Elements of an Effective Aquatic Risk Management Plan

Linda Griffith, JD, ARM

Linda Griffith is a former litigation attorney who discovered risk management along the way. For the last ten years, she has been the risk manager for the YMCA of San Francisco and also serves as the organization's in-house legal counsel. The YMCA of San Francisco operates fourteen branches and numerous other program sites, and has seven aquatics facilities. Linda is a graduate of the University of Maryland and the University Of Kansas School Of Law.

Abstract

The intent of this presentation is to apply risk management principles to the aquatics environment. This workshop will discuss the risks that are encountered with aquatics facilities and programs and will address the steps that can be taken to reduce the likelihood of losses occurring. It will also address practices that can help reduce the severity of losses when they occur, and return a facility to full operation as soon as possible.
Elements of an Effective Aquatic Risk Management Plan
Linda Griffith
YMCA of San Francisco

Agenda
- The risk management process
- Negligence law
- General aquatic risk management
- Implementing your plan

Aquatic Risk Management
- The Risk Management Process
  - Identify Exposures to Loss
  - Analyze alternative risk management Techniques
  - Select the best techniques
  - Implement the chosen techniques
  - Monitor and Improve the risk management program

National Swimming Pool Foundation ∙ 4775 Granby Circle ∙ Colorado Springs, CO 80919 ∙ (719)540-9119 ∙ www.nspf.org
Organization’s Objectives
- Serve the public, members, customers
- Advance aquatics safety; legal requirements
- Provide a recreational facility
- Athletic competition
- Generate revenue for profit or sustainability
- Growth
- Operate continuously

Exposures to Loss that Interfere with Organization’s Objectives
- Property – corrosion, fire, earthquake
- Income – reduced revenue, extra expense
- Liability – responsibility to third parties, damage to reputation
- Personnel – injury, disability, resignation

Identifying Aquatics Exposures
- Surveys
- Loss Histories – both for facility and for industry
- Inspections, Audits
- Consultants
- Legal requirements
Typical Aquatics Exposures to Loss

- Property – storm damage, corrosive chemicals, mechanical failure
- Income – unscheduled closures for weather, water contamination, staff absences
- Liability – drowning, slip and fall, chemical exposure, child abuse
- Personnel – staff injuries, staff turnover

Examine Alternative RM Techniques

- Analyze techniques to minimize the frequency or severity of accidental losses, or make them more predictable
- Determine which techniques are available and feasible for each exposure

Risk Control Techniques

- Exposure avoidance – such as removing slides and diving boards
- Loss prevention – reduce frequency of accidental losses
- Loss reduction – reduce the severity of certain accidental losses
- Segregation of loss exposures
- Contractual transfer
Risk Financing Techniques

- Retention – assume the cost internally
- Insurance
- Hold Harmless agreements/Waivers

Select the Best RM Technique

- Look at:
  - Frequency and severity of the expected losses
  - Effectiveness of RM techniques on frequency, severity and predictability of losses
  - Cost of each technique

Risk Mapping

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<th>High impact/low frequency</th>
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<td>Low impact/low frequency</td>
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Risk Mapping Exercise

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Implementing RM Techniques

- Cooperation with other managers
- Cooperation from staff
- Cooperation from patrons
- Technical assistance from subject matter experts
- Approval of regulatory agencies

Monitoring and Improving RM Program

- Set standards for what is acceptable performance
- Results standards and activity standards
- Compare results with standards
- Correct substandard performance and/or alter unrealistic standards
Negligence Law
- Negligence
- Gross Negligence
- Contributory Negligence
- Comparative Negligence
- Negligence Per Se

Negligence Defined
“Failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm.” Black’s Law Dictionary

Duty of Care
- A legal obligation owed to another
- Lifeguard has a duty to patrons
- Pool operator has a duty to patrons, to public and to employees
Standard of Care

- Based on:
  - What others in the industry expect of themselves
  - What the law requires
  - What the community expects
  - Internal standards and policies

Breach of Duty - reasonable person test

Proximate Cause - reasonable link between breach and injury

Damages - actual injury or harm

Defenses

- Assumption of risk - obvious danger
- Contributory or Comparative Negligence
- Waiver of Liability
Specific Implementation Topics

- Maintaining a high quality of work
- Hiring and Training Staff
- Maintaining Equipment
- Maintaining Records

Setting the Culture

- To maintain a high quality of work, the culture needs to expect it
- Policies and Procedures
- Planning
- Accountability
- Buy-in from all stakeholders
- Realistic budgeting

Hiring and Training Staff

- Decide what certifications are acceptable
- Cross-over period for other certifications
- Skill testing during hiring process
- Reference checks
- Background checks
- New staff training
- In-service training, recertifications, etc.
In-Service Training

- Rescue Readiness
- Employee safety
- Child abuse prevention
- Conflict resolution
- Communication skills
- Emergency action plans
- Program specific training

In-Service Training

- Chemical handling, exposure
- Record keeping
- First aid
- ADA requirements, equipment
- Lifeguard rotation procedures
- Zone coverage
- Water contamination procedures

Drills

- Submerged or distressed swimmer
- Breath-holding
- Disruptive patron
- Lost child
- Medical emergency
- Severe weather
- Chemical spill/exposure
Post Accident Procedures

- Notifying emergency and regulatory authorities, family, superiors, insurance
- Investigation and documentation
- Legal counsel
- Mental health of staff and victims
- Causation analysis
- Follow-up

Maintaining Equipment

- Equipment needed to operate the facility
- Emergency equipment

Maintaining Equipment

- Consult with experts
- Preventative maintenance schedule and budget
- Prepare for problems, to minimize disruption
- Partner with regulatory agencies
- Keep accurate records of issues, changes, repairs
Maintaining Equipment
- Documented inspections, testing
- Regular staff training
- Know legal requirements

Record Keeping
- Daily inspections of facility and equipment
- Opening and closing checklists
- Daily chemical testing
- Daily temperature and humidity readings
- Chemicals added
- Chemical inventory
- Aquatic incidents
- Staff training

Signs
- Informational signs
  - Pool and spa rules
  - Depth markers
- Warning signs
  - Chemical, electrical rooms
  - No diving
  - Known hazards
Legal Mandates

- Federal – eg., Virginia Graeme Baker Act, Center for Disease Control, OSHA, ADA, EEOC, Spa Safety Act
- State – health and safety, labor
- Local – health and safety, hazmat permits

Standards, Resources

- CDC Model Aquatic Health Code
- Association of Pool and Spa Professionals
- American National Standards Institute
- World Health Organization
- Chlorine Institute
- YMCA of the USA
- Underwriters Laboratories
- American Red Cross

Other Resources

- Insurance Brokers
- Risk management consultants
- Insurance companies
- Professional associations and networks
Conclusion

- Aquatics needs big-picture risk management, with help from subject matter experts who sweat the small stuff
- Methodical approach gets you there
- Stay active in the industry
- Remember the organizational objectives

Thank you!

Linda Griffith
VP, Risk Management and Legal Affairs
YMCA of San Francisco
415 281-6725