
LIFEGUARD AND THE LAW

WHAT YOU NEED TO KNOW

THE GOOD SAMARITAN ACT (1979)

States that there is no liability for emergency aid unless grossly negligent and/or the individual is being paid to do so. *Therefore, this does not cover on-duty lifeguards.*

LIABILITY – The state of being legally responsible for your own or another's actions.

There are 3 types of Liability:

- 1) Statutory Liability – Liability as a result of breaking a law or statute.
Ex: Exceeding Health Act lifeguard: patron Ratio
- 2) Occupier's Liability – Liability to the owner/occupier of a building, facility, property etc. on which someone is injured due to the owner's negligence.
Ex: Someone slipping in an unmapped hallway and injuring themselves.
- 3) Vicarious Liability – Liability of an employer for the negligence of his or her employees.
Ex: Allowing someone to guard who did not attend a mandatory Inservice.

You and/or your employers could be found liable in some form or another if you are found to have acted with *negligence* in your job duties or performance.

NEGLIGENCE – The failure to do a required action, being careless, being inattentive, etc.

A Plaintiff must prove 3 Things to show there was negligence in a certain incident or situation:

- 1) a **DUTY TO CARE** was present
 - The lifeguard had a duty to care for the plaintiff
 - Ex: Patrons paid money to enter a facility that was protected by a lifeguard
- 2) the **STANDARD OF CARE** was not met
 - Your S.O.C. is the NLS Standards
 - During the treatment of a victim, a standard must not have been met
 - This is relative to a "reasonable person in your profession"
 - Ex: A Victim who vomited was not rolled immediately to their side.
- 3) **CAUSATION** was a result of the above 2 scenarios
 - Something you did *was directly responsible (ie. caused) the victim's condition*
 - Ex: By not rolling the victim when he vomited, he aspirated and died due to complications in the lungs.

Contributory Negligence is when the victim/plaintiff is partially or fully responsible for his/her condition. Ex: After several warnings, a child continues to dive in the shallow end of the pool and eventually obtains a serious spinal injury. He therefore, *contributed* to his own condition.

In the case of a death or serious injury, an **INQUEST** will be held. This is not to point fingers, but instead to gather information about what exactly happened the day of the incident. If the plaintiff believes they have a case, a lawsuit could potentially follow.

Why would it be so important to keep accurate documentation of everything at the pool?

Could You Handle an Inquest?

Perhaps the worst case scenario for any lifeguard is to deal with a life-and-death situation and then shortly after, get requested to appear at an inquest. Although no one should be getting “attacked” at an inquest, the questioning can be fairly intense and definitely substantial. If the case develops into a lawsuit, you can expect more questioning that may begin to attack you and your skills. Below are a few questions actually asked of the supervising lifeguard during the inquest? It was involving a 19-year old male who died in a city-run public swimming pool.

- What was the condition of the lights at the time of the accident?
- What was the degree of turbidity of the water?
- Where were the guards positioned?
- Who got the body out of the pool?
- How old was the guard who found the body?
- What was his qualifications?
- How many hours had he been working without relief?
- What were his duties other than the protection of human life?
- What was the guard doing at the time of the accident?
- How often does the guard circle the pool?
- What causes the pool to be cloudy?
- Where is the guard stationed?
- How many lights are there in the pool area?
- What wattage were they?
- Could you see the bottom of the pool clearly?
- What are your qualifications as a supervisor to the guards?
- Can you adequately guard a pool of this size and give swimming help to an individual (the guard was giving tips to a weak swimmer on the shallow edge of the pool)
- How long does it take for a person to drown?
- Does he always make an outcry or thrash about in the water?
- What did the guard do on seeing the body in the water?
- Did he give artificial respiration?
- How long did he give it?
- Did you call for help? When?
- What did the witnesses say or do?

Liability Exposure in Aquatic Facilities

LEARNING FROM THE PAST

~ An Overview of Claims ~

INJURY & CAUSE	CLAIMANT'S COMPENSATION
* A swimming pool ladder with a broken step caused a 10 year old to severely cut her eel. The ladder had been previously repaired by a local welder.	\$18,000
* Slipped on a shampoo buildup in shower. Back injury (mild)	\$5,000
* We have had a number of incidents and 2 serious claims, one involving a serious head injury to a child, as the result of a lifeguard's failure to supervise and prevent injuries from the use of diving boards. These claims range from an estimated:	\$5,000 – \$100,000
* A child broke his arm when he was sliding down a water slide. The slide had not been properly inspected.	\$7,000
* Disabled swimmer suffered 2 nd degree burns to their leg from an underwater light. The claimant has no feeling in their legs from the disability and the wattage was higher than the manufacturer's standard.	\$30,000
* A number of claims and incident reports have been received as a result of injuries from the use of “Tarzan” rope swings. These injuries include facial cuts, broken fingers, and head injuries	\$2,500 - \$25,000
* A swimming pool patron lost the end of a toe when a bulkhead was moved unsafely	\$18,000
* A swimmer permitted to walk across a bulkhead slipped and fell injuring her hips.	\$20,000

*Taken from BC & Yukon LSS Branch Lifeliner.
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