



Risk Management

by Michael Gentile, J.D.

Don't be afraid to help guests in danger

Another great article from *The Rooms Chronicle*, the #1 journal for hotel rooms management! ***Important notice: This article may not be reproduced without permission of the publisher or the author.*** College of Hospitality and Tourism Management, Niagara University, P.O. Box 2036, Niagara University, NY 14109-2036. Phone: 866-Read TRC. E-mail: editor@roomschronicle.com

Notice: The ideas, opinions, recommendations, and interpretations presented herein are those of the author(s). The College of Hospitality and Tourism Management, Niagara University/The Rooms Chronicle assume no responsibility for the validity of claims in items reported.

Thousands of people pass through a typical lodging property during the course of a year. These patrons range in age and health. They are on site for a variety of activities including conference meetings, social functions, recreation, dining or visiting the bar, or as overnight guests. With such a variety of guests involved in a wide range of activities, it stands to reason that over time some of these guests may have an accident or take ill while on property. These situations may require the immediate intervention of a staff member of the property in order to prevent further injury or to possibly save a life.

Often, hotel and restaurant employees are reluctant to offer assistance fearing that it may expose them to liability for further injury. Employees should not be afraid to help, to the extent that they have the ability and are trained to do so. Owners and managers, who accept money in return for hospitality services, must foresee that at some time, a guest will need *immediate* medical attention. In the case of choking or the onset of a heart attack, some guests may not be able to wait more than a few moments for paramedics to arrive. Hence, hospitality professionals have a moral and ethical duty to prepare themselves to aid guests in danger, when warranted.

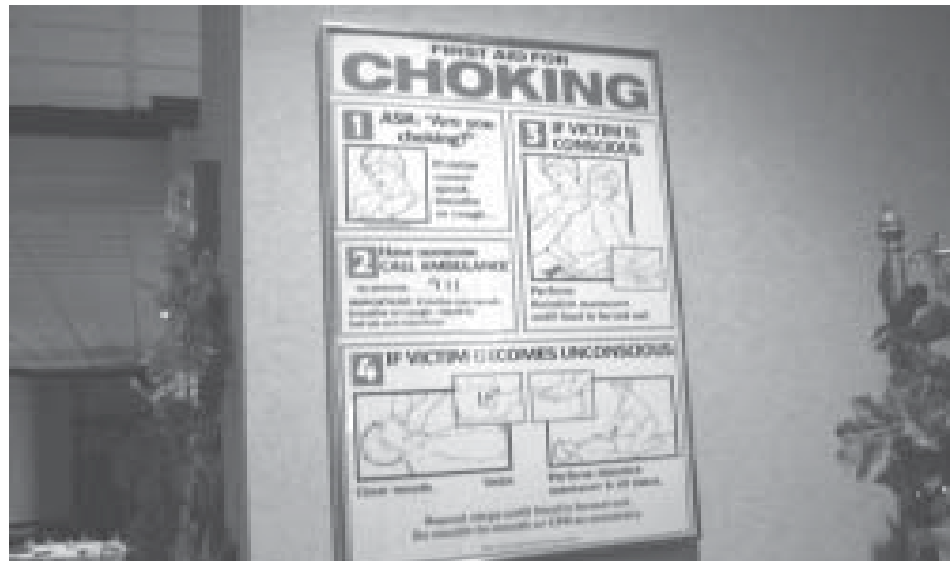
Duty of the property owner

The general rule of law is that if someone is in need of assistance one is under no legal obligation to render assistance and will not be found liable for failing to render aid. While there may be a moral or ethical obligation to help, there is not a legal obligation. However, if one does come to the aid of a person in need, the law imposes a duty of reasonable care upon the rescuer. Even though no liability results from doing nothing, the rescuer may be responsible for any negligent actions in his attempt to help. The reasoning for this is that since a rescuer volunteers to help, someone with better skills in the situation may have been precluded from offering assistance. So how does this description of the law make someone more inclined to offer assistance? The key is in the term "reasonable care."

Standard of care

Once a rescuer offers assistance in a situation, the reasonableness of their actions must be evaluated. The legal definition for reasonable care is the care offered by a person of the same training, knowledge, and education under a similar set of circumstances. Therefore, if a front desk worker with no training or experience in first aid or emergency medical procedures comes upon an ill or injured guest and decides to intervene, that person may be limited to calling 911 and securing the area to prevent further injury until help arrives, even if the person is in severe distress.

Pictured below: Many states, including New York, require restaurants to conspicuously display this First Aid for Choking poster so employees may render immediate assistance to a guest.



Under those circumstances, the actions would be reasonable. However, if the fitness center manager who is trained in such procedures and has a college degree or certification in athletic training comes upon the same situation and offers the same level of response, those actions may be considered unreasonable, because a fitness center manager would be measured by a different standard due to the training and education he brings to the situation.

Good Samaritan statutes

While the law requires persons rendering assistance to act reasonably, it also recognizes that there may be extreme emergency circumstances when this is difficult. To encourage people to help those in need of assistance, most states have adopted Good Samaritan statutes. These laws protect a person who reacts to an emergency situation when someone is in danger.

Under these statutes, a rescuer will not be held liable for injuries caused in his attempt to render assistance, as long as his actions were reasonable in relation to those unique emergency conditions at the time. Some statutes go a step further and shelter the rescuer from ordinary negligence, holding him liable only for negligence of a gross or excessive nature. Again, the reason behind such statutes is to encourage people to offer assistance in emergency situations without fear of legal liability.

Practical measures

As a property owner or manager, there are a number of steps that can be considered to make the decisions of staff members easier in times of an emergency.

1. Educate workers about their responsibilities and limits on liability in emergency situations that may occur on site. Develop a company policy or procedure for reacting to such situations to remove any obstacles that staff members may have when reacting.
2. Encourage, offer or subsidize training in emergency medical care, first aid, C.P.R., and how to apply the Heimlich maneuver. This training can be done through local organizations such as the American Red Cross or the American Heart Association. Additionally, local agencies and colleges are now obtaining Homeland Security grants that can be used to provide such training free of charge to the trainees. These may be available in the hotel's area. If management chooses not to require everyone in the organization to be trained, they should identify some key employees and areas in the operation where this training could be useful. Keep in mind, once trained, the standard of care applied to these employees in emergency situations is increased.
3. Check into the requirements for automated external defibrillators (AEDs) in the hotel's area. Some may consider these proven life-saving machines costly; but they are easy to use, easy to maintain and save the lives of many heart attack victims. Much like fire extinguishers and illuminated exit signs, AEDs are becoming standard life-safety equipment in many places of public accommodation. Management should check to see if they are required by law in their jurisdiction and consider training employees in their use.

The most important thing a manager or owner can do for their staff is to encourage them to use good judgment and act reasonably in these situations, without fear of legal liability. If ownership can relay that message, it will make the decision-making process easier and result in a better outcome for all. ✧

(Michael Gentile, J.D. is an attorney and assistant professor of recreation and sports management at Niagara University. As an attorney, he specialized in personal injury and administrative law and is the former law director for the city of Sandusky, Ohio. E-mail: mgentile@niagara.edu.)