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## **The First 15 Minutes After an Accident**

### **Step 1. DO CALL 911.**

First and foremost, get professional help and assistance. Do not leave it to the discretion of an untrained person to determine whether or not an injury requires professional medical treatment. Do not allow the delay of a decision making process to create a greater chance of liability. Call 911.

### **Step 2. DO ATTEND TO THE INJURED PARTY.**

Let them know that you have requested emergency assistance. Try to make them as comfortable as possible. If you have certified providers on your staff, allow them to administer appropriate aid. Restrict the movement of the injured party as much as possible unless the injury and the immediate aid necessitates movement.

### **Step 3. DO BE SENSITIVE AND SINCERE.**

Do not treat the customer as a liability claim. If you do, you will probably end-up with a liability claim. In discussions with many injured patrons that ultimately chose to pursue their claim, it was found that a significant reason for making a claim was the insensitive treatment exhibited by the establishment after the accident occurred. You need to treat the injured party with sensitivity, sincerity, and concern.

### **Step 4. DO NOT APOLOGIZE FOR THE ACCIDENT.**

Sensitivity, sincerity, and concern does not mean that you are responsible for the accident. Besides, until the investigation is completed you do not know if an apology by you for the accident is appropriate.

### **Step 5. DO NOT ADMIT THAT YOU OR YOUR EMPLOYEES WERE AT FAULT OR TAKE RESPONSIBILITY FOR THE ACCIDENT.**

Statements such as these right after the accident are perceived to be very credible statements of first impression. Their impact on the injured party, or the subsequent finder

of fact, whether a judge or a jury, are significant. There is just not any reason for a discussion about liability, negligence, or responsibility to occur at this time. The focus needs to be on the guest's injuries and not on the cause of the accident.

**Step 6. DO NOT OFFER TO PAY FOR THE MEDICAL EXPENSES OF THE INJURED PARTY.**

By offering or promising to pay for the medical expenses, the control person is possibly entering into a contractual arrangement with the injured party or the medical provider to pay for the cost of treatment. This contract might be enforceable even if the outcome of the investigation shows that the hospitality operation was not at fault in causing the accident. In minor injury situations, offer to call a particular doctor or treatment center for the injured party but allow them to choose the provider. In very limited circumstances, one might want to agree to pay for the initial treatment only, but specify your position in writing with the medical provider.

**Step 7. DO NOT MENTION INSURANCE COVERAGE.**

Fortunately, most hospitality operations have insurance for many types of accidents and resulting injuries that occur on the premises. Unfortunately, however, the fact that an operator has insurance will sometimes instill dollar signs into the eyes of the injured party. Psychologically, it is much easier to pursue a big, bad, cold, indifferent and unfamiliar insurance company than it is to pursue a very warm, concerned, and well meaning restaurant manager. Although a comprehensive discussion of the insurance issues that might be involved in an injury causing accident are beyond the scope of this article, owners and managers need to be certain of two things: the correct coverages are in place for their type of operation and the insurance provider is financially strong enough to pay for the highest claim which might occur under the policy. **Include a thorough review of your insurance coverage and the financial strength of your insurance provider in your preparation and prevention techniques.**

**Step 8. DO NOT DISCUSS THE CAUSE OF THE ACCIDENT.**

Discussing the cause of the accident with the injured party is a no-win situation for the control person. If the injured party argues or implies that the hospitality operation is at fault for the accident, and the control person agrees, fault has been admitted. If the control person disagrees, it will only create ill feelings and exacerbate the situation. Remaining silent is not an admission of liability and is preferable to arguing with the injured party. Another alternative is for the control person to reassure the injured party that they will conduct a complete investigation and will be happy to discuss the circumstances upon its completion.

**Step 9. DO NOT CORRECT EMPLOYEES AT THE SCENE.**

This immediate reaction can have a very serious negative impact in the future. The reprimanding of employees is sometimes interpreted by the injured party that a mistake was made or the operation caused the accident. The control people need to remember that they cannot change what has already occurred. They can only hope to positively influence the future decision making process of the injured party. This can best be accomplished by focusing on the injured party and not on the operation. There will be plenty of time to assess each individual employee's performance and take appropriate corrective action if it is warranted after the investigation has been completed.

**Step 10. DO A COMPLETE AND THOROUGH INVESTIGATION.**

Although this will take a great deal longer than fifteen-minutes, a significant amount of the information for a thorough investigation needs to be gathered immediately after the accident. If other guests saw the accident, request that they write down what they saw. Ask them to sign and date the statement and to leave their address and phone number for future contact. Some claims are not resolved for several years after the accident occurs. Attorneys and investigators will need to be able to locate the people who gave statements. It is also very important that all employees state in writing whether or not they saw the accident. If they did see the accident, they need to write down what they saw and sign the written report as well. At the time of the accident, the employee may be a member in good standing of the employment team. However, subsequent to the accident, the

employee may voluntarily leave the company or be terminated. As a result, their perception of the accident or the events leading up to it may change along with their overall perception of the company or the control people. It would not be unusual for an employee who first stated that they did not see the accident to have a revelation after being terminated and suddenly remember a significant negative aspect. Having employees state in writing whether or not they viewed the accident, and writing down what they saw, will keep the impact of this problem to a minimum.

**Step 11. DO COMPLETE A CLAIM REPORT AND SUBMIT IT TO YOUR INSURANCE COMPANY IMMEDIATELY.**

Most insurance policies require prompt notification of any and all potential claims for them to provide coverage under the policy. The reason for this is that they want their experts to become involved in the investigation as early as possible. Your failure to report the claim could cause the claim to be excluded from coverage.

**Step 12. DO NOT DISCUSS THE CIRCUMSTANCES SURROUNDING THE ACCIDENT OR THE INVESTIGATION WITH ANYONE EXCEPT THOSE WHO ABSOLUTELY NEED TO KNOW.**

Conversations and opinions given to employees or even people not associated with the business can come back to haunt you. Restrict your conversations to attorneys for the hospitality operation or authorized representatives of the insurance company.

**Step 13. DO NOT THROW AWAY RECORDS, STATEMENTS OR OTHER EVIDENCE UNTIL THE CASE IS FINALIZED.**

The case can be finalized by the statute of limitations running out without a suit being filed; a claim being made but settled prior to trial; or the case being tried and all avenues for an appeal exhausted. If you are not absolutely certain that the claim has been finalized, check with the company's attorney or the insurance company and request a letter of consent to destroy the evidence.