

LIABILITY LOSS CONTROL MANAGEMENT For Dentists' Offices SLIPS and FALLS on WALKING SURFACES

INTRODUCTION

Slip and fall incidents are a major cause of injuries in buildings, especially in lobbies, reception areas, hallways, and restrooms. As a result, the prevention and reduction of slip/fall related liability claims has become a priority for loss control efforts. This article contains brief discussions of the legal principles of premises liability, the factors involved in slipping and falling on walking surfaces, methods of controlling some of these factors, and measures to take in the event a slip and fall occurs in your office or on your premises.

LEGAL PRINCIPLES OF PREMISES LIABILITY

The legal principles governing liability in a slip and fall case are the same as those applicable to any other liability case. Any owner or occupant of premises has a duty (or obligation) to members of the public who have occasion to use those premises. It is incumbent upon the owners and occupants to maintain their premises in a reasonably safe condition for the contemplated uses.

This standard of care imposes an affirmative duty on the owner or occupant of the premises to maintain the premises in a safe and sound condition. This standard cannot be met by disregard, by allowing the walking surfaces to fall into a state of disrepair, by allowing foreign substances to accumulate on the walking surfaces, or by permitting the premises to be poorly lighted. The standard imposes an obligation of proper maintenance.

An owner or occupant owes customers or visitors a duty to exercise ordinary care to keep the walking surfaces in a reasonably safe condition for their use and to warn them of any dangerous condition that is known to the owner or occupant and unknown to the customers or visitors.

Any action or failure to act, which constitutes a violation of the standard of care, may also constitute negligence. Negligence is the failure to observe, for the protection of another's interest, such care and precaution as the circumstances justly demand, whereby injury is done such other persons or their property.

FACTORS INVOLVED IN SLIPPING AND FALLING ON A WALKING SURFACE

The principal factors involved in slipping and falling on walking surfaces can be placed into three categories of three factors each.

Any publications or forms on this website are for informational and educational purposes only. Nothing contained within this website or on any publications or forms found therein is intended to be legal or dental advice. Accordingly, PPP makes no representations regarding the correctness or completeness of the aforementioned content and accepts no liability for any injury or damage that may arise from its use by persons viewing this website. Any person viewing this website should direct any specific legal or dental questions to a competent attorney or dental professional. In addition, the information contained within this website or on any publications or forms found therein may contain or refer to matters which are outside the scope of your insurance policy, and such information and materials do not create or imply the existence of coverage. Every insured should consult its insurance policy for the specific terms and conditions of coverage.

The first category is the walking surface. The three factors relating to it are:

1. The coefficient of friction - walking surface vs. the sole of the shoe.
2. The presence of foreign substances on the surface, such as water, trash, food, ice.
3. The condition or state of repair of the walking surface, i.e., damaged or missing sections, the presence of a ramp or other change in elevation.

The second category is the individual's shoe. The factors are:

1. The coefficient of friction - the sole of the shoe vs. the walking surface.
2. The presence of a foreign substance on the sole or heel of the shoe. Such material can be as easily found on the shoe as on the walking surface.
3. The condition or state of repair of the shoe, i.e., heel height, worn-down heels, worn-down soles, holes in the sole.

The third category is the physical condition of the individual. The factors are:

1. The method of walking. There is a wide variation in the way people walk, which is revealed in the length of stride, gait, manner in which the foot contacts the walking surface.
2. Distribution of forces. Individuals vary in the distribution of vertical, lateral, and longitudinal forces exerted in walking.
3. The physical condition of the individual. Physical disabilities may contribute to a slip or fall.

Attempts to control slips and falls are focused on only one category of risk factors, the walking surface. While footwear can often create slip and fall hazards due to sole and heel material, design or condition, it is usually the walking surface that is viewed as having the greatest slip hazard.

Attempts to measure the factors involved in slips and falls have centered on only one of the risk factors, that is, the coefficient of friction. Technically, the coefficient of friction is the ratio resulting from dividing the force required to move one surface over the other (i.e., the shoe sole/heel over the walking surface) by the force pressing the two surfaces together. This coefficient is used to evaluate the degree of safety of a walking surface and is measured by any of a variety of testing devices. Generally, a static anti-slip coefficient of friction of about .50 or more is considered "safe" on a dry walking surface.

The following table is based upon ASTM, ANSI/OSHA and ADA standards:

COEFFICIENT OF FRICTION TABLE

| | |
|--------------|-------------------|
| .60 or above | - Very safe |
| .50 to .59 | - Relatively safe |
| .40 to .49 | - Dangerous |

Any publications or forms on this website are for informational and educational purposes only. Nothing contained within this website or on any publications or forms found therein is intended to be legal or dental advice. Accordingly, PPP makes no representations regarding the correctness or completeness of the aforementioned content and accepts no liability for any injury or damage that may arise from its use by persons viewing this website. Any person viewing this website should direct any specific legal or dental questions to a competent attorney or dental professional. In addition, the information contained within this website or on any publications or forms found therein may contain or refer to matters which are outside the scope of your insurance policy, and such information and materials do not create or imply the existence of coverage. Every insured should consult its insurance policy for the specific terms and conditions of coverage.

| | |
|------------|-----------------------|
| .35 to .39 | - Very dangerous |
| .00 to .34 | - Unusually dangerous |

The single most common cause of slip resistance reduction (reduction in the coefficient of friction) is contamination of the walking surface. Most often, this consists of easily visible and easily cleaned contaminants such as liquids, solid debris, mud and ice/snow melt.

METHODS TO CONTROL SLIP/FALL FACTORS

There are three tactics that can help a property owner, occupant, or office manager fulfill their duty to keep walking surfaces in a reasonably safe condition. These are good housekeeping, good maintenance, and self-inspections.

1. Good Housekeeping. The presence of foreign matter on walking surfaces is very often the key point in negligence suits resulting from slips and falls. Water, mud, snow and ice are foreign materials that significantly reduce the coefficient of friction.

- Place mats at entryways. These mats should extend far enough into the building or office that materials on shoes are absorbed before reaching hard surface floors. Wet shoes also reduce the coefficient of friction as the shoes contact the walking surface. They also leave a wet residue, which affects the slip and fall potential for those who follow.
- Mop wet surfaces as soon as they are discovered.
- Remove foreign matter from walking surfaces as soon as it is discovered. This includes all solid debris such as food items and trash.
- Maintain logs showing regular sweeping and housekeeping activities.

2. Good Maintenance. This involves the established practice of repair and upkeep of interior and exterior walking surfaces.

- Promptly repair damaged surfaces.
- Keep walking surfaces well lighted, especially entryways and parking lots. Dim lighting of walking surfaces has been considered negligence.
- Promptly correct roof leaks, plumbing leaks, sewer backup and spills from containers.

Any publications or forms on this website are for informational and educational purposes only. Nothing contained within this website or on any publications or forms found therein is intended to be legal or dental advice. Accordingly, PPP makes no representations regarding the correctness or completeness of the aforementioned content and accepts no liability for any injury or damage that may arise from its use by persons viewing this website. Any person viewing this website should direct any specific legal or dental questions to a competent attorney or dental professional. In addition, the information contained within this website or on any publications or forms found therein may contain or refer to matters which are outside the scope of your insurance policy, and such information and materials do not create or imply the existence of coverage. Every insured should consult its insurance policy for the specific terms and conditions of coverage.

- Maintain proper drainage. Concentrate on areas susceptible to leaks, spills or water accumulations (such as during inclement weather).
- Maintain logs showing maintenance activity.

3. Self-Inspections. One of the best methods for recognizing (and, therefore, correcting) slip and fall hazards is through the regular use of a self-inspection program. Inspections should include all interior and exterior areas.

- Address slippery surfaces, walkway obstacles, visibility and lighting as a minimum level of inspection.
- Investigate the availability of water absorbing floor mats.
- Investigate the availability of warning signs. (For example, "CAUTION WET FLOOR" signs).
- Use a checklist as a guide to areas which should be inspected, as well as a follow-up for previous corrective actions.
- Maintain records of all inspections and corrective action taken.

The owner or occupant of premises also has a duty to warn others of any dangerous walking surface condition known to exist. Once a slip and fall hazard has been identified by the self-inspection activity or once it has been reported by a patient, guest, tenant, visitor, or employee, suitable warnings should be posted until the hazard has been eliminated.

- Warning signs should be posted in all areas where leaks, spills, and liquid or foreign matter accumulations are known to routinely occur.
- Warning signs or safety cones should be placed around walking surfaces which are wet or which are being mopped/waxed/cleaned.
- Warning signs should be posted around walking surfaces and entryways which become dangerous during inclement weather.
- Warning signs or other indications (e.g., "traffic" yellow paint) should be used to identify exterior hazards such as curbs, car stops and changes in elevations.

Any publications or forms on this website are for informational and educational purposes only. Nothing contained within this website or on any publications or forms found therein is intended to be legal or dental advice. Accordingly, PPP makes no representations regarding the correctness or completeness of the aforementioned content and accepts no liability for any injury or damage that may arise from its use by persons viewing this website. Any person viewing this website should direct any specific legal or dental questions to a competent attorney or dental professional. In addition, the information contained within this website or on any publications or forms found therein may contain or refer to matters which are outside the scope of your insurance policy, and such information and materials do not create or imply the existence of coverage. Every insured should consult its insurance policy for the specific terms and conditions of coverage.

- For large parking lot potholes and cracks in parking lots and sidewalks, warning signs and barriers should be used until repairs are made.

It is important to note that warnings should not be viewed as the ultimate control measure. Defects and hazards should always be corrected/repared promptly.

MEASURES TO TAKE IN THE EVENT A SLIP AND FALL OCCURS ON YOUR PREMISES.

Of course the best way to control these events is with an effective loss control plan, as previously described. However, if there is an incident, the following tips can be of help in obtaining the best results possible:

- Show concern and empathy. Many situations can be diffused through the practice of good customer relations.
- Do not accept or reject liability.
- Make and record observations related to the incident.
 - **Description of the incident – date, time, place**
 - **Reason for the person being on your premises – visitor, customer, business, tenant – are they familiar with the premises?**
 - **Condition of walking surface – weather conditions – lighting – any warnings in place?**
 - **Who maintains this area? Are inspections documented?**
- Do not draw conclusions or make judgments. Stick to factual observations.

The purpose of gathering this information is not to serve as an investigation on your part. The purpose of making these observations and recording the information is to assist the efforts to efficiently handle any claim, thus controlling costs.

Author

Troy R. Bickerstaff, CIC, ATM

Vice President, Loss Control Manager

Aspen Insurance – US

Any publications or forms on this website are for informational and educational purposes only. Nothing contained within this website or on any publications or forms found therein is intended to be legal or dental advice. Accordingly, PPP makes no representations regarding the correctness or completeness of the aforementioned content and accepts no liability for any injury or damage that may arise from its use by persons viewing this website. Any person viewing this website should direct any specific legal or dental questions to a competent attorney or dental professional. In addition, the information contained within this website or on any publications or forms found therein may contain or refer to matters which are outside the scope of your insurance policy, and such information and materials do not create or imply the existence of coverage. Every insured should consult its insurance policy for the specific terms and conditions of coverage.