

# *James R. Favor & Company*

## **Phi Delta Theta Fraternity Risk Management & Insurance Program**

### **Workers' Compensation**

### **A Review of Exposures**

**&**

### **Risk Management Recommendations**

Since 1979 James R. Favor & Company has been developing and providing effective risk management and insurance programs for Sororities. This brochure was developed to assist Sororities, their officers, house corporations, chapters and volunteers in reviewing their exposures, establishing sound risk management procedures and, as necessary, accomplishing insurance program revisions which will help minimize their exposures to uninsured Workers' Compensation losses.

#### **\*\* DISCLAIMER NOTICE \*\***

THIS BASIC INFORMATION HAS BEEN PREPARED AS INFORMATION ONLY! THE ACTUAL INSURANCE POLICIES ARE SUBJECT TO DEFINITIONS, EXCLUSIONS, LIMITATIONS AND VARIOUS OTHER TERMS AND CONDITIONS. THIS INFORMATION DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE ACTUAL POLICIES.

#### **Questions and Additional Help**

***Our staff is always available to answer your questions, discuss your individual circumstances or needs, and assist you in establishing or making adjustments in your insurance program. Please contact us at James R. Favor & Company, 14466 East Evans Avenue, Aurora, Colorado 80014-1409. WATS (800) 344-7335 • TEL. (303) 750-1122 • FAX (303) 745-8669.***

**1) Workers' Compensation Insurance:** This coverage insures employers against the liabilities imposed upon them by the Workers' Compensation Laws of each state. The coverage complies with each state's law and for work related injuries, provides the statutory benefits payable to injured employees. Generally, employees receive medical benefits and compensation for lost wages. The coverage also insures employers against their potential liabilities from common law suits that might be brought by employees allegedly injured in the course of their employment.

**Practically speaking, coverage is compulsory in every state.** By securing Workers' Compensation insurance coverage, the employer is generally shielded from suits by employees for damages. Failure to maintain coverage results in the employer's loss of the common law defenses (contributory negligence, assumption of risk and negligence of fellow employees). **Failure to maintain coverage can also lead to significant additional uninsured losses via multiple damage awards, fines and penalties.**

Common sorority employers include: The National Sorority entities, Local Housing Organizations and Collegiate chapters. Sororities also face serious exposures via "Independent Contractors". **Unless "Independent Contractors" are properly insured for Workers' Compensation, a sorority employer will likely be held responsible for any benefits due to their injured workers.** Even alumni groups and volunteer activities can create unique exposures and potentially significant losses.

◆ ◆

**2) Monopolistic States:** With one unique variation, these states generally impose the same types of Workers' Compensation obligations upon employers. **The unique variation is that private insurance is not permitted.** Current monopolistic states include Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming. **The only source from which employers can secure the required Workers' Compensation insurance in these states is via the Monopolistic State Fund.**

◆ ◆

**3) Workers' Compensation Costs:** Costs are highly regulated. Costs for each employer or location are based on the benefits of each state's law and their employee exposures. The business classification and premium rates are developed by rating bureaus and approved by state insurance regulatory authorities. The rates are generally applied per \$100 of total remuneration. **Remuneration includes payroll and all other amounts payable to employees during the policy period including: any commissions or bonuses, pay for overtime, holidays, vacations, or sickness, and (if provided by the sorority employer) the fair value of room and board.**

The premium basis includes all compensation for services of the following persons: 1) All your officers and employees who engage in work covered by your State Workers' Compensation Law, 2) All other persons engaged in work or who provide services that could make the insurance company liable for benefits under your State Workers' Compensation Law.

Premiums are based on your estimated exposures and subject to adjustment by audit. Premiums are not charged for "Independent Contractors" if you provide proof (normally a certificate of insurance) that the employers of those persons have secured Workers' Compensation as required by your state law. If you do not have evidence of Workers' Compensation coverage from "Independent Contractors" and accurate payroll records for these persons, the full contract price may and will likely be used as the premium basis. **We urge you to require in advance and retain records of proof of insurance from any "Independent Contractors".**

◆ ◆

**4) Types of Coverage Programs:** In prior years, based on adverse loss experience, major sorority underwriters (except ours) broadly cancelled this important coverage. Today, as a result of the past cancellations, two very different types of insurance programs have been established by sororities: 1) A Voluntary Coverage Program, 2) A Mandatory Uniform Coverage Program.

◆ ◆

**5) Voluntary Coverage Programs:** Under a Voluntary Coverage Program, each potential sorority employer must individually determine their exposures and secure coverage as needed. An incorrect initial analysis of exposures and future changes in state statutes or operations can result in exposure changes and uninsured losses. Usually the sorority offers the option of securing coverage under a voluntary master national policy. **Underwriters restrict the coverage provided by these voluntary coverage programs unless a broad participation or spread of risk exists.**

Under Voluntary Coverage Programs today, most sorority underwriters intend that their coverage will apply only to specific employers (The National Sorority, Local Housing Organizations and Collegiate Chapters) that have clearly requested coverage and for which the insurance company has received a premium charge. **The Voluntary Coverage Program approach holds a proven potential for various types of innocent errors or omissions that have resulted in serious uninsured losses for sororities.**



**6) Mandatory Coverage Programs:** Under Mandatory Uniform Coverage Programs, all exposures or potential sorority employers secure coverage under a single master policy. If exposures exist and some coverage must be maintained outside of the sorority's master national policy (i.e., monopolistic states), the responsibility for these details should be specifically arranged with the sorority's insurance representatives.

**Mandatory Uniform Coverage Programs offer broader coverage and better value.** If no apparent employee exposures exist, underwriters will often provide coverage on an "if any" basis without cost, or in consideration of a sorority's unique "independent contractors" exposure, at nominal premium charge. **Just eliminating multiple local policies can save the sorority thousands of dollars annually in policy issue fees and minimum premium charges.**



**7) Individual State Exceptions:** Because Workers' Compensation coverage is directly related to the various individual state laws, individual states may at times present difficult exposures which require special attention. This typically results from overall adverse state claims experience usually caused by a combination of factors such as broad statutory benefits, inadequate rate levels, and quite often a difficult insurance regulatory or legal environment. When this occurs, underwriters often withdraw from writing coverage in that state and those who remain active become very restrictive. **When these circumstances arise, coverage may only be available in these states through state funds or assigned risk programs.**

Check with our office for the most current information. **In the past even when individual states have presented difficulties, usually subject to a review of exposures and acceptance, our underwriters for Mandatory Uniform Workers' Compensation Programs have been willing to accommodate these more difficult exposures.** Once revisions are accomplished to address the underwriter's difficulties in an individual state, history shows that market conditions tend to return to normal fairly quickly. **While the individual state difficulties may from time to time require that coverage for a particular state must be placed outside the sorority's master program, controls should be established to assure that coverage is maintained. Coverage should be returned to the sorority's master program as soon as possible.**



**8) Canadian Exposures:** Employee exposures do exist in Canada. **Like the individual state laws in the U.S., in Canada each province and territory administers its own act or ordinance.** Coverage is compulsory in all provinces and territories. As with the monopolistic states in the United States coverage must be secured via specific funds in the respective province or territory. Failure to maintain coverage can result in various fines and penalties. **U.S. Workers' Compensation policies do not provide any coverage in Canada.**



