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# UPDATE

A Quarterly Newsletter – Fourth Issue – 2011

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## IAPD

Illinois Association of Park Districts

The IAPD  
Self-Insurance Program



# IPARKS

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Every effort has been made to ensure the accuracy of the information in this newsletter. Professional counsel should be sought before any action is taken or decision is made based on this material.

## Automatic External Defibrillators Required at Certain Park District Facilities

by Esther Joy Schwartz and Theodore W. Pannkoke  
Stellato & Schwartz, Ltd., Chicago, IL

It is a dramatic moment in countless movies and TV shows: the patient goes into cardiac arrest, and the ER team or paramedics grab the defibrillator paddles and bark, "Charging! 3, 2, 1! Clear!" But it is also often a tragic scenario in real life, as the National Conference of State Legislatures summarizes:

Each year, more than 250,000 Americans die from sudden cardiac arrest.

According to medical experts, the key to survival is timely initiation of a "chain of survival", including CPR (cardiopulmonary resuscitation). Because of recent technological advances a portable life-saving device, called an "automated external defibrillator" or "AED" has recently become an important medical tool. Trained non-medical personnel can use these simplified electronic machines to treat a person in cardiac arrest. The AED device "guides the user through the process by audible or visual prompts without requiring any discretion or judgment." The American Heart Association notes that at least

20,000 lives could be saved annually by prompt use of AEDs. Ultimately, with broad deployment of AEDs among trained responders, as many as 50,000 deaths due to sudden cardiac arrest could be prevented each year.

All 50 states now have laws or regulations that require or encourage the placement of automated external defibrillators in locations like physical fitness centers, schools, and other places of public assembly.

In Illinois, two statutes specifically cover AEDs: the Physical Fitness Facility Medical Emergency Preparedness Act and its regulations, and the Automated External Defibrillator Act. This article discusses what park district facilities are and are not required to have AEDs as well as touching upon what AED oversight and training is required.

The Physical Fitness Facility Medical Emergency Preparedness Act and its regulations do require AEDs at certain indoor and outdoor park district facilities. The PFFMEP requires AEDs at any indoor facility that:

- is owned or operated by (continued on page 2...)



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- the park district; and
- focuses on cardiovascular exertion and relatively continuous physical exercise; and
- has at least one park district employee directly supervising the physical activity; and
- annually serves 100 or more individuals who actively engage in physical exercise.

In addition, AEDs are required at any other indoor facility that:

- is owned or operated by the park district; and
- provides services or facilities focusing on cardiovascular exertion or competitive activities involving skill, chance, or endurance.

A non-exclusive list of indoor facilities under the Act and its regulations includes: swimming pools, stadiums, athletic fields, football stadiums, soccer fields, baseball diamonds, track and field facilities, tennis courts, basketball courts, volleyball courts, aerobics studios, dance studios, boxing gyms, martial arts or self-defense studios, wrestling gyms, weight-lifting facilities, treadmill or stationary bicycle facilities, velodromes, racquetball courts, gymnastics facilities, or similar facilities.

With regard to outdoor facilities, the PFFMEP requires AEDs at any outdoor facility that:

- is owned or operated by a park district that is not organized under the Park District Code, the Chicago Park District Act, or the Metro-East Park and Recreation District Act; and
- focuses on cardiovascular exertion and relatively continuous physical exercise; and
- has at least one park district employee directly supervising the physical activity; and
- annually serves 100 or more individuals who engage in physical exercise.

Moreover, AEDs are required at any other outdoor facility that:

- is owned or operated by a park district that is not organized under the Park District Code, the Chicago Park District Act, or the Metro-East Park and Recreation District Act; and
- provides services or facilities focusing on cardiovascular exertion or competitive activities involving skill, chance, or endurance.

A non-exclusive list of outdoor facilities under the Act and its regulations includes: swimming pools, athletic fields, football stadiums, soccer fields, baseball diamonds, track and field facilities, tennis courts, basketball courts, volleyball courts, golf courses, or similar facilities.

The Physical Fitness Facility Medical Emergency Preparedness Act

and its regulations do not require AEDs at the following indoor and outdoor park district facilities:

- any outdoor facility that is owned or operated by park districts that are organized under the Park District Code, the Chicago Park District Act, or the Metro-East Park and Recreation District Act or
- any facility that annually serves fewer than 100 individuals who engage in physical exercise; or
- any facility that does not employ anyone to provide instruction, training, coaching, refereeing, judging, or assistance to its users; or
- any facility during any activity or program that is privately organized and supervised by someone who is not a park district employee.

The Physical Fitness Facility Medical Emergency Preparedness Act and its regulations set forth certain requirements for the acquisition of AEDs. AEDs must have several highly-technical capabilities to be eligible for acquisition, but for present purposes, their approval by the United States Food and Drug Administration is a necessary start.

Once a park district acquires an AED, it must notify the local emergency communications or vehicle dispatch center of the device's type and location.

For indoor facilities, if there is more than one facility on the same floor of a building, one AED can cover multiple facilities so long as it is located no more than 300 feet from each facility, and access to the AED is unimpeded from each facility.

At outdoor facilities, the AED must be housed in a building within 300 feet of the facility. At the same time, these outdoor facilities only need to have an AED and a trained AED user on site and available during activities or events that the park district sponsors and that park district employees are supervising.

The AED must be mobile and accessible at all times. The park district has to take reasonable measures to ensure that the AED is maintained and tested according to the manufacturer's guidelines. The park district must keep a copy of the maintenance and testing manual with the AED at the facility. If the AED becomes inoperable, it has to be replaced within 30 days.

Every park district physical fitness facility that is required to have an AED on-site must train its staff in CPR and the use of an AED. To be a trained AED user, the person has to complete an accredited course in CPR that includes an AED component, for example, from the American Red Cross or the American Heart Association. The training must be renewed every two years. Every facility that is required to have an AED on-site also has to ensure that there is always a trained AED user on staff during normal business hours. That includes training enough staff and supervisors as *(continued on page 3...)*



AED users so that there are no gaps in scheduling coverage. Each staff member must be trained in where the AED is located. Moreover, the facility has to take reasonable measures to ensure that only trained AED users operate the AED. At the same time, untrained people are not prohibited from using the AED in a medical emergency.

Finally, each facility must also have a written plan for responding to medical emergencies that occur while the facility is open to the public, and that plan has to include the use of AEDs. Each staff member must be trained in the requirements of that medical emergency plan. The facility has to file its plan with the Department of Public Health.

The Physical Fitness Facility Medical Emergency Preparedness Act and its regulations observe that they are violated by various failures:

- to comply with the Act; or
- to adopt or implement a proper medical emergency plan; or
- to have the required numbers of AEDs on the premises; or
- to have appropriate numbers of trained AED users and applicable supervisors on staff and to avoid lapses in scheduling coverage.

Currently, Illinois' published law reports do not appear to include any cases of AED-related liability. Going forward, a park district's three key considerations are (1) to acquire appropriately eligible AEDs for facilities where they are required, (2) to reasonably maintain and test them, and (3) to ensure that there is always at least one properly trained AED user on-staff and on-site.

There used to be a requirement that if there was no such building,

## Movable Soccer Goal Safety Act

On August 2, 2011, Illinois Governor Pat Quinn signed into law a new Act designed to improve safety on soccer fields. The Act requires park districts, school districts and other organizations that host youth soccer leagues to install soccer goals that won't tip over. The Illinois Movable Soccer Goal Safety Act, HB 1130 (Public Act 97-0234), is also known as Zach's Law. It requires park districts and other agencies that own and control movable soccer goals to develop a safety and education policy that states how their agency will address the safety issues associated with movable soccer goals.

The Act may be found at the following web site:  
<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0234>

To assist IPARKS Members, the Illinois Association of Park Districts (IAPD) joined efforts with the IPARKS Loss Control Department to draft a model Movable Soccer Goal Safety and Education Policy,

then the person responsible for supervising the event or activity had to ensure that an AED is available during that event or activity, but that requirement was repealed earlier this year.

*Esther Joy Schwartz is a named partner at Stellato Schwartz. She has practiced law since 1981. She concentrates her practice in the areas of insurance coverage, bad faith, and other insurance-related services. Esther has handled insurance related disputes and bad faith litigation throughout the country and briefed and argued over 250 appeals in state and federal courts of appeal. She is directly responsible for many leading decisions in tort immunity, civil rights, and premises liability. Esther was named to the "Top 50 Female Illinois Super Lawyers" by Illinois Super Lawyers® in 2010. Since 2006, Esther has been selected each year by Leading Lawyers® Network as a "Leading Lawyer" in insurance coverage and appeals. Esther achieved an AV® Preeminent rating from Martindale-Hubbell. She is a frequent lecturer on insurance coverage law.*



*Theodore W. Pannkoke, admitted to practice in 2000, is a senior member of the firm's Appellate Practice Group. His practice is primarily directed to complex motions, post-trial proceedings, and appeals, and he enjoys a busy practice in the state and federal trial and appellate courts in Illinois. He has drafted and/or argued over 100 motions and/or appeals for nonprofit, private, and public entities, including school districts, park districts, and police departments.*

which may be obtained in the Online Resource Library at the IPARKS Web site [www.iparks.org](http://www.iparks.org).

The sample policy should be modified depending on the scope of an agency's soccer program, whether it owns movable soccer goals, and how goals are used on the agency's property.

Agencies are encouraged to work with IPARKS and their local legal counsel to implement their Movable Soccer Goal Safety and Education Policy in accordance with the Act.

If you have specific legislative questions, please contact the IAPD Offices at 1-217-523-4554.

If you have specific loss control questions, please contact Bill Bongartz, your IPARKS Loss Control Department Representative, at 1-815-235-4585.

# Member Profile: Golf Maine Park District

Nestled 15 miles northwest of Chicago, Golf Maine Park District is committed to enhancing the quality of life for residents and promoting a strong sense of community by providing a broad, diverse and challenging set of cultural and recreational programs, along with clean, beautiful and safe parks.

Mr. Bret Fahnstrom, CPRP, is the Director of Parks and Recreation at the Golf Maine Park District, a position he has held since 2008. Mr. Fahnstrom had previously served as the Superintendent of Recreation for the Golf Maine Park District (1997-2000) and possesses a variety of experiences working with park districts for the past 21 years.

When asked what he likes the most about his responsibilities, Mr. Fahnstrom replied, "I appreciate the far-reaching impact of the park district and how we relate to the community." Mr. Fahnstrom elaborated, "When I worked in programming, I was directly involved with parents, kids and people who use recreational services. As a director, I spend more time working with committees, townships, school districts, and funding sources. It is a broader perspective and I can see the long-term impact of the park district," observed Mr. Fahnstrom.



Mr. Bret Fahnstrom

"There are approximately 65 dialects spoken in our local school district. We are quite a melting pot," commented Mr. Fahnstrom. "As a result of our cultural diversity, our programming and recreational facilities attempt to reflect our community's interests. For example, Golf Maine Park District is well-known in the area for its cricket pitch."

"Cricket is a very popular game in our community," added Mr. Fahnstrom. "Between the months of April and October, the pitch is rented almost everyday. On weekends, teams are waiting to play. If I could, I would install another cricket pitch nearby. During the economic downturn, when our indoor facility rentals decreased, the cricket pitch rentals helped keep our park district viable," explained Mr. Fahnstrom.

Golf Maine Park District employs seven staff members, including Mr. Fahnstrom, and serves approximately 20,000 residents.

"It was and remains a tough economy. I am very proud of our

team's response to the challenging economic conditions," stated Mr. Fahnstrom. The team as a whole was very open to adjusting to meet current funding levels. Staff members were innovative and presented programming suggestions to meet the needs of those 20,000 residents with available resources."

Mr. Fahnstrom continued, "We made tough cuts, but we did not have to reduce staffing. The team was supportive through the entire process. Everyone took on the challenge, each one contributing his or her part and we've been successful. Also, long-tenured staff members with 10 to 20 years of service and an invested Board of Commissioners provide our park district with a level of consistency and leadership."

As for Golf Maine Park District's relationship with IPARKS, Mr. Fahnstrom was nothing but positive. "I would highly recommend IPARKS to another park district. IPARKS is responsible and reliable," stated Mr. Fahnstrom. "Last year we filed a couple of claims. We received great service.

The claims team is fast; they thoroughly investigate claims and get the answers very quickly. I don't play phone tag for four days to get a response. IPARKS provides a very high quality, excellent staff."

"Golf Maine has been an IPARKS Member for 19 years, almost since the very beginning of the program. Most of all, I appreciate the perspective that we are partners with IPARKS working together to identify solutions.

Our park district feels valued and we do not perceive IPARKS as the enemy trying to avoid paying claims. In one word, it is a partnership," commented Mr. Fahnstrom.

Thank you, Golf Maine Park District, for your ongoing participation with IPARKS. If you would like to learn more about how IPARKS can benefit your park district, forest preserve, conservation district or special recreation agency, please call 1.800.748.0554 and ask to speak with an IPARKS Representative. For more information about Golf Maine Park District, we invite you to visit its web site at [www.gmpd.org](http://www.gmpd.org).



# Lessons Learned from Accidents

## Lesson #1

The 52-year-old male claimant worked in the administration office. He had been employed by the entity for approximately five years before being terminated. The entity contends that they fired him because of performance issues. The claimant alleges that they terminated him because of his age. There is no documentation of disciplinary action

or negative performance evaluations in the employee's personnel file. However, the supervisor has come forward with a number of examples where the employee failed to perform his duties adequately. It will require extensive testimony to prove legitimate non-discriminatory reasons for the discharge.

### *What can be learned?*

- Have a discipline policy and form in place. The form should include the date and time of the incident that prompted the discipline, a description of the incident, details about the specific policy that was violated and action taken against the worker. To ensure that the recollection of events is fresh, fill out the form as quickly as possible after the incident. There is a document, "Employee Warning Notice Form," available in the Online Resource Library.
- Focus on the facts. It is important to make sure that anyone who will later read the form has a clear picture of what happened and why the worker was disciplined. The Online Resource Library has videos on discipline, entitled "Documenting Discipline 1" and "How to Legally Document Employee Discipline."
- Be objective. Describe the conduct that led to the discipline. For instance, you shouldn't say, "Tom is a bad worker." Instead, focus on the specific problems that Tom had. "Tom violated personnel issues today. He used his PC to answer personal e-mail during working hours, and he made a personal phone call when a member of the public was in the office."

- Get the worker involved. Be sure to review the form with the employee. Have the employee sign and date the form. If he or she refuses to do so, note the refusal on the form, then sign it yourself. Check out the Library's PowerPoint presentation entitled, "Discipline and Termination."

## Lesson #2

An intersection accident involving four motor vehicles, one being driven by a park district employee, resulted in several passengers being injured. The park district's driver collided with another vehicle and both vehicles ended up hitting two other cars. The park district's driver was cited for failure to yield, as he was turning left into oncoming traffic. Some passengers sustained minor soft tissue injuries, while the 48-year-old plaintiff sustained a fractured leg which required surgery.

### *What can be learned?*

- Have a written driving policy that has been reviewed and approved by legal counsel. The policy should include annual motor vehicle record (MVR) checks to ensure that all drivers have an acceptable driving record. The Online Resource Library has DVDs on driving safety including "Preventing Motor Vehicle Collisions."
- Have a documented drivers training program. Check out the Library's PowerPoint presentation entitled, "Motor Vehicle Risk Management".
- Perform documented preventive maintenance and pre-trip inspections on all vehicles. There are documents entitled, "Vehicle Inspection Checklist" and "Vehicle Maintenance", available in the Online Resource Library.

Remember to check out the Online Resource Library for DVDs, videos, PowerPoint presentations, documents, and online training for your safety needs.

# Fall is the Season to Prevent Trips, Slips and Falls

Since Fall is upon us, it is a good time to talk about “falls”. Do you know that falls are the second leading cause of accidental death in the United States? Death from falls ranks second only to auto accidents.

Did you also know that most falls occur between September and March?

For a public entity, when an employee is injured on member-owned and maintained property, that translates into time off for the injured employee, lost production, and a possible workers’ compensation claim. When a member of the public is injured on that same property, it could mean a lawsuit.

So, what are the best methods for preventing injuries as a result of trips, slips and falls?

## *Trips*

Trips are most likely to occur when one’s view is obstructed, there is clutter in the walkway, or the walkway is in need of repair. Please remember to:

- Use the lights in the room and do not forget to replace faulty light bulbs and switches.
- Regularly check to make sure emergency lighting is operational.
- Improve poor lighting conditions.
- Use a flashlight or other light source if entering a dark room or area.
  - Free walkways of objects, debris and clutter.
  - Close file cabinet and storage drawers.
  - Secure carpet and rugs that do not lay flat.
  - Cover cables or other trip hazards that cannot be removed from walkways.
  - Inspect outdoor walkways on a regular basis and repair as necessary.
  - Learn to recognize trip hazards and quickly correct them.

## *Slips*

The main causes of slips are wet surfaces as a result of ice and/or snow, or a liquid spill. Some precautions to put into practice are:

- Immediately clean up a spill. If you or someone else sees a spill, clean it up quickly.
- Slow down to keep a firm footing and your balance.

- Check your shoes. Make sure they are providing you with enough traction.
- Watch out for wet shoes on a dry floor. This will also cause slips.
- Post signs to warn of wet or slippery areas.
- Inspect outside walkways for water/ice accumulation so that extra attention may be paid to salting those areas.
- Use abrasive strips to help increase traction and replace worn abrasive strips, especially on stairs.

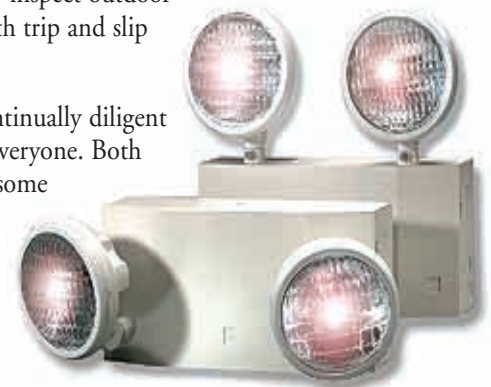
- Watch for weather hazards. Be diligent in preventing slips by frequently salting an icy area.
- Secure loose mats or unanchored rugs.

## *Falls*

Many injuries that are caused by falls occur in and around offices. Please remember to:

- Address weather hazards quickly. Keep in mind that wet leaves can be slippery and ice patches can exist beneath snow.
- Take time to obtain the right equipment for a job and use it properly.
- Check your stepladders and extension ladders thoroughly. Make sure there are no broken rungs and the ladder is secured properly when it is used.
- Evaluate the flooring. Installing mats, recoating floors, adding abrasive strips or abrasive coating should be considered.
- For employees, selecting proper footwear is essential. There is no footwear with anti-slip properties for every condition; therefore, consultation with footwear manufacturers is highly recommended.
- As stated above, regularly inspect outdoor walking pathways for both trip and slip hazards.

Public entities must be continually diligent about safety practices for everyone. Both trips and slips result from some kind of unintended or unexpected change in the contact between the feet and the ground or walking surface. Good housekeeping, regular inspections, quality of both indoor and outdoor walking surfaces (flooring and concrete), adequate lighting, and selection of proper footwear are critical in preventing accidents. Invest in the future, be safety-minded today.



# Service Provider Profile: Public Entity Risk Services (PERS)

Public Entity Risk Services (PERS) provides comprehensive claim handling services to IPARKS Members. With more than 39 years of claims experience, Mr. Frank Miller, PERS Claim Manager, leads the PERS Claim staff, manages the more complex claims, and helps IPARKS Members resolve difficult issues.

When asked what he likes most about his responsibilities, Mr. Miller replied, "I appreciate helping IPARKS Members by shouldering the stress of claims handling." Mr. Miller continued, "Since June 1, 2009, we have handled 734 claims for IPARKS Members. We have found IPARKS Members to be knowledgeable on most claim situations and helpful in supplying the information required to properly evaluate and adjust the claims reported."

Mr. Miller shared the following advice, "It is always helpful for IPARKS Members to report claims immediately as, over time, this leads to the most economic claim resolution and helps our department to have better control over the claim through appropriate early communication."

"Our claim representatives make every effort to provide good customer service," commented Mr. Miller. In addition to Mr. Miller, the PERS Team is comprised of six members. Aaron Scharmota, Tonia Sherman, Brenda Snyder and John Mullarkey are claims representatives and multi-line adjusters, handling property damage and bodily injury liability losses, as well as Member property and auto physical damage (APD) claims. Marjie Akers, Office Assistant, builds new files, assists claimants with questions regarding their losses and maintains all claims records.

According to Mr. Miller, in addition to excellent customer service, PERS also provides claim management for complex litigation, which is one of PERS' strengths. The PERS Claim Staff leads the way with



Mr. Frank Miller

an aggressive litigation management program. John Baum serves as the Litigation Specialist managing the high-exposure and litigated files. PERS encourages IPARKS Members' input and involvement during every phase of the claims investigation process: discovery, mediation and trial.

PERS provides:

- Prompt and Efficient Service
- Park District, Forest Preserve, Conservation District, and Special Recreation Agency Expertise
- Claim Staff Dedicated Solely to Public Entity Claims
- Proactive Performance Management and Quality Control
- Superior Litigation Management
- Statewide Network of Experienced Defense Attorneys
- Collection/Analysis of Integrated Loss Data

Three ways to reach PERS:

- 1) Telephone: 866.964.6257
- 2) Fax: 800.693.9610
- 3) E-mail: [makers@iparks.org](mailto:makers@iparks.org)

For more information about the claim services provided by PERS, please call 1.800.693.9610. They look forward to speaking with you.

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*Everything you need can be found on the IPARKS Web site... like contact information, claims and loss control information, current & archived newsletters, and the calendar of events.*

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## Online Resource Library

Check out the newly remodeled Online Resource Library. We would like to remind you that as an IPARKS Member, you have access to thousands of resources in the Online Resource Library at no cost to you. In addition, new resources are continually being added to the Library throughout the year.

Follow the instructions below to enter the Library and access resources.

- Go to the IPARKS Web site, [www.iparks.org](http://www.iparks.org).
- Click on the "Loss Control Library".
- If you are already registered for the Library, simply enter your username and password, and click the "Login" button. If you are not registered, please click on "Register to Use the Online Resource Library" and complete the form. If you cannot remember your password, please click on "Forgot Your Password" and enter your e-mail address – your password will be e-mailed back to you.

If you have any questions, please feel free to contact the IPARKS Loss Control Administrator at 1-800-367-4818.



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## IPARKS Earns AAA Rating

Demotech, Inc., a leading financial analysis firm located in Dublin, Ohio, recently completed its annual audit of the program. For the 16th consecutive year, IPARKS has earned the highest possible rating in all assessment categories. IPARKS was evaluated within the areas of financial stability, loss reserves, administration and overall performance.

**Financial Stability** – Based upon Demotech’s independent review of pertinent data, IPARKS earned a rating of: AAA (Unsurpassed).

**Loss Reserve Opinion** – Based on the firm’s review and analysis of IPARKS’ Intergovernmental Contract and the program’s loss reserves, IPARKS’ loss reserve adequacy was rated as: AAA (Unsurpassed).

**Administration** – Based upon Demotech’s independent investigation and review of the procedures and controls utilized by

American Risk Pooling Consultants, Inc. (ARPCO), the pool’s administrator, IPARKS earned a rating of: AAA (unsurpassed).

**Overall Performance** – Finally, based on the opinions, analysis and the overall history of the program, IPARKS earned an overall rating of: AAA (Unsurpassed).

IPARKS continues to fulfill its founding principle of providing long-term, stable and broad coverage to park districts, forest preserves and conservation districts in the state of Illinois. On behalf of the IPARKS Board of Directors, the Illinois Association of Park Districts, the various program service providers and over 160 fellow members, thank you for your continued support and participation.

If you are not already a member and would like to learn more about IPARKS, please call 1-800-748-0554 or visit the web site at [www.iparks.org](http://www.iparks.org).



## Upcoming Events

The 2012 IAPD/IPRA Soaring to New Heights Conference will be held January 26-28 at the Hyatt Regency Chicago. The conference proudly features more than 200 educational sessions, an exhibit hall where more than 300 exhibitors showcase their latest and greatest products and services, and a variety of networking opportunities. Each year, more than 4,200 of Illinois’ park and recreation professionals, elected and appointed officials/commissioners, and students make this conference the event to attend.

For more information, including registration details, we invite you to visit the conference web site at [www.ilparksconference.com](http://www.ilparksconference.com). We look forward to seeing you there!

