

SUGGESTED SOLUTION TO THE LIABILITY CONCERNS OF THE NATIONAL SKI PATROL:

It may be correct that the National Ski Patrol is facing a serious dilemma regarding the liability aspects of patrollers and the NSP being named into litigation. However, in my opinion the previously suggested solution of removal of identification from our uniforms is seriously flawed and would have minimal effect, if any, on preventing or eliminating our involvement in litigation. That belief is shared by many NSP member attorneys.

There is a solution that would solve the problems and place the obligation of providing coverage where it really belongs, upon the ski areas which we serve. Standard commercial liability insurance policies do not include volunteers (or non-employee agents) as **insured entities** under the descriptions of who is insured. Many ski areas have automatically taken steps to include their volunteer patrols and patrollers as “**insureds**” and some policies may automatically include them. However, what about the ski areas that have not included us in their coverage?

The solution is really very simple and here is what the National Ski Patrol should be doing for us, the members:

The NSP should notify all ski areas that are represented by volunteer patrols that due to liability exposures the ski area will be required to provide coverage to the volunteer patrol (and possibly the NSP). This can be done under an endorsement known as **ADDITIONAL INSURED** endorsement. The name of the endorsement can vary by insurance company but the effect is the same. That endorsement provides us the needed coverage for our on the hill patrol activities and places the cost where it should be. In the event that a ski area declines to provide coverage and documentation, the NSP should then notify the patrollers and the ski area that they are not in compliance with NSP standards and the patrol is not recognized by NSP as a member patrol unit. Non-recognition by the NSP could probably be a defense for NSP as it would clearly establish that they are not directing the patrol activities even if some patrollers foolishly continued to patrol for that area.

That would likely be unpopular with some ski areas; they would have to bear additional costs. Now, what would that accomplish for the volunteer patrol/patroller? In a lawsuit where the allegation of negligence of a patroller may be at issue, the ski area and/or their insurance carrier has no advantage to try to push the liability onto the patroller because they would have to provide defense and indemnification coverage.

That accomplishes exactly what the NSP needs to protect the patroller as well as the NSP but does not antagonize a substantial number of the membership.

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