

# Waivers: your liability shield

By Sierra Wright

Swimming is an activity that attracts many different people to member facilities. From families to sports teams to senior citizens, it is an activity that is enjoyed by many. It is easy to assume that pool users should be aware of their surroundings, but in the business of serving the public, that is something members should not do. In the summer months, outdoor pools open their gates, and in the fall months indoor pools see an increase in attendance. With an increase in numbers comes an increase in risk. As we wrap up this gift of sunny weather and move into fall, we should top it off with a bow of protection.

Although it is expected that a pool facility comes with an abundance of water, attendees do not consider the water outside of the designated swimming areas. Families hurry their way onto the grounds carrying their bags, towels, and swim gear. Children run around the perimeter of the pool to jump in or use a diving board. Parents and grandparents rush children to the restrooms. While all of this is happening, water is also making its way out of the pool. During these times, people are distracted and prone to slip and fall accidents.

Pool facilities often post signs listing the rules of the grounds and do their best to mitigate excess water on the deck, but there are additional steps to consider. Members should also post warnings for wet surfaces and develop practices to routinely clean decks of any excess water. WCIA has seen a recent rise in claims where members are not collecting waivers from their visitors even though they have policy for doing so. Resultant claims can be very expensive to defend, and although water around a pool seems open and obvious to most, juries still award claimants compensation due to falls at a pool facility.

Many swim sessions require a fee to enter, which excludes entities from arguing recreational immunity. Barring recreational immunity, the best protection is a waiver. To be upheld in court a waiver must be clear, unambiguous, and specific to the activity in question. The waiver must have clarity and require a signature following the waiver language. Developing good practices around waivers can protect members from substantial claims.

If your entity has not yet taken this step forward, talk to your WCIA Risk Management Representative. With the colder months ahead, think of the activities the public will gravitate toward. Is there another instance where a signed waiver could be beneficial? If you are uncertain whether an event or facility should request a signed waiver, WCIA is here to help!