you begin to fall. You'll be more likely to roll with the fall than to strike an elbow or knee.
- ◆ Shout and exhale to reduce internal compression due to holding your breath. Cry out as those practicing martial arts do.
- ◆ Slap the ground. Don't "stiff-arm" the wall, floor, or ground when you fall. Slap the surface with your extended palm and inner forearm just before impact. This helps spread the impact and reduce the force of the fall. It avoids wrist, elbow, and shoulder dislocations.
- ◆ Toss the load. Protect yourself, instead of objects being carried, by letting go or tossing them clear when you start to fall. The potential cost in damage to materials or in cleanup time is usually much less than the cost of an injury.

SOURCE: Eagle Insurance Group

Stepchild Entitled to Death Benefits

The Third Court of Appeals in Austin ruled in *TPCIGA v. Magdalena Ford Morrison* that the Labor Code assumes all minor children are dependent for the purpose of determining eligibility for death benefits.

Wayne Darlington died in the course and scope of his employment in 1996. It was established that he was married by common law to Magdalena Ford, who had a child, Eric Ford, from a previous marriage. Eric was never adopted by Darlington and was determined to be his dependent stepson at the time of Darlington's death.

The Texas Workers' Compensation Commission (TWCC) awarded Eric 364 weeks of death benefits instead of benefits until he was 18 or 25 as set forth in Labor Code Section 408.183 (c) and (d). The benefits paid to Eric were terminated at the expiration of 364 weeks. Magdalena Ford appealed on Eric's behalf contending that Eric's benefits should not be limited to 364 weeks. Both sides filed cross-motions for a summary judgment. The trial court reversed the decision of the TWCC and denied TPCIGA's motion.

TPCIGA appealed and the 3rd Court of Appeals affirmed the decision of the trial court. It held that because Eric was a minor child at the time of Darlington's death, he was entitled to benefits until the age of 18 or 25 if he was a full-time student.

The 3rd Court found that a dependent stepchild is a "child" under the Workers' Compensation Act for the purposes of eligibility for death benefits. The Court found it irrelevant that Eric was a stepchild instead of a biological child of Darlington.

The Court held that under its construction of Labor Code Sections 408.182 and 408.183, Eric's status as dependent of Darlington was only relevant in determining his status as a child. Therefore, as a child, Eric was eligible to receive benefits because he was a minor at the time of Darlington's death. This Court found nothing in the language of Sections 408.182 or 408.183 to suggest that certain children, such as a dependent stepchild, are to be treated any differently than other children. Therefore, once it was established that Eric was both a minor and a child, he must be treated like any other minor child. This Court also found that the statute assumes all minor children are dependent. Every minor child's eligibility is determined by Labor Code Section 408.182(f)(1)(A), and the duration of the benefits is governed by 408.183 (c) and (d).

This Court did conclude that its construction does not render 408.183(e) meaningless; it merely limits its application to non-minor dependent children.

Employee Speech Not Protected

In a United States Supreme Court decision regarding the case of *Garcetti v. Ceballos*, the Court in a 5-4 ruling said that employee speech pursuant to official duties has no constitutional protection. The ruling, released on May 30, 2006, regarded Respondent Ceballos, a supervising deputy district attorney. As part of his duties, he was asked by defense counsel to review a case in which, counsel claimed, the affidavit police used to obtain a critical search warrant was inaccurate. Concluding after the review that the affidavit made serious misrepresentations, Ceballos relayed his findings to his supervisors, and followed up with a memorandum recommending dismissal of the case. His supervisors nevertheless proceeded with the prosecution. At a hearing on a defense motion to challenge the warrant, Ceballos recounted his observations about the affidavit, but the trial court rejected the challenge. Claiming that his supervisors then retaliated against him for his memo in violation of the First and Fourteenth Amendments, Ceballos filed a 42 U. S. C. §1983 suit. The District Court granted petitioners summary judgment, ruling that the memo was not protected speech because Ceballos wrote it pursuant to his employment duties. Reversing, the Ninth Circuit held that the memo's allegations were protected. The Supreme Court held that when public employees make statements while performing their official duties, they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.

Division Publishes First Public Notice of Violation

The Division, following Texas Department of Insurance (TDI) policy and provisions of HB 7, has issued its first press release of an administrative violation. The Division announced that the University Health System was ordered by the State Office of Administrative Hearings to pay a fine of \$2,500 to the Division for late payment of income benefits to an injured employee. University Health System is a self-insured governmental entity and, therefore, is the insurance carrier.

A spokesman for the TDI said the notice was published as part of the Division's efforts to conform to TDI's practice on notification of penalties.

The penalty was assessed because it was determined that University Health System was 23 days late in paying income benefits after receiving written notice of the injury.

Submitted by Randy McNeel, Harris & Harris.

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IMPORTANT DATES

TEXAS PRIMA:

2006 Events

September 28 - 29 Board of Directors Meeting
November 8 - 10 Texas PRIMA Conference & Exhibition (Corpus Christi)

NATIONAL PRIMA ANNUAL CONFERENCES:

June 11 - 14, 2006 Las Vegas, NV
June 10 - 13, 2007 Boston, MA
June 1 - 4, 2008 Anaheim, CA
May 31 - June 3, 2009 Dallas, TX

About This Newsletter

This newsletter is published quarterly for the benefit of the members of Texas PRIMA. However, the opinions expressed in the newsletter are those of the writers and do not necessarily represent the views of Texas PRIMA. The aim of this newsletter is to provide information to our members about Chapter events and risk management issues. Please send news, information, comments, etc. to the editor via email, hdkaplan@garlandisd.net.

The deadline for the next issue of this newsletter is two weeks following the next meeting of the Board of Directors.

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