Good Samaritan's Act

No liability for emergency aid unless gross negligence
1   A person who renders emergency medical services or aid to an ill, injured or unconscious person, at the immediate scene of an accident or emergency that has caused the illness, injury or unconsciousness, is not liable for damages for injury to or death of that person caused by the person's act or omission in rendering the medical services or aid unless that person is grossly negligent.

Exceptions
2   Section 1 does not apply if the person rendering the medical services or aid
    (a)   is employed expressly for that purpose, or
    (b)   does so with a view to gain.

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http://www.qp.gov.bc.ca/statreg/stat/G/96172_01.htm

Clearly, the Good Samaritan's Act **does not apply to lifeguards** who are "employed directly for the purpose" of giving emergency aid.

Shopkeeper's Right To Refuse

There may be rare times when lifeguards would want to either refuse entry to the pool, or request people to leave the pool area. Examples of this would include:

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In this case, the facility does have the right to refuse business. If the patron does not leave when requested, the police may be called. If the person leaves before the police arrive, all is well. There is now no need for the unit to attend. Cancel the call. If the trespasser remains, explain the situation to the attending Constable. He will explain the citizen's rights to him, and to you.

BC Human Rights Code

Discrimination in accommodation, service and facility
8(1) A person must not, without a bona fide and reasonable justification,

(a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or
(b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public

because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation of that person or class of persons.

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http://www.bchrc.gov.bc.ca/home.htm
http://www.qp.gov.bc.ca/statreg/stat/H/96210_01.htm

Canadian Cases

BISSON v. Corporation of Powell River (BC)
- Plaintiff was an experienced lifeguard
- He dove from a 5m platform attached to a raft
- There were no warning signs or depth markers
- The plaintiff hit his head and was severely paralyzed

> *It did not follow that the danger in the case at bar was obvious simply because it might have been discovered by the respondent if he had used greater care; his lack of care was induced, in part at least by the continuing sense of false security created...*

- He was awarded $286,000, later reduced to $146,000 when the plaintiff was determined to have 20% fault

> *[The lifeguard] was thoroughly familiar with water depths, the lack of warning signs and depth gauges and the previous history of the float and the bathing and diving facilities, failed to warn the respondent, as it was her duty to do so, of the dangers which were not apparent. She knew that the respondent was about to swim in the area and as part of her duty she should have anticipated that he would use the float.*

- The town of Powell River was held vicariously liable for the negligence of the lifeguard who failed to warn the diver:

D'AUTEUIL v. Beau-Sejour Inv. Ltd. & Colmer (Manitoba)
- Plaintiff suffered paralysis as a result of a diving accident
- Sign said: "Diving at your own risk. Depth 6 feet"
- The depth of the water at the time of the incident was only 4.5-5 feet
- The plaintiff was awarded $3500.

MOD-DEJONGE et al. V. Huron County Board of Education (Ontario)
- The supervisor of a school field trip allowed students to go swimming at a beach they were visiting
- No lifesaving equipment was available and the supervisor could not swim
- The supervisor was held negligent for the drowning

> *It was the supervisor's duty to guard the children against foreseeable risks in the same manner as a reasonably prudent parent would guard them*