

PALMERTON MEMORIAL PARK

ASSOCIATION

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REGULATORY
REVIEW COMMISSION

8 November 2004

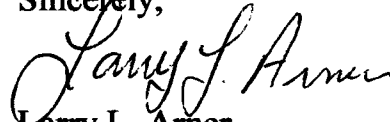
TO JOHN R. MCGINLEY, JR., ESQ.
CHAIRMAN IRRC

Please be informed that some of the Board of Directors and myself will be attending the IRRC meeting scheduled for November 18, 2004 at 10:30 am at your office. If this is not the correct date and time please advise.

This would be in regards to the proposed regulation concerning lifeguards. That being regulation #10-155 (IRRC #2288). We hope that you will listen to what we have to say before making any final decision.

Thank you for your time concerning this matter.

Sincerely,



Larry L. Arner
General Manager
P.M.P.A.

Cc: Alvin C. Bush
Arthur Coccodrilli
Murray Ufberg, Esq.
Daniel F. Clark, Esq.
Robert E. Nyce

Original: 2288

IRRC

From: ReginaMMurphy@aol.com

Sent: Monday, November 15, 2004 2:26 AM

To: IRRC

Subject: Comments on Proposed Rec Swimming Est Lifeguard Requirements

To the members of the IRRC:

Please accept and consider our attached comments for the Public Meeting on 11/14/04, for Proposed Rulemaking, Department of Health, [28 PA. Code Ch. 18], Recreational Swimming Establishment Lifeguard Requirements.

With grateful appreciation,
The Murphy Family

11/15/2004



Brian David Murphy
June 8, 1995 - July 22, 2002
Cause of Death: Drowning
Location: Pennsylvania

Regina and Bill Murphy
206 North Kings Avenue
North Massapequa, NY 11758
(516) 795-9382

November 15, 2004

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

To the members of the Independent Regulatory Review Commission:

We implore you to accept and to give careful consideration to our requested changes to ***Proposed Rulemaking for Chapter 18. Recreational Swimming Establishment Lifeguard Requirements [32 Pa.B. 4581]***. Tragically on July 22, 2002, our seven year old son drowned at a lakefront resort in Pennsylvania. His name was Brian David Murphy. Our beautiful little boy died at a multi-million dollar resort, in the Commonwealth of Pennsylvania. The seven lifeguards on duty were not certified, trained, equipped or prepared in anyway to handle a water emergency. The *guests* of the resort performed the search, rescue and CPR, while the seven untrained lifeguards fumbled. A sudden drop-off in excess of twelve feet existed between the shallow and deep water. Lifesaving equipment was neither readily accessible nor available. No warning signs were posted explaining the intermittent, unseen water current in the lake. Brian was last seen alive going down a water slide, into three feet of water in the lake. No lifeguard was stationed at the bottom of the slide, and adults were forbidden to stand at the bottom of the slide. Brian entered the lake very close to the rope that separated the shallow and deep water. Sadly, Brian's body was found far outside the designated swimming area. We were grateful the *guests* of the resort were able to recover our son. We strongly believe that Brian's sudden death could have been avoided had the proper regulations been in place.

We are beginning our campaign, "***Brian's Law***". "***Brian's Law***" does not contain new or revolutionary ideas. It contains regulations that are already in place throughout the United States, and have successfully saved precious lives. The amendments we are requesting to the Proposed Rulemaking, Department of Health [28 PA. CODE CH.18] Recreational Swimming Establishment Lifeguard Requirements [32 Pa.B. 4581], follow the recommendations of the American Red Cross and the YMCA.

Sadly, we are aware of the limitations of the definition of *recreational swimming establishment* as defined in Act 75:

Recreational swimming establishment--A facility that is designed, constructed or designated for use by individuals for the primary purpose of swimming, if a fee is charged for admission.

(i) The term includes swimming pools, water rides, wave pools and swimming beaches and other outdoor swimming facilities.

(ii) The term excludes those facilities owned by condominiums, other property owner associations, rental arrangements that 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 a residence, the owner's family and personal guests.

Because of the above definition we also understand that we must work within the limitations of Act 75 at the current time. Our requested additions and modifications are within those limitations, and are attached. All modifications and additions have been underlined for easier identification.

We are committed to ensuring that the proper water safety legislation is put into place, to protect all of the citizens of Pennsylvania and its visitors. If one family is spared the enormous grief that we have suffered, then all of our efforts will have been worth it. We are eager to meet with you at the Public Meeting scheduled on November 18, 2004. It is our goal to make Pennsylvania a safer place for everyone, most especially its children.

Sincerely,

Regina and Bill Murphy

**Proposed Rulemaking
For
Chapter 18. Recreational Swimming Establishment Lifeguard Requirements
[32 Pa.B. 4581].**

Brian's Law Additions and Modifications

General Provisions

18.1 Definitions.

The following definitions should be added:

- Remote location - a location more than fifteen minutes away from an emergency medical facility when driving at the posted speed limit.
- Open Water - refers to lakes, rivers, bays, reservoirs, canals, ocean - any body of water not enclosed as a swimming pool is.

General Safety

18.42 Certified [Lifeguards] lifeguards.

(b) ***Qualifications.*** Lifeguards shall be capable swimmers, skilled in lifesaving methods and in methods of artificial resuscitation, first aid, oxygen administration, and automated external defibrillation as evidenced by the possession of currently valid certificates or other proof of proficiency from a recognized agency offering instructions in these fields.

(c) ***Requirements for a lifeguard certifying authority.***

(2) The course provides for certification in cardiopulmonary resuscitation. CPR certification must include training for administering CPR to adults, children, infants and obstructed airway maneuver, as well as additional training in two-rescuer CPR, modified jaw thrust, use of resuscitation-mask and bag-valve-mask resuscitators.

(5) The course provides for instruction in lifeguarding responsibilities and swimming facility operation. This includes but is not limited to lifeguard duties, rules, legal responsibilities, emergency procedures, reports, and swimming facility maintenance.

(7) The course includes certificates that expire, in no longer than 3 years, if renewal criteria are not satisfied.

(8) The instructors of the course must be certified lifeguards possessing certifications in first aid, oxygen administration, and automated external defibrillation. Instructors must have successfully completed a training course that includes:

The following topics should be added to the ones already listed

(vi) Oxygen administration.

(vii) Automated external defibrillation (AED).

(9) A lifeguard must be at least 16 years of age prior to being certified in lifeguarding, cardiopulmonary resuscitation, first aid, automated external defibrillation and oxygen administration. Parental consent is required for those under 18 years of age.

(10) The lifeguard training course provides for instruction in the handling of special situations. This includes but is not limited to spinal injuries, rescue breathing, scuba rescue, open water guarding and rescue, search and recovery operations, and first aid procedures specific to the aquatic environment.

(11) The lifeguard training course provides for the instruction of aquatic rescues. This includes situation assessment, use of a rescue tube or buoy and other rescue equipment, nonswimming assists, and swimming rescues.

(12) The lifeguard training course provides for instruction and certification in oxygen administration.

(13) The lifeguard training course provides for instruction and certification in automated external defibrillation (AED).

(d) Required number of lifeguards.

(5) If the recreational swimming establishment has a diving board or water slide, a certified lifeguard shall be on duty to exclusively monitor the diving well or catch area when the diving board or water slide is open to the public.

(iii) The operator shall exclude the water surface area of the diving well or slide catch area from the water surface area of the recreational swimming establishment for the purpose of determining the number of additional certified lifeguards required under paragraph (1). The diving well or catch area must exclusively have a certified lifeguard regardless of water surface area.

The following should be added based on the recommendations of the YMCA

(7) A lifeguard should not be required to scan more than 180 degrees.

(8) High-risk areas should overlap into the areas of responsibility for two guard positions, ensuring double coverage.

(9) Each lifeguard should be able to both scan the area within 10 seconds and reach a victim within 10 seconds.

Two new topics should be added:

(e) Lifeguard and administrative standards. To ensure bather safety and proper risk management of a recreational swimming establishment, the operator shall:

(1) Require lifeguards to wear uniforms for easy identification. The uniform will include a whistle or signaling device.

(2) Require lifeguards to provide certification documentation along with expiration dates for all certifications. The recreational swimming facility must maintain a list of all staff members' certification expiration dates. Documentation for all certifications for each staff member must be kept on file.

(3) Require a lifeguard on duty anytime a swimming facility is in use regardless of the activity.

(4) Document emergency operation plans. An emergency situation may include but is not limited to a missing person, medical, water, environmental, chemical, mechanical or facility emergency. Lifeguards shall be given a copy of the procedures. Emergency plan flowcharts and/or checklists shall be posted. A copy of the emergency operation plans shall be made available to the Department and the public upon request.

(5) Practice emergency procedures frequently and systematically.

(6) Prohibit outdoor bathing during electrical storms, times of limited visibility or dangerous environmental conditions.

(7) Require lifeguard breaks every 60 minutes.

(8) Require rotation of lifeguard positions when multiple lifeguard positions are required. Rotating positions is not equivalent to a break.

(9) Provide access to an emergency helicopter when the recreational swimming facility is in a remote location.

(f) **Safety equipment requirements.** It is essential for a recreational swimming facility to have the appropriate equipment available and ready for use in the event of an emergency. A recreational swimming establishment shall:

(1) Provide a fully equipped, accessible and stocked first aid kit. A fully equipped first aid kit shall have but not be limited to dressing and bandages of assorted sizes, bandage scissors, forceps, tweezers, safety pins, needles for removing splinters, adhesive tape of various widths, cotton swabs, mild antiseptic soap solution, antiseptic wipes, disposable drinking cups, mineral oil, calamine lotion, antibiotic ointment, flashlight or penlight, glucose, sugar, or candy, cold packs, triangular bandages, stretcher, spine board, head and neck immobilizer, straps, cervical collars (in four sizes: small, medium, large adult and large child), an aspirator(oral suction unit) with an extra plastic cartridge, latex rubber gloves, resuscitation mask, biohazard waste bag and cleanup kit (including a face shield, two pairs of gloves, gown and booties), blankets, plastic sheets, towels, pillows, a first aid text, incident/accident reports, paper, pencils, pens, emergency telephone numbers, oxygen equipment and an automated external defibrillator.

(2) Provide portable basic first aid kits at lifeguard stands.

(3) Replace consumed first aid kit inventory within a 24 hour period.

(4) Provide reach poles, rescue buoys, rescue tubes, throwing lines and extra rope, binoculars, paddleboard, Coast Guard approved flotation devices.

(5) Open water recreational swimming facilities shall provide scuba gear, snorkel masks, snorkels, fins, boat, marker buoys for use in submerged victim search and rescue.

(6) Provide a telephone or two-way radio to all lifeguards on duty.

(7) Lifesaving equipment must be readily accessible, available and conveniently located at all times.

(8) Maintain and inspect rescue equipment daily. If upon inspection the function and serviceability is in question, the rescue equipment should be repaired and replaced immediately.