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MEMORANDUM

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99 JUL -5 PM 9:19
Fitzpatrick, Lentz & Bubba, P.C.
Center Valley, PA 18034-0219

**TO: ROBERT E. NYCE, EXECUTIVE DIRECTOR
INDEPENDENT REGULATORY REVIEW COMMISSION**

**CHARLES TYRRELL, ANALYST
INDEPENDENT REGULATORY REVIEW COMMISSION**

FROM: JOSEPH A. BUBBA, ESQUIRE

**RE: DEPARTMENT OF HEALTH REGULATION #10-155/
PUBLIC SWIMMING AND BATHING PLACES**

DATE: JUNE 30, 1999



=====

On April 15, 1999, the Independent Regulatory Review Commission ("IRRC") issued Comments on the proposed Department of Health Lifeguard Regulations. This firm has been asked by Cedar Fair, L.P. as the owner and operator of Dorney Park and Wildwater Kingdom to respond to those Comments.

Dorney Park and Wildwater Kingdom supports the Regulations as proposed by the Department of Health. Those Regulations were the result of the Department's receipt and review of a significant amount of material from the aquatic industry including specifically independent lifeguard certifying agencies. The Park believes the Regulations regarding "lifeguard coverage" represent the state of the art of the aquatic safety industry. In that regard, while the Park recognizes and applauds IRRC's desire to protect public health, safety and welfare, we believe on further review IRRC will understand that the existing Regulations are the absolute best way to accomplish that goal.

FITZPATRICK LENTZ & BUBBA, P.C.

Memorandum

June 30, 1999

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In paragraph 3 of IRRC's Comments, it indicates that any regulation relating to the number of lifeguards "should specify the required number of lifeguards for a particular pool contingent on the size of the facility, participant on site, support staff and scheduled activities." Dorney Park respectfully submits that any criteria based upon the size of the facility and the number of participants is an antiquated methodology for establishing lifeguard coverage which has been generally rejected by the experts in aquatic safety.

There are only a few nationally recognized lifeguard certifying agencies (such as the American Red Cross, Ellis & Associates, etc.). Those independent, outside entities have generally rejected lifeguard coverage criteria based upon purely physical characteristics such as the size, dimension or shape of a swimming facility. Rather, those certifying agencies have adopted a flexible adaptable standard which generally indicates that a facility must have that number of lifeguards located at certain locations which will permit each lifeguard to scan and view a certain area within ten (10) seconds and then reach the farthest part of that zone within twenty (20) seconds. That "10/20" rule in one form or another is the state of the art in aquatic safety and is used by outside certifying agencies. The proposed Department of Health Regulations adopt that rule and, most importantly, they place the lifeguard safety program within the control of those outside certifying agencies that have been specifically approved by the Department of Health. Therefore, rather than trying to determine on a retrospective basis whether or not an operator of a pool or water park used an adequate number of lifeguards, the Department of Health Regulations indicate that every recreational swimming establishment must adhere to a lifeguard coverage plan conforming to the standards of a "Department-recognized lifeguard certifying authority". Those lifeguard certifying authorities must be approved by the Department in the notice published in *The Pennsylvania Bulletin*.

We can provide one particular example of how a static system of establishing a number of lifeguards can be problematic in today's recreational swimming environment. Many water park facilities are not a standard size or shape which can be covered by equally distant lifeguard chairs and stations. Rather, the individual pools or amusements may be a series of slides, tubes and meandering streams. Lifeguard coverage for those types of unusual water facilities must be established on an individual basis by a lifeguard certifying authority. That authority would then develop a plan for lifeguard coverage for an individual swimming facility and under the proposed Regulations, regardless of size, content, etc., coverage would be assured.

In conclusion, this seems to be one of those rare instances in which members of the industry and the legislature are in complete agreement. Aquatic safety is the common primary concern of Dorney Park and the members of your Committee. The Park believes that any objective review of the industry standards will indicate that some

FITZPATRICK LENTZ & BUBBA, P.C.

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Page 3

adaptation of the 10/20 rule as it can be applied for each individual park and each individual water amusement park will result in a much safer set of Regulations for the Commonwealth. Frankly, Dorney Park and Wildwater Kingdom could not (in good conscience) follow Regulations based upon purely dimensional criteria. We appreciate your time and consideration. Any questions can be directed to me and I will assure that the appropriate person at Dorney Park responds to your specific inquiries. Thank you.

cc: Senator Charles w. Dent
Senator Harold F. Mowery, Jr.
Senator Vincent J. Hughes
Representative Dennis M. O'Brien
Representative Frank L. Oliver
William N. Williams, Department of Health
John Albino
Albert Leitgeb, II
Joseph Minninger
Jeffrey Ellis

P.S. Attached to this Memorandum is a self-explanatory letter from Ellis & Associates, Inc. in support of the proposed regulations. Thank you.

Jeff Ellis & Associates, Inc.

International Aquatic Safety Consultants

Office of Communications
3654 N. Mitchner
Indianapolis, IN 46226

99 JUL -6 AM 9:49



June 21, 1999

Fitzpatrick, Lentz, and Bubba, P.C. Attorneys at Law
Saucon Valley Rd. at Rt 309
P.O.Box 219
Center Valley, PA 18034-0219
Attn: Joseph Bubba

ORIGINAL: 2002
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Dear Mr. Bubba,

We have been asked to review the rationale for the use of the 10/20 protection rule as a measure for determining lifeguard coverage in public swimming facilities.

The 10/20 rule means simply that a lifeguard must be able to scan his or her assigned area every 10 seconds, and initiate a rescue/response in the following 20 seconds. The 10/20 has become the standard in the industry for several reasons:

1. It is objective, and easily established in any type or size of facility.
2. It is easily monitored and checked. (One can easily ascertain whether or not a guard is scanning the assigned area every 10 seconds.)
3. It provides for maximum safety by mandating contact and rescue within the critical 30 second window.
4. It is now used by the larger national training agencies.
5. It is far more easily implemented than the old fashioned "size of the pool/number of swimmers" rule. (It is often very difficult to accurately assess the number of swimmers in a facility.)
6. It simplifies the determination of the number of lifeguards required to safely guard a facility: the number required is based upon the areas which can be scanned in 10 seconds. The very simplicity of the concept makes it easily understood and implemented.
7. If this concept is NOT used, but rather the number of guards is based on square footage, there would in some instances be fewer guards than are needed for safety: for instance, the square footage of a "Lazy River" would mandate very few guards, while the application of the 10/20 would mandate that the whole area, including curves, etc., would be safely scanned. This concept applies also to other types of attractions and pools. Thus it is both safer and more comprehensive.

Because of the above factors, it became the "standard of the industry" several years ago.

Sincerely,

JEFF ELLIS & ASSOCIATES
Louise Priest for the firm

cc: JLE
J. Minninger

background / **

HOUSE OF REPRESENTATIVES

REPUBLICAN CAUCUS
BILL SUMMARY

Act 75 of 1998

DATE: 6/05/98

COMMITTEE: Health and Human Services

BILL NO.: HB 1597

PRIME SPONSOR: Waugh

PRINTER'S NO.: 3672

PREPARED BY: Amanda Beavers Johnson

PHONE NO.: 3-5333

A. PRELIMINARY SUMMARY:

House Bill 1597 amends the Public Bathing Law to statutorily require "recreational swimming establishments" to have an adequate number of certified lifeguards on duty when the establishment is open to the public. "Recreational swimming establishment" is defined as a facility designed, constructed or designated for the primary purpose of swimming, where a fee is charged. This includes swimming pools, water rides, wave pools, swimming beaches and other outdoor swimming facilities. The definition excludes facilities owned by condominiums, apartment buildings, hotels or motels, campgrounds, private clubs and organizations which do not provide access to the general public.

The Department of Health is currently responsible for enforcing the provisions of the Public Bathing Code. The bill requires the department to promulgate regulations for the implementation of the lifeguard requirement. Issues that would need to be addressed in regulation include the definition for adequate number of lifeguards and lifeguard certification requirements.

Additionally, the legislation authorizes the use of general use pesticides-including chlorine-in the care and maintenance of a pool at a private single-family residence without any certification restrictions.

As amended in the Senate, the department would be required to take industry standards into consideration and to consult with approved certifying authorities and recreational swimming establishments when developing regulations for the lifeguard requirement.

B. EXISTING LAW:

Prior to its reorganization in 1995, the Department of Environmental Resources was responsible for enforcing the Public Bathing Code. Through regulation, DER required all public bathing places to have one or more competent lifeguards on duty. However, in

Spooner v. the Secretary of the Commonwealth of Pennsylvania, 539 A2d 1 (PA Cmwlth 1988), the courts determined that the Public Bathing Law was "primarily concerned with water quality and methods of obtaining permits" and it contained "no express requirement that a lifeguard be present at public bathing premises." Thus, due to a lack of statutory authority, the requirement for certified lifeguards was struck down.

Upon reorganization, responsibilities for the Public Bathing Code were shifted to the Department of Health.

Applicators of general use pesticides-including chlorine- are currently required by the Department of Agriculture to obtain a certification. Criteria for certification include a 30 day training component. Federal law does not require certification for general use pesticides.

ADJ/kas

Shumaker Williams, P.C.

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ROBERT FREEDENBERG

STEVEN LOVEJOY*
ANGELA L. DUMM

TIMOTHY LINCOLN
CHERYL W. ZEMAN***

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**ALSO ADMITTED TO CALIFORNIA BAR

***ADMITTED TO VIRGINIA BAR ONLY

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E-MAIL: mail@shumakerwilliams.com

JOHN J. SHUMAKER (RETIRED)

March 15, 1999
via telecopier (717) 783-4790
via Hand Carried

READING, PENNSYLVANIA
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MARYLAND
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William M. Williams
Environmental Health Administrator
Bureau of Community Health Systems
Room 628
Health and Welfare Building
Harrisburg, Pa. 17120

RECEIVED
PA DEPT OF HEALTH
99 MAR 16 AM 10:39
COMMUNITY HEALTH
SYSTEMS DEVELOPMENT

RE: Our File No. 520-97(7)

Dear Mr. Williams:

This is in response to the invitation to comment upon the proposed Regulations Re. "Public Swimming and Bathing Places", promulgated by the Pennsylvania Department of Health and published in the "Pennsylvania Bulletin", Vol. 29, No. 7, on February 13, 1999.

Our office is General Counsel for the Pennsylvania Travel Council, which is a Pennsylvania not-for-profit trade association which represents the travel and hospitality industry in the Commonwealth of Pennsylvania. It currently has over 750 members, of which 475 represent hotels, motels, and bed & breakfast facilities. In addition, we represent the Pennsylvania Campground Association, which is a not-for-profit trade association which represents approximately 200 campground facilities throughout the Commonwealth of Pennsylvania.

(A) The definition of a "recreational swimming establishment" under the Act includes a specific exclusion from such definition for: "those facilities owned by condominiums, other property owner associations, rental arrangements which include three or more families or social units, hotels or motels, campgrounds, private clubs and private organizations which do not provide access to the general public, swimming facilities used exclusively for hydrotherapy and residential swimming facilities used

solely by the owner of the residence, his family and personal guests." (emphasis added).

There appears to be a question whether the phrase "which do not provide access to the general public" is a descriptive phrase applying only to private clubs and private organizations, or does it apply to all of the exclusions?

In our opinion, it can be very well argued that the descriptive term "which do not provide access to the general public" applies only to "private clubs and private organizations", and that the other facilities, as described, are exempt whether or not they provide access to the general public. We believe that this position is enhanced by the fact that such descriptive phrase was placed immediately after the phrase "private clubs and private organizations", without the insertion of any comma; and (2) the entire phrase "private clubs and private organizations which do not provide access to the general public" is inserted between other exempt facilities.

On the other hand, in both the introductory, summary language and in the proposed Regulation language, the Department interprets the Act as requiring certified lifeguards for any facility that "provides access to the general public and charges a fee for admission". The Department states: "When a facility otherwise excluded by the definition provides access to the general public and charges a fee for admission, it shall be considered a recreational swimming establishment."

In essence, the Department is interpreting the statute as stating that if a condominium, other property owner association, hotel, motel or campground "provides access to the general public and charges a fee for admission" they will be required to have certified lifeguards under the provisions of the Act and proposed Regulations.

However, the term "provides access to the general public" is not defined in the Act or the proposed Regulations.

The description of H.B. 1598 (Pn. No. 3672) prepared by the Republican Caucus, seems to lend credence to the fact that the descriptive phrase "provides access to the general public" applies only to provide clubs and private organizations. (See the attached description). If the phrase "provides access to the general public" was to apply to the whole laundry list of exempt facilities, it should have properly been written: "private clubs and other organizations which do not provide access to the general public." Thus, there is a legislative intent issue.

If the intent is to require a hotel, motel or campground to meet the certified lifeguard requirements if it opens its bathing place to the general public and charges a fee, then the term "general public" should be (narrowly) defined and not include overnight room guests at a hotel/motel and overnight campground facility customers. As it stands now, the exemption may be of little value because hotel, motel and campground facilities are open to the general public which pay the nightly room rate or

camping fee. However, we do not believe it was the intent of the Legislature or the Department to argue that the charging of a hotel/motel room rate, which includes use of all hotel/motel facilities (including the swimming pool), or a campground rate, which includes use of all campground facilities (including the swimming pool), constitutes being open to the "general public" or "charging a fee for admission".

(B) The remainder of the proposed amendments set forth the qualifications for "certified lifeguards".

Section 18.42, defines "recognized lifeguard certifying authorities" and sets forth certain requirements for a "recognized lifeguard certifying authorities."

The problem with this requirement is that each recreational swimming establishment, after consulting with or using the standards of a "recognized lifeguard certifying authority", must develop its own plan for coverage and post it in the area commonly used by the lifeguard staff. This poses as least two problems:

(1) Rather than the Department publishing a list of "recognized lifeguard certifying authorities", it places a burden on each business to investigate and determine whether or not the group with which it is dealing meets the proposed requirements of the Regulation; and

(2) Rather than specifically setting forth the number of lifeguards based on surface area, user load, or a combination of both, each business must develop its own plan, in consultation with standards published by a "recognized lifeguard certifying authorities". The upside to this is that it allows some discretion in the business' and they are not subject to a "lock step requirement" of "X" number of lifeguards per square foot of pool area. The downside is that the development of their own plan will always be subject to second-guessing in the event of a claim or suit by a person who is injured or killed in a bathing facility. It would be greater protection for the bathing facility if, in fact, the Department developed a specific "safe harbor" number of "certified lifeguards".

IN SUMMARY:

(1) We are of the opinion that the Regulations should be re-written to make it clear that the descriptive phrase "which do not provide access to the general public" applies only to the terms "private clubs and private organizations"; and that hotels, motels and campgrounds are exempt facilities, whether or not they provide access to the general public; or

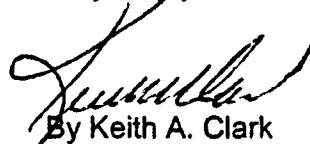
In the alternative, the term "general public" should be defined in a manner which makes it clear that paying room/overnight guests at a hotel/motel or campground do not constitute "general public".

(2) The Department should be charged with reviewing various organizations recognized as "lifeguard certifying authorities" and certifying them as meeting the requirements of Pennsylvania law and regulations, and publishing a list thereof.

(3) Consideration should be given as to whether the Department should be required to specify an objective number of certified lifeguards based upon the surface area of the pool, user load, or a combination of both, as a "safe harbor" protection from liability for businesses that are attempting to comply in good faith.

We appreciate the opportunity to comment upon these regulations. Should you have any additional questions, please do not hesitate to contact the undersigned.

Very truly yours,



By Keith A. Clark

KAC/slh:94429

cc: Barry L. Wickes, President/COO, Pa. Travel Council
Beverly Gruber, President, Pa. Campground Owners Association

BLUE MOUNTAIN
INTERGOVERNMENTAL
RECREATION COMMISSION

RED DALE ROAD, ORWIGSBURG, PA 17961
M.E. EUBERT, JR., Director

RECEIVED
99 MAR 10 AM 8:46
REGULATORY
REVIEW COMMISSION

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March 1, 1999

William M. Williams,
Environmental Health Administrator
Bureau of Community Health Systems
Room 628, Health and Welfare Building
Harrisburg, Pa 17120

RECEIVED
PA DEPT OF HEALTH
99 MAR -2 AM 8:52
COMMUNITY HEALTH
SYSTEMS DEVELOPMENT

Dear Mr. Williams,

The Department is to be commended for its efforts to update the existing bathing code and reinstate the lifeguard requirement at public bathing facilities. However, after reading the proposed rule making in the Pennsylvania Bulletin, I have several concerns regarding who will be allowed to certified lifeguards.

Chapter 18.1

Certified Lifeguards - states "from a lifeguard certifying authority, as recognized by the Department in a notice published yearly in the Pennsylvania Bulletin". Is there a current list of "recognized authorities"? If so, do they meet all of the "General Safety 18.42 Certified Lifeguard" criteria?

The American Red Cross discusses lifeguard stations and the effective surveillance of pools. They also have an activity guided "staff needed" table in their lifeguarding manual. This however, does not address the size of a pool, participation numbers, etc. The regulations need to create a realistic standard of care for pool operators to follow. This standard should reflect what an adequate number of lifeguards would be at a particular pool in regards to the size of the facility, participants on site, support staff and facilities, and scheduled types of activities. A smaller lifeguard staff can adequately cover a pool with lap swimmers or during a swim team practice. However, that same facility, could need additional staff during a pool party or public swimming with small children in attendance. Your idea of creating a more accurate coverage standard is sound, but many agencies who currently certify lifeguards do not have coverage/staffing standards. Will the Department then not continue to recognize them? Red Cross currently certifies the greatest number of lifeguards in the commonwealth and probably in the country overall. Is it realistic to not recognize them if every requirement of the regulations is not met?

(2)

Upon a brief review of several course manuals, none of the national training programs seems to have a clear lifeguard coverage standard. This includes Red Cross; Ellis or the YMCA. However, they do provide excellent certification programs. With the time investment made by these national organizations. It would seem prudent to attempt to avoid potential future problems with the recognition of the established national certifying agencies. If the Department is interested in providing for possible future organizations to certify lifeguards, consider establishing a procedure for them to apply for certification.

On another note, is it advisable to create a lifeguard coverage standard that is not realistic or within the ability of the average pool operator to meet? The Red Cross chart, mentioned earlier, lists a multi-lifeguard requirement, with some guards on duty while others are on break. How realistic is this to a small community or even a large city pool operator who has a hard time recruiting an adequate number of lifeguards to cover the pool and a limited operating budget? Guidelines dealing with "recommended staff on duty" would seem to provide a more realistic standard that operators would be more capable of meeting. Isn't the purpose of the code to present a realistic "minimum safe standard of operation"? I know everyone wants to create the safest possible environment possible for our pool patrons, but if the standard is not kept realistic and at lowest "safe" standard, we will see a dramatic rise in court cases challenging the code.

Under the general safety section, Required number of lifeguards, paragraph 5. The regulations state: "Ensure that the lifeguard-to-victim response time is 20 seconds or less." This is a response time that I hope our staff will achieve or beat in every instance we have a near drowning occur at our pools. However, who can actually "ensure" that every pool in every community will have every lifeguard meet this standard? With over twenty three years of experience in recreation and park and pool management, I cannot "ensure" that my staff will meet that standard each and every time, no matter what our agency does. However, we can and have established written policies and procedures, manuals, training, in service instructions and on going testing of our lifeguard staff. We have created a standard that establishes how our staff will prepare for their guarding duties, where they will position themselves "pool side" during various activities and how their various duties are prioritized. We "should" never lose a swimmer, if our staff performs their duties to their abilities, as we have trained them, but we cannot "ensure" that their response time will be twenty seconds or less. Is it prudent to establish a legal standard of care that will probably benefit the courts more than it will swimming patrons? Consider establishing a standard with language that deals with "agencies establishing lifeguard training, policies or procedures that will place staff pool side, with their attention on the patrons in the water, so that lifeguard-to-victim response time is kept to a minimum. The other items 1 through 7, with the exception of item 5 should go a long way towards meeting the standards desired by the Department, without creating a possible legal nightmare for pool operators.

At the initial shareholders meeting, a great deal of time was spent discussing the merits and needs for requiring individuals who run pools to be certified. A certified pool manager requirement would mesh perfectly with the commonwealth's Category 24 pesticide certification program. It would educate people on the "specialized" water/physical plant challenges pools present. A properly managed and operated pool facility goes a long way toward providing an safe environment for the swimmers. Additionally, it can save the operator money, since a trained operator could save money on chemicals or other associated expenses. How many people who are in charge of pools operated within the commonwealth actually have a working knowledge of

(3)

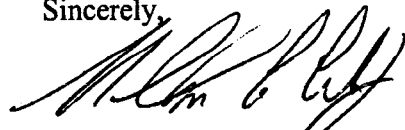
the three components of what make a pool work?

The commonwealth currently offers a one day pool manager course that has had a \$35.00 registration fee. It provides the basic types of information that an individual needs to develop the skills necessary to adequately operate a safe and efficient pool. For larger agencies or facilities desiring a greater scope of instruction, the Aquatic Facility Operator's or the Certified Pool Operator's courses are available. Education is the key to maximizing safety and cost effectiveness in the operation of a swimming pool. This is one of the reasons the Pesticide Certification requirement was created. The one day course is already in existence and being taught inexpensively throughout the commonwealth. This would not create a financial hardship on pool owners, but could increase safety and reduce operating expenses for owners.

While the Department is investing their resources into the revision of the Bathing Code, wouldn't the consideration of a "certified" operator/manager requirement be prudent? A simple analogy would be: Would you want a person who wasn't trained working on your car? Most pool facilities are quite larger investments of what is usually taxpayers monies. How many are being placed in the care of properly trained operators/managers? Think of the potential savings for Keystone and Community Block grants if the boroughs, townships or cities would have properly educated people operating their pools properly. Longevity would be increased and savings realized at both the state and local levels. I was impressed by the wide ranging support the concept received at the initial shareholders meeting, but was disappointed that the pool manager has not been addressed. Please consider the merits of a certified manager requirement, while you are looking into the revision of the bathing code. Starting with the least expensive type course that is already being offered would go long way and not create a financial hardship on any pool owner or operator. It could though, greatly assist the Department's efforts to increase pool safety.

Again, congratulations on your efforts to update the bathing code and bring Pennsylvania back into the forefront of a prudent aquatic standard of care. If our organization can be of any assistance in the future, please feel free to contact me. I hope my comments are useful.

Sincerely,



Malcolm E. Eubert, Jr., President
Pa. Recreation & Park Society
Aquatic Section



P.O. Box 125
Cornwall, PA 17016

717-273-2647
800-222-2476

*A non-profit
continuing care
retirement community,
founded in 1949,
in mission with the
Eastern Pennsylvania
Conference of The
United Methodist
Church.*

March 5, 1999

RECEIVED
PA DEPT OF HEALTH
99 MAR -5 PM 4: 18
COMMUNITY HEALTH
SYSTEMS DEVELOPMENT

Mr. William M. Williams
Environmental Health Administrator
c/o Bureau of Community Health Systems
Room 628, Health and Welfare Building
Harrisburg, PA, 17120

ORIGINAL: 2002/COCCODRILLI
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Sandusky, Legal

Dear Mr. Williams,

The purpose of this letter is to follow up on our conversation of February 26, 1999, the purpose of which was to determine our obligation as it relates to safety and liability issues under the new proposed rule-making regarding public swimming and bathing places.

Cornwall Manor is a Continuing Care Retirement Community. As such, we have a Wellness Center which among other things, includes a pool and spa. Cornwall Manor employs a Wellness Coordinator to oversee the operation as well as provide fitness and water classes. This Wellness Coordinator is a certified life guard. In addition to the Wellness Coordinator, we employ the buddy rule and a camera monitoring system for the pool and spa areas.

Currently, these facilities are used by Cornwall Manor residents and employees. We charge a membership fee. We have opened the facility up for use by a limited number of outside community members, also charging a membership fee.

Based upon our membership fee structure, as well as the dual duties of the Wellness Coordinator as life guard and class instructor, what will our responsibility be under the proposed regulations? Also, does that responsibility change if we do not allow for community membership?

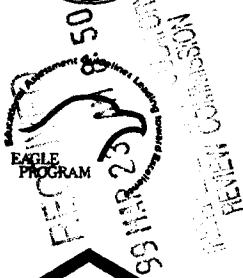
In the interest of remaining compliant, please respond to James Connor, c/o Cornwall Manor, Boyd Street, Cornwall, PA 17016. I can be reached at 717-273-2647 should you have an additional questions.

Thank you for your time in helping me to resolve this matter.

Sincerely,

James H. Connor II
Director of Resident Services

JC/ggm



ACT 75
Lifeguard Certifying Authority Stakeholder Meeting
February 23, 1999

RECEIVED

99 MAR 10 AM 8:46

Those in attendance:

Michael Huff, Director, Systems Coordination, BCHS
William Williams, Environmental Health Administrator, BCHS
Tom Griffiths, Penn State University
James Sheldon, Abington YMCA
Karen Mailen, Lebanon Valley YMCA
Sue Rohrer, Lebanon Valley YMCA
Joanne Wevodau, Harrisburg Area YMCA
Thomas Minchin, American Red Cross
Vivian Kugle, American Red Cross
Joseph Minninger, Ellis and Associates
Albert Leitgeb III., Ellis and Associates
Douglas Fullman, Northeast District, Boy Scouts of America

REGULATORY
REVIEW COMMISSION

ORIGINAL: 2002
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Purpose: This meeting was conducted to examine proposed regulations to the passage of Act 75 of 1998 requiring an adequate number of certified lifeguards at recreational swimming establishments.

Those in attendance: Representatives from the American Red Cross, Young Men's Christian Association, Boy Scouts of American, and Ellis and Associates were present. Please see attached sign-up sheet.

The following recommendations were made regarding proposed changes to 28 Pa. Code, Chapter 18.

- 18.1. (Definitions)
- 18.42. (a) (Recognized lifeguard certifying agencies)
- 18.42. (b) (Required number of lifeguards):

18.1 Definitions – No changes suggested.

18.42 (a) Recognized lifeguard certifying authorities

- (1) No changes suggested
- (2) The language should be changed to read "It provides instruction or requires certification in cardiopulmonary resuscitation."

RE: Certain lifeguard certifying authorities do not provide instruction in CPR (i.e. Boy Scouts of America.) However, these authorities require certification from another agency (i.e. American Red Cross) in order for these lifeguards to become certified.

- (3) The language should be changed to read “It provides instruction or requires certification in first aid.”

RE: Same as (2) above.

- (4) No changes suggested.
- (5) No changes suggested.
- (6) No changes suggested.
- (7) No changes suggested.
- (8) The language should read “Its instructors have completed a lifeguard instructors’ certification program.”

RE: The word approved in this sentence suggests that the Lifeguard Instructor Course be approved separately than the basic lifeguard training course. A reasonable assumption can be made that the instructor course will be given by the same agencies which will be approved by the Department in certifying lifeguards.

- (9) No changes suggested.

18.42. (b) Required number of lifeguards.

- (1) The second sentence should read “This plan shall be utilized and made available to the Department and any member of the public upon request.”

A third sentence should read “Modify the lifeguard coverage plan as necessary to ensure the safety of users.”

A fourth sentence should read “The lifeguard coverage plan shall include emergency response communication procedures and provide for back-up lifeguard coverage.”

RE: The posting of the lifeguard coverage plan was deemed unnecessary.

The third sentence is currently found under subsection (6). It is more appropriate in subsection (1).

The fourth sentence details important information which should be included in the plan.

- (2) No changes recommended.

(3) No changes recommended.

(4) The sentence should read “Ensure that the entire area of the recreational swimming establishment can be visually monitored by lifeguards at a frequency recommended by a certified lifeguard authority.

RE: The scanning (visual monitoring) frequency of 10 seconds is designed for man-made pools etc. and not beaches. Not all authority standards are uniform and standards may change in the future.

(5) The sentence should read “Ensure the lifeguard –to – victim response time is within lifeguard certifying authority standards.”

RE: Same as (4) above.

(6) The sentence should read “Supervise and evaluate lifeguard staff performance during normal operation.

RE: The word “monitor” was deemed vague. The word supervise was considered more appropriate.

The term “simulated operational conditions” is confusing.

(7) The sentence should read “Provide initial lifeguard orientation and follow-up with regular inservice training on the topics of lifeguarding techniques, safety equipment, and emergency procedures.

RE: The word “initial” indicates when a lifeguard is hired.

The phrase “follow up with” is appropriate.

The word “lifeguarding” is more encompassing than “lifesaving.”

The phrase “at least yearly” should be looked at.

(8) An additional subsection (8) should read: “Ensure that all lifeguards are familiar with the lifeguard coverage plan and the requirements of this section.”

RE: This subsection would be an improvement over having a plan posted.

William M. Williams
Department of Health
Bureau of Community Health Systems

IRRC

Original: 2002

From: Bob Griffith [prpsbob@vicon.net]
Sent: Wednesday, December 06, 2000 6:59 PM
To: 'IRRC@irrc.state.pa.us'
Subject: IRRC No. 2002, Reg. No. 10-155, Public Swimming

Dear IRRC staff:

Has the PA Department of Health submitted final-form regulation to the Commission for IRRC No. 2002, Reg. No. 10-155, Public Swimming and Bathing Places as of today, 12/6/00?

When the final-form regulations are submitted, are there any opportunities in the process for the regulations to be further revised? Or, is the only option, approval or disapproval without further revisions?

Thank you for your assistance.

Bob Griffith
Executive Director
PA Rec. & Park Society
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State College, PA 16801-2776
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