



Reduce Your Risk at Your Hotel | June 2023

Pool Safety

Few things are more appealing to your guests than a refreshing swim in your hotel's pool. However, a swimming pool also significantly increases the liability exposure for your property. A swimming pool is considered an "attractive nuisance," similar to a construction site or playground equipment, in that it strongly appeals to children. An attractive nuisance is a building, structure, area, or activity that attracts visitors who may not be welcome.

The hotel has the power and ability to deny entrance onto its property and into its pool by trespassers. A case decided in the Ohio Supreme Court determined that property owners may be held liable for the injuries of trespassing children. In this case, the hotel's pool was closed, awaiting repair, when a child crawled through a hole in the fence and fell in. His mother proceeded into the pool after him and they both drowned.

Drowning remains the second leading cause of unintentional, injury related, deaths to children under the age of 14. Two minutes following submersion, a child may lose consciousness and irreversible brain damage may occur after four to six minutes. This time period determines the immediate and long-term survival of the child. Nearly all children who require CPR either die or are left with severe brain damage.

A recent study suggests that medical costs for a near-drowning victim can range from \$75,000 for emergency room treatment to \$250,000 per year for long term care. The cost of a near-drowning incident that results in severe brain damage can exceed \$5,000,000.

In the past 20 years, at least 36 children have died, and 147 others have been injured after becoming trapped underwater in pool and hot tub drains. The Virginia Graeme Baker Pool & Spa Safety Act of 2007 provided new requirements for pool construction, retrofitting and maintenance. In addition to installing anti-vortex drain covers, pools operating with single drains may also be required to install devices which automatically shut off suction when a drain is blocked. Violators can face fines or criminal penalties.

With regard to attractive nuisance situations, negligence can mean that the property management or ownership were aware that someone could get hurt and did not provide adequate protection. This negligence can significantly increase the liability and financial exposure to ownership and management.

Your team should take all necessary precautions to protect all guests on property, invited or otherwise.

Did You Know?

Mulch should never be used in the areas surrounding any buildings. Given its flammable attributes, mulch can be easily ignited by a cigarette or spark. As guests frequently use these areas to smoke, all ground cover should be non-combustible material (gravel, concrete, etc.) Additionally, smoking should not be permitted within 10 feet of the building.

From You?

Q: How often should we hold safety committee meetings?

A: Internal safety committee meetings and inspections should be completed at least monthly. Safety committee meetings should be documented and include notes related to attendees, topics, recent claims, corrective measures, loss control and any outstanding concerns. There should be representation from all key departments as well.

Pool Regulations

Every hotel is required to be in full compliance with all federal, state, and local pool regulations. While not an exhaustive listing, The TPG Hotels & Resorts Risk Management Team strongly recommends implementing at least the following regulations:

- The pool is only for the use of registered guests. Use of the pool and exercise facilities by individuals other than current guests as well as the rental of the pool area for parties or events is prohibited. The risk associated with the exposure of non-hotel guest use or event rental is extremely high.
- Inspect the pool area daily and conduct safety checks at least three times a day, or according to your local pool regulations. Correct any unsafe conditions immediately.
- Document the date, time, and personnel involved with all inspections.
- The pool must be fenced and secured by a self-locking gate or door accessible only via valid key card. Gates should never be propped open. Any openings in the pool fencing must meet local Health & Safety Code.
- If no lifeguard is on duty, conspicuously post "Swim at Your Own Risk" signage.
- Provide the required adequate and accessible rescue equipment.
- If your hotel is considering hiring a lifeguard or lifeguard firm, consult in advance with the TPG Hotels & Resorts Risk Management Team.
- Post all pool rules prominently. This includes the maximum number of guests allowed in the pool, minimum age, supervision requirements, no glass containers, location of the emergency phone and phone instructions.
- Acceptable swimwear must be worn by all guests (no belts, buckles, denim, etc.).
- Any person with a visible infectious disease or open wound should not be permitted to use the pool, hot tub, or sauna.
- Guests who appear to be under the influence of drugs or alcohol should be asked to leave the pool immediately.
- Require all children to be accompanied by an adult.
- Individuals who excrete bodily fluids in the pool should be asked to leave immediately and the pool should be closed for disinfecting, as required by state regulations. Children who are not potty-trained should only be allowed in the pool if they are wearing an approved swim diaper and a swimsuit. Cloth or disposable diapers are not appropriate attire.
- Mark pool depths with clear markings on the deck, at maximum and minimum depths, slopes, and on all sides of the interior of the pool.
- Ensure that pool water meets all clarity requirements according to local, state, and federal code.

- Always walk, do not run, on a pool deck and around the facility.
- No diving, somersaults, or dangerous jumping.
- Provide first aid equipment in an accessible location for use by guests and employees. At a minimum, the kit should include disposable gloves and sufficient materials to stop bleeding, clean and bandage minor wounds.
- Place a telephone within 100' of the pool, with emergency phone numbers clearly posted. The phone should also be well lit.
- Maintain poolside furniture in good condition. Firmly secure any outdoor poolside furniture or move it indoors in advance of severe weather.
- Maintain the floor in and around the pool area. The floor must be free of any conditions that may injure bare feet (holes, chips, glass, debris, etc.). This includes the interior walls and bottom of the pool.
- Keep pool deck free of any items that may present a slip or trip hazard. This includes hoses, cords, tools, toys, and other debris.
- Ensure that all chemicals are stored properly, in labeled containers, with necessary MSDS signage, and secured out of access to the public.
- Keep a daily record of all injuries and operational data; including fecal accidents, chemical levels, water temperature, water clarity and any chemicals added throughout the day. Record every four hours during operation.
- A recent CDC study found that 1 out of 8 public pool inspections resulted in immediate closure because of at least one identified violation that represented a serious threat to public health. Use a DPD testing kit for measuring the concentration levels of chlorine or bromine, pH, total alkalinity, cyanuric acid, and water temperature.
- Ensure that the pool water is circulated continuously during any time that the pool or hot tub is in operation and that the pool water temperature does not exceed 90°F.
- Animals should not be allowed in the pool area, or on the pool grounds.

Hosting Private Events

Most hotels host a variety of special, private events throughout the year; including weddings, parties, concerts, conferences, business meetings, shows, fairs, and banquets. In most cases, these events occur with no incidents, but special events always present unique exposures for the hotel.

Alcohol consumption is often an element of these events and takes place in settings that may be harder to control than a restaurant or bar. A plan to prevent over-service and service to underage attendees is imperative. If a hotel over-serves a guest, or serves a minor, it can play a role in events that may lead to bodily injury, property damage, lawsuits, civil and criminal penalties, fines, jail time, loss of liquor license and business interruption. Depending upon state law, if intoxication is determined to be a cause of an accident, the hotel could be found liable. Staff is responsible for knowing and abiding by all of the regulations of its individual state and of the issued liquor license. All staff should be professionally trained to serve alcohol responsibly and respond to potential problems.

Hotel management frequently enters into legal contracts with the sponsors of an event and the vendors who will be providing services related to it. It is crucial that you consult with your legal team in crafting contract language to best protect your organization.

Each hotel should refer to the Certificate Procurement Program and consult with the TPG Hotels & Resorts Risk Management Team on any questions regarding appropriate insurance limits, indemnity terms on contracts, or Certificates of Insurance. In addition to required liability limits, all vendors must carry workers' compensation coverage. Certificates of Insurance must be obtained from all vendors PRIOR to the event.

Be clear with your team about the management's expectations for all special events.

- Have a specific security plan in place for each event, including consultation with local

- authorities or properly insured security firms where necessary.
- As host for the event, you are required to provide adequate handicapped access, fire protection, and adherence to the life safety code.
- Have a plan for inclement weather when events are held outdoors. Monitor potential inclement weather and respond accordingly.
- If food is prepared and transported to the event, check all transport containers to ensure proper temperatures.
- Provide clear, appropriate signage throughout the event venue, marking clear rules, policies, and noting any potential safety hazards.

Hotel Insurance Marketplace Update

The U.S. property and casualty insurance industry reported a \$8.2 billion underwriting loss for the first quarter of 2023. Combined with the major disruption of the property insurance market, due to the damage caused by Hurricane Ian in 2022, we expect to see continued restriction of coverage capacity in coastal areas. Additionally, we also anticipate these conditions in the portions of the country impacted by severe wind, hail, and tornadoes. More severe weather patterns countrywide continue to put upward pressure on property insurance pricing. The 2023 insurance market forecast continues to indicate a rise in pricing in property (10-20% with much more severe increases in wind, hail, and flood areas), general liability (7-12%) and excess liability coverages.

Continuing to follow your safety and risk management programs and protocols, including the documentation of those activities, is more critical than ever. It is paramount to differentiate yourselves from the average hotel around the country. In this way, you can outperform, and thus realize more competitive rates than what the marketplace is delivering to your competitors. If you have any questions on this or need assistance, please contact our team at any time.

Our team will continue to assist you in managing the property and liability exposures at your properties, which will serve to reduce claims activity and set you apart from the average hotel. The TPG Hotels & Resorts Risk Management Team looks forward to continuing to work with you and your team in the implementation and execution of the risk management techniques that continue to make a proven difference.

Additional risk management resources, including your guide to claims reporting, additional claims forms, past and current newsletters are always available online at : <https://www.dii-ins.com/specialty-programs/tpg-master-insurance-plan/>

Diversified Insurance Industries, 307 International Circle, Suite 610, Hunt Valley, Maryland 21030
Tel. 410.433.3000 | 888.433.3553