



Hotel not faulted in drowning

Yarmouth Board of Health takes no action against Bayside Resort in a pool accident with two girls.

By CHRISTINE LEGERE
clegere@capecodonline.com
September 09, 2014 2:00 AM

SOUTH YARMOUTH — The Board of Health unanimously voted to take no action against the owner of the hotel where a 9-year-old girl from New York drowned and her 12-year-old sister almost drowned in the indoor pool last month, following a hearing on a possible license violation held Monday.

Blame for the drowning at Bayside Resort should fall on the inattentive adult relative assigned to watch the four children in the pool and not on the hotel, argued the attorney representing the insurer of the hotel.

"It's a mystery to this day how these two little girls remained in that pool while at least one relative and maybe three were literally feet away," attorney Edward Gargiulo said.

The Board of Health scheduled a show-cause hearing Monday to determine whether any disciplinary action against Bayside's license was warranted. Health Director Bruce Murphy said that could take the form of a license suspension, revocation or the attachment of some conditions.

The hearing was prompted by an Aug. 20 incident when two sisters, ages 9 and 12, were found unconscious at the bottom of the deep end of the resort's indoor pool. They were dragged out of the water by guests and given CPR — reportedly by a guest and a family member — until the town's emergency personnel arrived.

The girls were taken to Children's Hospital in Boston, where the younger sister was later taken off life-support systems and died. Barnstable County District Attorney Michael O'Keefe said the surviving girl was recovering, according to what he had been told by police investigating the incident.

While lifeguards are not required, Yarmouth's health regulations, written in 1982, specify hotels with pools must have someone certified in CPR, first aid and water safety "on the premises" whenever the pool is open.

Because of a shift swap on Aug. 20 of which management was unaware, no certified staff member was on duty at Bayside when the incident occurred, according to Gargiulo.

Gargiulo said signs warning no lifeguard was present were clearly visible, "and the water was immaculate."

The pool had been inspected by local health officials earlier on the day of the drowning and was found in compliance.

Gargiulo said preliminary details of the incident suggest the adult, who was the girls' uncle, wasn't paying attention to the children. Under Yarmouth's health department regulations, all children under age 14 must be supervised by an adult swimmer while in the pool. The four children who were under the adult's supervision ranged from 7 to 12 years old.

The girls were submerged for "a significant period of time prior to any rescue efforts," Gargiulo said in a long letter to local health officials.

The attorney said a cousin of the two girls who was also swimming in the pool had reported afterward that he had seen the two sisters at the bottom of the pool, "but believed it to be part of a game and, thus, he did not summon help."

In the health regulations, adult supervisors were the "first prong" in the safety system at hotel pools, Gargiulo said. The board of health "specifically laid responsibility where it should be: with a parent or a parent's designee," the attorney said.

Gargiulo told Health Board members a CPR- and first aid-certified staff member was the "second prong." Such staff was required to be on the premises but not necessarily in the pool area.

There were still trained personnel working on Aug. 20, the attorney said. A desk clerk who assisted with the girls' rescue had been certified in both CPR and first aid, but the certifications had expired at the time of the incident. He believed she had been certified up until 2008.

A member of the housekeeping staff had also been trained but had let the certifications lapse.

While the media have described those who performed CPR on the girls as "untrained," the attorney said in the letter he had been shown no proof that was true.

Gargiulo had pushed to have the hearing continued until reports from the state police and the district attorney's office were made available. Otherwise, he said, there was insufficient information from which to draw conclusions regarding who was at fault.

Chairwoman Tanya Daigneault said the purview of the Board of Health was limited to its regulations and whether they had been followed, so police reports would not affect the board's deliberations.

Since the incident, Bayside owner Rod Szrozenski has had 17 employees become certified in CPR, first aid and water safety. A protocol has been developed to make sure at least one certified staff member is working, even when there are shift swaps or sick calls. The hotel has also established a system whereby it will be alerted of upcoming expiration of certifications.

Under Bayside's new policy, if there is a time when there are no workers with the necessary certification, the pool will be closed.

The state Department of Public Health inspected the pool area the day after the drowning and found a few violations, which have since been addressed.

The town's building inspector filed a violation over a door that was padlocked and had to be broken down for emergency personnel to exit the pool area. That door has been replaced and now serves as an alternative exit.

Health board members had few questions for Szrozenski and his lawyer. After the vote, member Evelyn Hayes commended the Bayside owner for his efforts since the drowning, calling it "really excellent work to make sure it would never happen again."

Follow Christine Legere on Twitter: @chrislegereCCT.

Copyright © Cape Cod Media Group, a division of Ottaway Newspapers, Inc. All Rights Reserved.