



GREASE IS THE WORD!

Do you remember the good old days of the 1950’s where teenagers wore petty coats, drove hot cars, and went to the drive-in movie on the weekend? Whether you are old enough to remember those days or just the movie, that time period is still so popular because we long for those times. It was colorful, it was fresh, it was cool... and it is also the back drop for the working theme of this year’s annual conference!

The movie, “Grease”, had such a great soundtrack and a set of characters to relate to. So you’re the smoothest guy at school and everybody knows you and your gang? Well, you’re Danny. Or are you the one who’s always pretending to be fine, but inside it looks different? Hey Rizzo! Or are you the one with lots of boyfriends or girlfriends but a lack of self-confidence? You must be Marty. Or are you the good girl that fell for the wrong boy, and learned to be the bad girl? Then you are Sandy!

Regardless of who you relate to, “Grease is the Word.” The Conference Planning Committee is very excited about using this concept throughout the conference. Although there is still much work to be done, here are a few highlights of things you can look forward to. First, the entire conference will be casual dress, so dress like you are a high school student in 1959. The opening reception will be a sock hop along with a dance contest and a few other surprises. There will be many opportunities throughout the conference to feel like you are back in high school and ready to graduate. It doesn’t matter if you win or lose, it’s what you do with your dancin’ shoes. Make sure you save the dates and join us at Moody Gardens in Galveston, Texas, November 14th through the 16th. “Danny... is this the end? Of course not, Sandy; it’s only the beginning.”

If you have any ideas for the conference or would just love to be a part of the planning, contact Melissa Sullinger, conference chair, at Melissa.sullinger@baytown.org.

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July 2007

MEMBERS ONLY

Announcing the “Members Only” section of the Texas PRIMA website! As the recent email announced, Texas PRIMA members now have exclusive “members only” access to these valuable resources at www.texasprima.org:

- A searchable membership directory of Texas PRIMA’s members.
- Archival informational materials and presentations from previous Texas PRIMA conferences and educational meetings.
- Archival copies of Texas PRIMA’s membership newsletter — “Texas PRIMA Press”.

To log-in, visit the Texas PRIMA homepage at www.texasprima.org and click on the “MEMBERS ONLY section” tab at the top of the page. In the top right-hand corner, enter your unique member USERNAME and member PASSWORD and click the Login button. It’s that simple!

Every member of record with an e-mail address has been sent their initial login and password. Once a member has logged in for the first time they are encouraged to change their username and password to something they can easily remember. If you did not receive an email with your username and password, or if you have any questions about the process, please contact websupport@texasprima.org.

Sparks from the Smith's Anvil...



School is out for the summer. Young people have graduated from high school and are joining the labor force or going to college. Although, I do not know if anyone ever truly graduates from college. As a nation we are becoming life long learners; which is good for us, if we want to get ahead in our careers or to just want to keep up with the incredible change that is taking place. In this newsletter I want to talk about Texas PRIMA and National PRIMA's prime objective: continuing education.

Alan W. Smith The main job of PRIMA is to create networking and educational opportunities. Our current Vice President-Elect, Mellissa Sullinger, and Board Member, Regan Rychetsky, have been developing and managing our regional meetings, and are doing a great job at it. We thank them both for their hard work and we also thank our corporate members who have helped us with these regional meetings. If you have not attended one, you missed a wonderful opportunity to learn. The last one was held in South Texas. The topics at these regional meetings included the insurance market, workers' compensation developments, and health plan wellness programs.

Having gone to several of these meetings I noticed that we as a group have a unique chance to expand our networking opportunities. Although the information at the formal meetings was excellent, one of the most important things we can do is to meet other people who are working in risk management.

Those that have been in the risk management profession for awhile should consider inviting someone from the smaller entities near you in order to meet and talk about issues. Meeting at a local restaurant with no invited speaker provides a great venue to meet and exchange information. You might just find a million dollar idea. I will share with you two ideas each worth a million dollars that I got from networking. The first was early in my career. The idea was the concept of functional job skills testing. The idea was this: require that the people we hire pass a job skills test to see if they can actually do the work for which they were hired. I started requiring job skills testing for all new employees and within six months we saved \$600,000 on our workers' compensation program just in one department, our sanitation department.

The second idea that came from networking was related to the first one. Our entity was spending about \$300 per person for skills testing, which made it really hard to justify in order to test employees in our food service and custodial departments. These positions were low pay and had high turn over. Then a risk manager told me that his entity conducted their job skills testing by using a local physical therapist instead of a physician. His costs were only \$25 per person. Following that example and implementing that process, we experienced an excellent reduction in injuries, and did not even need to require X-rays. Now, at my new employer using both ideas I have been saving on both the cost of the skills testing and workers compensation injuries. Both of these ideas have saved taxpayers millions of dollars. These are just two of many great ideas I have personally received from other PRIMA members.

One more thing we as risk managers really need to think about is getting more "book learning". We may have invested our money in the stock market, or other financial markets, but have we invested our time and money into our careers, lately? The Insurance Institute of America has several great courses that are nationally recognized and that can boost not only your knowledge, but also your professional standing in risk management. Check out the course RMPE 352 Risk Management for Public Entities course or the Associate in Risk Management certificate program. The National Alliance also offers a Certified School Risk Management program. You can find out more about both programs on their respective web sites.

School has ended for many of our children at this time, but that doesn't mean it should end for us. Look into the opportunities that education might give you in your profession through certification programs, continuing education, and most importantly networking.

– Alan Smith, CPCU, ARM
President

Texas PRIMA Introduces Regional Roundtables

Over the last several years, Texas PRIMA has attempted to present regional meetings in a variety of formats. We have found that there is not one specific format that meets all of our members needs. Many people have commented about the fact that they love the educational focus of the current format but they miss the problem solving time that the luncheon meetings allowed. To meet this request the Board is planning to introduce the concept of Regional Roundtables.

Regional Roundtables will not function as regional meetings do -- with speakers and a set agenda -- nor take the place of the regional meetings that may already be planned. The Regional Roundtables will be casual with the opportunity for participants to throw topics on the table that they need information on or direction. This format should provide for diverse discussion and sharing of ideas. These meetings will be coordinated by volunteer entities within each region. If the hosting entity chooses to host a lunch meeting, the meeting can be done as a brown bag, at a restaurant, or catered with everyone paying at the door. The meetings can occur as often as once a month or once a quarter depending on the needs of each region. The really neat thing about this concept is that you form a network within your region in which everyone feels comfortable asking questions regardless of their position or how long they have been in that position.

Any member in the region may volunteer to coordinate a meeting. The hosting entity will need to arrange the meeting and then provide the information to the Texas PRIMA staff so that all members within the region receive information about the meeting. If you have additional questions, please contact Melissa Sullinger at Melissa.sullinger@baytown.org or at 281-420-5362.

State May Not Sue Local Governments

The Texas Supreme Court has ruled that the City of Galveston is immune from a suit filed against it by the State of Texas.

The case arose when the Attorney General (AG) sued the City to recover the state's costs to repair damages resulting from a ruptured City water line beneath a state highway. The City filed a plea asserting governmental immunity. The trial court granted the plea and the State appealed to the Court of Appeals, which reversed, holding that the City had no immunity from suit by the State.

The Supreme Court heard argument on February 16, 2006, but did not decide the case until March 2, 2007. In a 5:4 decision, the majority opinion reversed the Court of Appeals and held that the City was immune from suit by the State. Noting that the AG could have sought authority from the Legislature to bring this suit and that the City of Galveston is older than the State of Texas, it ruled that the common law principle of governmental immunity from suit precludes the State from suing unless the Legislature unambiguously waives immunity. Since the Legislature had not done so, the AG was precluded from bringing the suit.

Submitted by David J. Labrec, Strasburger & Price, L.L.P.

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SPOTLIGHT: Texas PRIMA Partners



JI Companies has served private and public entities and associations for over 20 years by providing high quality risk management and employee benefit services. Satisfied clients are the foundation of JI's success and continued growth with relationships that are built on mutual trust and respect. JI always keeps their clients' goals and priorities at the forefront.

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CIGNA provides expertise and integrated services that can improve the health of our members; manage costs for plan sponsors and enhance employee productivity. We engage the member via health advocacy by providing cost, quality and health information and offering sophisticated information tools and resources members can use to make health care decisions.

Through our broad array of consumer-focused programs, we help guide members to effective, quality care through industry-leading wellness initiatives, health coaching, disease management and personalized case management. "CIGNA HealthCare" refers to various operating subsidiaries of CIGNA Corporation.

State Created Danger?

The Fifth Circuit Court of Appeals in *Breen v. Texas A&M University* issued an opinion involving public employees. Although the Fifth Circuit had never expressly adopted the state-created danger theory, (liability can exist when government creates a dangerous environment that results in an individual being injured), this panel of judges' recent opinion consisted of a discussion of the theory. This opinion is at odds with a different panel of judges for the Fifth Circuit who expressly rejected this theory as recently as December 2006 in *Longoria v. State of Texas*.

The *Breen* case concerns the Texas A&M bonfire collapse that killed 12 students and injured 27 others. The plaintiffs claimed that the University and its officials created a dangerous environment for students and were deliberately indifferent to their safety by encouraging the unqualified and inexperienced students to build the bonfire without adequate supervision by University personnel. The plaintiffs claimed the University and its officials were liable under 42 U.S.C. § 1983 for violating the students' substantive due process rights to "bodily integrity."

The plaintiffs' section 1983 claims were predicated on a state-created danger theory. In order to recover under a state-created danger claim, the plaintiff must show that the harm to the plaintiff resulted because (1) the defendant's actions created or increased the danger to the plaintiff and (2) the defendant then acted with deliberate indifference toward the plaintiff.

As with any other section 1983 claim, a governmental employee is entitled to qualified immunity unless their conduct was objectively unreasonable in light of the clearly established law at the time of their actions. The clearly established law requirement ensures the defendant has fair notice that their conduct violates a plaintiffs' constitutional right. In the *Texas A&M* case, the Court held that the state-created danger theory was not clearly established law in the Fifth Circuit at the time of the accident. Therefore, the defendants were entitled to qualified immunity.

Trends in Health Care

With health care costs wreaking havoc on local government budgets, more government officials are seeking innovative ways to respond, according to a CIGNA HealthCare-sponsored survey of the International City and County Management Association's (ICMA) membership. According to the CIGNA/ICMA survey, an increasing number of municipalities and counties plan to improve their health care costs, by instituting programs that provide incentives for improving their workforces' health.

CIGNA/ICMA survey respondents said that within the next five years: 31% plan on offering rewards for participating in wellness or disease prevention programs; 24% plan on offering health risk assessments. The percentage of municipalities that offer rewards for using high quality, cost efficient providers will nearly double from 12% to 23% within the next five years. Moreover, 30% of municipalities said they expect to offer consumer directed plans, such as Health Reimbursement Arrangements (HRA)s or Health Savings Accounts (HSAs) within the next five years.

"Improving health is the key to improving health care costs, and we are increasingly seeing local governments innovate to achieve both goals for their communities," said CIGNA HealthCare Public Sector Vice President, Sheila McGinley.

*Submitted by Brian Dickerson,
CIGNA*

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Quietly Making A Difference

The City of Waco Employee Health Services Clinic (EHS) has been in business for nearly 25 years. According to Cyndy Dunlap, Vice President of Professional Services at Hillcrest Hospital, the clinic was opened in November 1982 and it was the first on-site clinic in Texas to be operated by a municipality. Cyndy, one of the first nurses to work at EHS, stated that the clinic was opened in an effort to reduce the cost of workers' compensation claims and lost time due to injuries.

From the time City of Waco employees are hired until they leave employment with the City, they are provided with diverse services at the clinic located on a bluff overlooking Lake Brazos. In addition to pre-employment exams, giving shots, managing the Family & Medical Leave Act program, and initiating workers' compensation claims, the EHS staff provides many other services free of charge to City of Waco employees. Employees are offered screenings for total cholesterol, blood pressure, weight, hearing, vision, and tuberculosis. The nurses also stock over-the-counter medications for employees as well as supplies for departmental first aid kits.



Photo left to right:
Lisa Stewart, RN; Kelli Dortch, Customer
Service Representative; Cheryl Creek, RN.

The mission of reducing costs and lost time continues today. When injured on-the-job, employees visit the clinic for their initial evaluation. Employees are either treated at the clinic and returned to work or referred to a physician. During the last five years, the nurses have processed over 1,760 workers' compensation claims. During this time frame, they also treated approximately 550 employees for minor injuries. If treated outside of the clinic, these injuries would have cost the City a minimum of \$328,500.

It is interesting to note that in the 1940's and 1950's employers in the United States often provided medical clinic services to employees. This trend somewhat disappeared during the 1960's and, only recently, have we seen its revival. As a result of the ever-increasing cost of medical care, employers around the country are once again turning to the use of on-site medical clinics.

Submitted by Gary Urban, Risk Manager, City of Waco

High-Speed Police Chases Upheld

According to an article in *Business Insurance* magazine, police may use potentially deadly force to end a high-speed chase that puts the public at risk. The U.S. Supreme Court issued a decision in the case of Timothy Scott vs. Victor Harris. This case began in 2001 when Mr. Harris suffered a severe injury that left him a paraplegic after Mr. Scott, a deputy sheriff, rammed Mr. Harris' car in an effort to stop him during a car chase in which speed sometimes exceeded 85 mph on a two-lane road.

Mr. Harris held that such a potentially deadly action violated his Fourth Amendment protections against the use of excessive force during a seizure. Both a U.S. district court and the 11th U.S. Circuit Court of Appeals rejected Mr. Scott's motion for summary judgment based on qualified immunity and said that the case should proceed to jury. Mr. Scott then appealed to the Supreme Court.

After taking the highly unusual step of watching a video of the chase – and posting it along with the decision on the Supreme Court Web site – eight of the nine justices held in favor of Mr. Scott. The court said that a police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at a risk of serious injury or death.”

See Timothy Scott vs. Victor Harris. U.S. Supreme Court. No. 05/1631. Decided April 30, 2007.

From Mark A. Hofman, Business Insurance, 05/07/07

Texas Chapter PRIMA Regional Meetings

One of the most recent in a series of Regional Meetings was hosted by Irving ISD and held at the Academy of Irving ISD. JudyAnn Robinson, Irving ISD, and Melissa Sullinger, City of Baytown, moderated the day-long meeting. The meeting contained three core areas of interest: the current insurance marketplace, House Bill 11 impact on workers' compensation, and the next generation of wellness strategies.



Susan Mullins & Jennifer Garcia

Services, Inc. They discussed the impact of the new rules and regulations on three aspects of workers' compensation... disability management, changes to the designated doctor process, and changes to the required medical examinations process.



Robert Waggoner

The topic, "Current Trends in the Marketplace," was presented by Robert Waggoner of McGriff, Seibels & Williams. During his presentation, Robert discussed property, casualty and workers' compensation marketplaces. He covered the history of hurricane claims from 1970 to 2005 and its effect on the market. He suggested that property rates

are expected to flatten. "There is more capacity in the property market right now and more insurance companies are writing coverage," he said. "However, there is a move to get accurate values."

The section of the meeting that discussed Senate Bill 11 and its impact on workers' compensation was presented by Susan Mullins and Jennifer Garcia of JI Specialty

Jarrad Wills of Homes Murphy discussed new wellness strategies that not only impact employee wellness and health plans, but also workers' compensation programs. While noting increases in health care costs and increases in the employees' share of those costs, he provided convincing evidence to base



Jarrad Wills

wellness strategies on several measurable, well defined health conditions. He identified diabetes, high cholesterol, and hypertension as three conditions that, if targeted by a wellness program, would make a significant impact on an employer's health plan. Jarrad suggested that the question employers should ask is not only how do we cut medical costs, but also how do we improve the health of our employees?

Our Employees Are Our Business...

In a world of increasing risk awareness, more and more organizations are taking a strategic, rather than tactical view on how to assess and address their risks. This point of view has contributed to the emergent discipline of enterprise risk management (ERM). ERM is a major part of the future of risk management, and all risk managers and the organizations they serve need to make it part of their business model. The Risk Maturity Model allows risk managers to assess where their own organizations stand between grasping the concepts of ERM and embracing it as a part of their daily operations.

Charles Gillenwater, Risk Manager at the City of Mesquite attended the Risk & Insurance Managers Society Annual Conference in April 2007, where RIMS offered its most robust lineup yet of ERM content, with a total of 18 sessions on the topic. Those new to ERM got to immerse themselves in ERM bootcamp, which left attendees armed with everything they need to take ERM to the next level at their own organizations. ERM journeymen and experts dug into courses featuring the busiest ERM lineup yet, with six sessions spanning all levels of expertise.

Such a track of courses is doing a lot to help risk managers everywhere implement their own ERM programs. "We

are on the cusp of moving ERM from a best practice to a requirement," says Carol Fox, senior director, risk management and business continuity planning for Convergys Corporation and the vice-chair of the RIMS ERM Development Committee. "You can gauge RIMS success in promoting ERM by the level of interest we are getting on the topic. Our approach is really helping the entire risk management discipline."

Public Sector Risk Managers (cities, counties and school districts) need to work together, as well as jointly with select business interests within their area, to formulate Enterprise Risk Management strategies that benefit one another. "We need to be leaders in taking the initiative to work together on common exposures, hazards and opportunities whenever possible," says Charles. "For example, the City of Mesquite and Mesquite Independent School District have a stake in the well-being of each entity. Because of shared community space and resources, it makes sense to have shared objectives that benefit both entities."

For additional information on ERM, visit the Center of Excellence at www.RIMS.org/ERM.

Submitted by Charles Gillenwater, Risk Manager, City of Mesquite

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IMPORTANT DATES

TEXAS PRIMA:

2007 Events

November 14 - 16 Texas PRIMA Conference & Exhibition (Galveston)

NATIONAL PRIMA ANNUAL CONFERENCES:

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 three weeks following the next meeting of the Board of Directors.

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