



POOL SAFETY COUNCIL

Contact: John Procter
Phone: (800) 970-8420
www.poolstafetycouncil.org

FOR IMMEDIATE RELEASE

Pool Safety Council Calls for Investigation of LA County Official

Misrepresentation of federal law threatens to shut down local public pools

WASHINGTON, DC – January 22, 2009 – The Pool Safety Council (PSC), the authoritative voice on pool safety, entrapment and drowning prevention, today called upon California lawmakers to investigate the dangerous and misleading recommendations made by an official from the Los Angeles Department of Public Health (LADPH) regarding the implementation of new federal safety requirements for public pools. In a letter transmitted to California Attorney General Edmund G. Brown earlier today, PSC singled out public comments made by Los Angeles County Department of Public Health program manager Bernard Franklin, whose abusive interpretation of Virginia Graeme Baker Pool and Spa Safety Act will lead to a needless shutdown of public pools across Los Angeles. Mr. Franklin is responsible for the safety and compliance of more than 16,000 public swimming pools in Los Angeles, California.

Franklin's baseless requirements will needlessly cost public pools tens of thousands of dollars to come into compliance at a time of state and national economic hardship.

The Consumer Product Safety Commission says that 2,300 children were treated in emergency rooms for pool submersion injuries in 2004. Entrapment occurs when supercharged suction from insufficiently covered drains pins a swimmer underwater, sometimes preventing their escape. Congress passed the Virginia Graeme Baker Pool and Spa Safety Act in honor of the granddaughter of former Secretary of State James A. Baker, who died after being trapped in a spa drain in 2002. The new federal law, which took effect late last year, requires that all public pools install new, approved safety drain covers and an anti-entrapment device such as a Safety Vacuum Release System.

Some of Franklin's actions and in recent weeks:

- Franklin has unilaterally demanded that all public pools in Los Angeles be drained and retrofitted with a second drain when the law only requires the installation of an anti-entrapment device and new drain covers.
- Franklin has refused to allow his inspectors to verify that anti-entrapment systems have even been installed and has not acknowledged their proven record of preventing deaths.
- Franklin's requirement, posted on the LADPH website, will require any public pool retrofitted with an anti-entrapment device to be drained and refitted with a split main drain. Mr. Franklin won't even allow

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drain covers to simply be replaced, as the law states, but is requiring that pools be drained in order to install new drain covers.

The spirit of the VGB Act was to prevent the senseless death of swimmers by making pools safer. The abusive misinterpretation of this law by Mr. Franklin will prevent public pools from coming into compliance in a timely manner – if at all – by imposing steep and unnecessary costs.

For a copy of the letter or more information, please visit our website at: www.poolafetycouncil.org.

LETTER TEXT:



POOL SAFETY COUNCIL

Pool Safety Council
336 West College Avenue
Santa Rosa, CA 95401

January 22, 2009

The Honorable Edmund G. Brown
Attorney General's Office
California Department of Justice
ATTN: Public Inquiry Unit
P.O. Box 944255
Sacramento, CA 94244-2550

VIA FAX: (916) 323-5341

Dear Attorney General Brown:

As you may know, on December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act went into effect. The legislation mandates that all public pools take relatively simple measures in order to better protect swimmers from the dangers of drowning and entrapment.

However, the Pool Safety Council is shocked by some of the early and disparate public comments related to the legislation's interpretation and enforcement. While the Consumer Product Safety Commission (CPSC) has issued its interpretation of the Pool and Spa Safety Act, some local officials have taken it upon themselves to act – or not act – based upon their own interpretation of the language of the law.

The most alarming comments have come from Los Angeles Department of Public Health program manager Bernard Franklin, whose jurisdiction covers more than 16,000 public swimming pools in Los Angeles, California. Franklin has stated publically that his agency will not even attempt to conduct thorough inspections of the pools

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in his jurisdiction. The December 29, 2008 issue of *Pool & Spa News* quotes Mr. Franklin as stating that split main drains “are the only thing we can verify,” adding the LADPH “can’t make sure SVRS systems have been installed... and calibrated properly.” Nationwide, over 100,000 such systems have already been installed.

It eludes us as to why Mr. Franklin is unwilling to allow pools to simply replace their drain covers without emptying the entire pool, a requirement that goes beyond the federal regulations. From our vantage, Mr. Franklin’s requirement is out of step with the mainstream application of the law; nowhere in the United States are officials requiring that operators drain a pool in order to replace a drain cover.

Sadly for public pool owners and operators, Mr. Franklin’s comments stating that he and his staff cannot be bothered to inspect installed pool equipment a matter of feet from any pool puts some of the most cost-effective methods of compliance out of sight of many pool operators. Despite broader parameters laid out in the law, the LADPH has suggested public pools install costly split drains, even when a far less costly anti-entrapment device may already be in place. Their web site states pools “with single drains will be required to be retrofitted with split drains when the pool is resurfaced, renovated or drained for any reason even though the pool has a safety vacuum release system or automatic pump shut-off system.” These comments make Mr. Franklin’s office sound less like a public safety agency and more like a public works initiative: LADPH is suggesting that excessive, costly construction work is the only option for LA County public pools to become compliant and safe. This could not be further from the case.

Mr. Franklin and the LADPH are ignoring the multiple options for protection outlined in the Virginia Graeme Baker Pool and Spa Safety Act. That law explicitly states public pools must have approved safety drain covers. All single drain pools must have either an anti-entrapment device, such as a Safety Vacuum Release System, a Suction-Limiting Vent System, Automatic Pump Shut-Off System or Drain Disablement Device. The LADPH’s policy flies in the face of what the law actually requires, at great expense to public pool owners and operators and to the detriment of the thousands of swimmers that take advantage of our public pools.

To make matters worse, Mr. Franklin has stated that LA County pools must be drained of their water for a drain compliance inspection to take place. Doing so is not only unnecessary, but irresponsible in a part of the country where water resources are so scarce. Forcing 16,000 pools to drain for an inspection that can take place visually or with a diver would add millions of gallons of water demand to the public utilities system just to refill the pools and return them to service.

Empty pools are also at risk of damage. Terry Snow, who serves on the Government Relations Committee of the Independent Pool & Spa Service Association, told *Pool and Spa News* that drained pools will be at the mercy of the elements. “If it takes [the inspector] one or two weeks to get out there... you have a bunch of pools sitting there subject to the weather,” Snow said. Scorching summer heat and high groundwater can lead to cracking and other damage. Such conditions can even push entire, empty inground pools out of the ground after a significant rain. There are ways to ensure compliance without putting our recreational infrastructure at risk.

LADPH’s policies will put the squeeze on public pools, and those which cannot find the tens of thousands of dollars necessary to meet Mr. Franklin’s baseless demands will be forced to close. Franklin and the LADPH are making compliance that much harder to attain.

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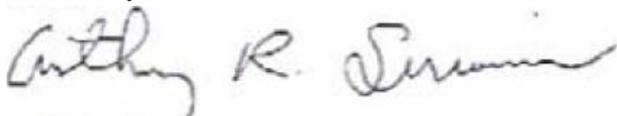
The Pool Safety Council urges you and your colleagues to investigate our concerns of Mr. Franklin's conduct. We also ask that you compel your local officials to make thorough inspections of the Pool and Spa Safety Act compliance an urgent priority. Finally, PSC requests that you use the power of your office to hold officials in your state like Mr. Franklin accountable for taking the necessary and appropriate measures to ensure compliance with this life-saving piece of legislation.

We hope you will continue this fight to ensure that, as with the adoption of the vehicle airbag and child car seats, tragic pool drain entrapment can eventually become part of our past. We would welcome an opportunity to discuss this matter further with you and your staff at your convenience and can be reached at (800) 970-8420.

Additional information is also available on our website at: www.poolafetycouncil.org

Thank you for your consideration and continued support.

Sincerely,



Anthony Sirianni
Member, Board of Directors

Cc: The Honorable Gov. Arnold Schwarzenegger, governor of California
The Honorable Lt. Gov. John Garamendi, lieutenant governor of California
The Honorable Antonio Villaraigosa, mayor of Los Angeles (D)
Dr. John Schunhoff, Ph.D., Interim Director, Los Angeles County Health Services
Dr. Robert G. Splawn, M.D., Interim Chief Medical Officer, Los Angeles County Health Services
The Honorable Rep. Henry Waxman (D-CA), United States Representative
Dr. Jonathan E. Fielding M.D., M.P.H., L.A. County Director of Department Public Health
The Honorable Jerry Brown, Attorney General
The Honorable Alfonso Medina, Director of the Environmental Protection Bureau

The Honorable Darrell Steinberg, president pro tempore of the California State Senate
The Honorable Leland Lee, assistant president pro tempore of the California State Senate
The Honorable Dean Florez, Majority Leader California State Senate
The Honorable Dave Cogdill, Minority Leader of the California State Senate

The Honorable Karen Bass, speaker of the California State Assembly
The Honorable Alberto Torrico, majority floor leader of the California State Assembly
The Honorable Michael Villines, minority floor leader of the California State Assembly