

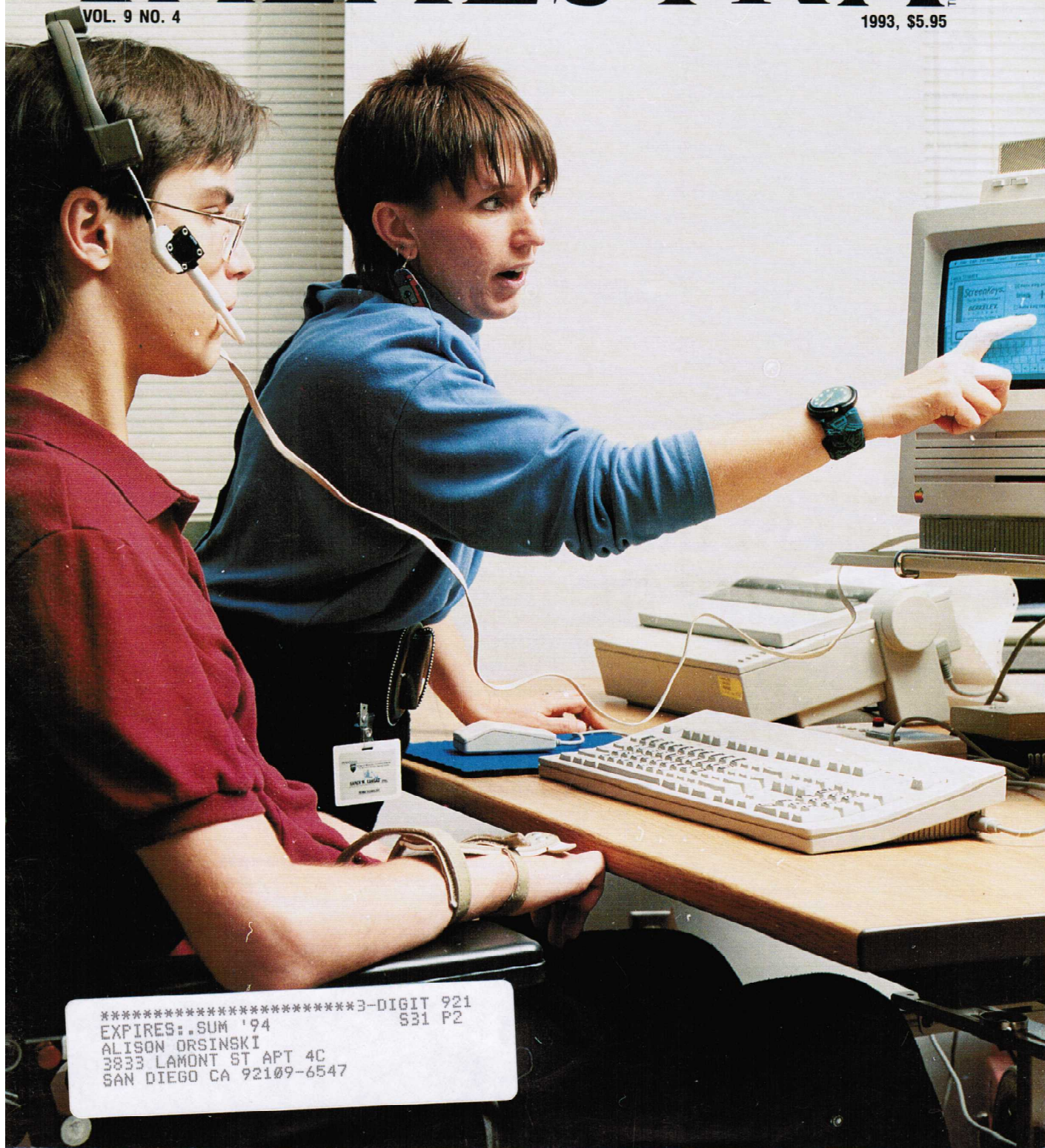
PALAESTRA™

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Alison Osinski is currently in private practice as an aquatic consultant. Her firm, Aquatic Consulting Services, is located in San Diego, California. Among her clients are health and fitness organizations, the YWCA of the USA, the Boys & Girls Clubs of America, YMCAs and JCCs, and therapeutic facilities. Dr. Osinski's specializations within the field of aquatics include: aquatic risk management, aquatic facility design and renovation, swimming pool chemistry, maintenance and operation; and aquatic program development.



Modifying Public Swimming Pools to Comply with PROVISIONS of the AMERICANS WITH DISABILITIES ACT

by Alison Osinski

An estimated 43 million Americans, or about 12% of the population, have at least one physical or mental disability. The number of disabled Americans continues to increase. The population is aging, and seriously injured individuals are surviving because of medical advances and better trauma care.

Aquatic facilities should be designed to meet the needs of the total population, including individuals with disabilities. Most pools need to attract a broader spectrum of participants. Only about 30% of the U.S. population swims, but almost everyone can benefit from some form of aquatic participation. Pools can be utilized for recreational, competitive, fitness, instructional, therapeutic or rehabilitative purposes. Participation in aquatic activities provides opportunities for socialization and shared experiences, a chance to become part of a support group, can culminate in improved strength and physical fitness, and may result in increased self-reliance and a more positive outlook on life.

Yet discrimination in aquatic programming and poor facility design persist. Individuals with disabilities are often unintentionally excluded from fully participating in aquatic activities because of architectural barriers or overprotective rules. Unfounded generalizations may prevent their acceptance and employment as aquatic professionals.

In response to recently enacted legislation, owners or operators of aquatic facilities have begun examining whether their facilities are really accessible to everyone. Interested parties should insist that all aquatic facilities be modified as needed to make them fully accessible and in compliance with provisions of the Americans With Disabilities Act.

The ADA

Public Law 101-336, the Americans With Disabilities Act (ADA), was signed into law by President Bush on July 26, 1990.

ADA Titles I-V

- I Employment
- II Public Services and Transportation
- III Public Accommodations and Services Operated by Private Entities
- IV Telecommunications
- V Miscellaneous Provisions
(prohibition of intimidation or retaliation against those filing complaints, special considerations for alterations to historical sites, availability of technical assistance. . .)

Regulations have been promulgated by federal agencies charged with that duty, and the five titles covered under the ADA are currently being implemented.

The ADA mandates that "No individual be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation" [§302 (a)]. The ADA basically prohibits discrimination in facilities open to the public against those with disabilities, and has as its purpose the mainstreaming of non able-bodied individuals into American society.

The ADA augments or strengthens other laws which were designed to prevent discrimination, or that require facilities be accessible to all Americans. Aquatic organizations can no longer continue to ignore provisions of laws such as the Civil Rights Act of 1964, the Federal Handicapped Law (§504 of the Rehabilitation Act of 1973), or state codes such as the California Administrative Code (Title 24, §2, July 1, 1982). In the past, many aquatic professionals resisted implementing provisions of these laws in a mistaken belief that the requirements did not pertain to them.

Where to Obtain Information on The Americans With Disabilities Act (Public Law 101-336)

Complete copy of the ADA text:

U.S. Senate Subcommittee on Disability Policy; 113 Senate Hart Office Building; Washington, DC 20510; (202) 224-6265.

U.S. Government Printing Office; Superintendent of Documents, Mail Stop SSOP; Washington, DC 20402-9328

Information on requirements for construction or design alterations: Architectural & Transportation Barriers Compliance Board (ATBCB); 1111 18th Street, NW; Suite 501; Washington, DC 20036; (800) USA-ABLE

Federal Register 56, No. 144, July 26, 1991 (pages 35, 560-35, 599) "Section by Section Analysis and Response to Comments"

U.S. Government Printing Office; Superintendent of Documents; Washington, DC 20402

Office of the Federal Register; National Archives and Records Service; Washington, DC 20408; (202) 523-5240

Complying with provisions of the ADA pertaining to hiring, promotion, pay or any other aspects of employment:

Equal Employment Opportunity Commission (EEOC); 1801 L Street, NW; Washington, DC; 20507; (202) 634-6930, (202) 663-4900

Complying with provisions of the ADA pertaining to transportation: Department of Transportation; 400 Seventh Street, SW; Washington, DC 20590; (202) 366-9305

Complying with provisions of the ADA pertaining to telecommunications:

Federal Communications Commission; 1919 M Street, NW; Washington, DC 20554; (202) 632-7260, (202) 632-6999 (TDD)

Free documents: "ADA Requirements Fact Sheet", "ADA Statutory Deadlines", and "The Americans With Disabilities Act Questions and Answers"...

U.S. Department of Justice; Civil Rights Division; P.O. Box 66118; Washington, DC 20035; (202) 514-0301

ADA Compliance Guide (\$140.00):

National Association of Wholesaler-Distributors; Dept. T; 1725 K Street, NW; Suite 710; Washington, DC 20006

Training packages, publications, materials and videos to assist with the implementation of the ADA:

President's Committee on Employment of People With Disabilities; 1331 F Street, NW; Washington, DC 20006

Consultants specializing in ADA implementation:

Americans With Disabilities Consultants; 5N812 Pearson Lane; St. Charles, IL 60174; (708) 513-6868

ADA Fact Sheet:

National Organization on Disability; 910 Sixteenth Street, NW; Suite 600; Washington, DC 20006; (202) 293-5960

Guidelines for the Design of Barrier-Free Recreational Boating and Fishing Facilities (\$35.00 + \$3.50 P&H):

States Organization For Boating Access (SOBA); NRPA Book Center; 2775 S. Quincy Street, Suite 300; Arlington, VA 22206

Although the ADA does not specifically mention pools or spas as facilities which must comply with the law, it does list: hotels or motels, stadiums or other places of exhibition or entertainment, professional offices of health care providers, parks or places of recreation, schools, social service center establishments, gymnasiums, health spas, or other places of exercise or recreation. Barrier free access to pools and spas located within these facilities is implied.

Under the Act, a disabled individual is broadly defined as one who is regarded as disabled, or has a record of a physical or mental impairment that substantially limits one or more major

life activities.

The ADA requires that the needs of all individuals with disabilities be anticipated in providing auxiliary aids and services. It requires that architectural changes be made to remove physical barriers from existing facilities, and mandates accessibility in all new construction or when substantial alterations to a facility are made. Modification of policies, practices, and procedures to reasonably accommodate individuals with disabilities is required.

Exemptions from the ADA

The ADA does not require modifications that would significantly alter the goods and services provided by an organization. Exemptions from compliance may be permitted on a case by case basis if undue hardship can be shown. In order to prove undue hardship in requesting exemption from the law, an organization would have to show that complying would cause a significant difficulty or expense in relation to the size and financial resources of the organization. A higher standard, or more strict compliance would be required of a large municipal natatorium than would be required of a small social service agency pool.

Only those private clubs or religious organizations which are exempt from coverage under Title II of the Civil Rights Act of 1964, are exempt from compliance with the ADA. Non profit agencies are not exempt from compliance simply because of their non profit status. Private or religious entities may be considered public accommodations if they charge for goods or services or for the use of their facilities, or open their facilities for use by the public. For example, a private club pool which hosts a swim meet against a cross town rival, and charges spectators an admission fee to attend the competition, would be considered a public entity.

Costs of Compliance

Costs of complying with the ADA will add about 5% (GPO, 1991, 299-558) to the cost of new construction. The costs associated with modifying existing facilities will vary depending on the number of changes required. It should be remembered that only reasonable accommodation must be made. When deciding which items to purchase, what services to provide, or which facility modifications to make, an organization should examine the net cost of an item when compared to its ability to pay, degree of disruption to the workplace, and number of persons to whom the facility will be made accessible. Some costs may be offset by an increased number of facility users. Costs of compliance must be absorbed by the organization or by all participants equally. Participants with disabilities cannot be singled out for extra charges or fees to offset costs of compliance.

The Internal Revenue Code provides a tax incentive of \$15,000.00 (Straub, 1992; Federal Register, 1991) to remove qualified barriers. A Small Business Tax Credit is also available to businesses whose gross receipts do not exceed \$1 million dollars and whose workforce does not exceed 30 full-time employees. Small businesses can claim up to 50% of the expense for compliance—for hiring persons, providing services, removing barriers, or for purchase of equipment costing between \$250.00 and \$10,250.00.

Employment of Individuals with Disabilities

The ADA prevents discrimination in hiring or promotion. It is not an affirmative action law and does not require that preferential treatment be given. Individuals may be asked if they have the ability to perform a job function, but not whether, or to what extent, they are disabled.

Pre-employment medical screening is prohibited, but requiring medical exams after employment has been tendered, with the job contingent on passing the medical exam, is permitted. If physical requirements are a necessary part of the job description, all employees, not just those with known or suspected disabilities, must be required to take the medical exam.

The ADA prohibits imposition or application of eligibility criteria or requirements which screen out individuals with disabilities that do not have to do with job requirements or safety. Tests cannot be used which specifically screen out individuals with disabilities.

Although desirable that lifeguards be physically fit and have advanced swimming skills in order to perform contact swimming rescues, just as was demonstrated in the past with minimum height requirements for police officers or upper body strength requirements for fire fighters which effectually screened out and discriminated in hiring against women and members of certain minority groups, advanced skills were thought to be desirable but not a necessary part of successful job performance, (U.S. GPO, 1991). For example, requiring pool lifeguards to swim distances of 500 yds in a specified amount of time may not correlate with actual job requirements for lifeguards who work in 60 ft indoor swimming pools.

Employers are encouraged to think in terms of the goal or objective not just the method of achieving it. As an example, a goal in lifeguarding is prevention of drownings or water accidents by complying with the 10/20 Supervision Rule*. If an older individual with average swimming skills, or a disabled individual missing a limb, could successfully complete the rescue of a distressed swimmer within the 10/20 time frame using a rescue tube or some other piece of rescue equipment as satisfactorily as a young, highly skilled, competitive speed swimmer—the individual should be considered a “qualified individual with a disability” and offered employment if all other qualifications are met.

Participation in Aquatic Activities

The ADA requires removal of structural and architectural barriers where readily achievable or “easily accomplished without much difficulty or expense.” If not readily achievable, alternate steps should be taken to assure that individuals with

Pool Access Equipment Manufactures & Suppliers

AFW Co. of North America; Suite 311; Exchange National Bank Building; Olean, NY 14760; (716) 372-2935
Aquanauts; Division of Harry Geen Assoc., Ltd.; 50 Dynamics Drive, Unit 3; Scarborough, Ontario M1V 2W2; (416) 293-8200
Aquatic Access, Inc.; L. Nolan Enterprises; 417 Dorsey Way; Louisville, KY 40223; (800) 325-LIFT, (502) 425-5817
Recreonics; 7696 Zionsville Road; Indianapolis, IN 46268; (800) 428-3254, (317) 872-4400
Rehab Systems; 417 Main Ave., Suite 115; Fargo, ND 58103; (800) 726-8620, (701) 293-9175
Swim-Lifts; Spectrum Pool Products; 9600 Inspiration Drive; Missoula, MT 59802; (406) 543-5309
Triad Technologies; 4000 Galster Road; East Syracuse, NY 13057; (315) 437-4089
Ted Hoyer & Company; P.O. Box 2744; 2222 Minnesota Street; Oshkosh, WI 54903; (414) 231-7970, (416) 669-2381
Sandy's Commercial Swimming Pool Supply; 7285 Coldwater Canyon Ave.; N. Hollywood, CA 91605; (800) 922-7700, (818) 765-7062
Recreation Supply Company; P.O. Box 2757; Bismark, ND 58502; (800) 437-8072
United Industries Swim Time; 1913 Ohio, P.O. Box 338; Wichita, KS 67201-9829; (800) 835-3272, (316) 267-4341
Lincoln Equipment, Inc.; 182 Viking Ave.; Brea, CA 92621; (800) 321-0304, (714) 990-4130

disabilities can use the facility. Compliance requires altering the height and style of fixtures, phones, and drinking fountains, or the replacement of doorknobs with levers (U.S. GPO, 1991). It requires that an organization assign additional staff to assist a program participant, or that it provide devices, interpreters, readers, taped text, braille or large print materials, notetakers, or other services.

The ADA requires rules and practices that prevent participation be changed. However, rules can be established which are necessary for the safety or health of participants, which happen to screen out some individuals with disabilities. Rules cannot be created to eliminate participation based on a generalization or stereotype which exclude or deny services, prevent equal enjoyment, or cause individuals with disabilities to be treated differently (U.S. Government P.O., 1991a).

Modifying Aquatic Facilities

Modifications to some aquatic facilities, and the purchase and installation of specialized pieces of access equipment may be needed to accommodate participants covered under the law. Individuals with disabilities must be able to enter, use, and exit a pool with little or no assistance, and without drawing undue or unwanted attention to themselves. Before altering the facility or purchasing access equipment, it is recommended that aquatic professionals consult individuals with disabilities who use their pools as to desired modifications.

The following are various means or methods of providing safe, comfortable, and dignified ingress and egress for all pool patrons. Due to individual differences, more than one modification or piece of equipment may be needed to make existing aquatic facilities accessible to the entire population.

- **Removable Stairs and Ramps**—Portable stairs or ramps should be wide, sturdy, and able to be anchored or secured to the pool deck. The device should be easily moveable for cleaning below. It should be installed parallel to swim lanes, and not wider than seven feet or minimum lane width. Stainless steel safety rails should be provided on both sides of the

* A swimmer in distress must be recognized within 10 seconds and rescued, or the situation managed within another 20 seconds.



Top: Rose Bowl Aquatic Center—Pasadena, CA
Bottom: ASU—Tempe, AZ

ramp or stairs. Minimum ramp length should be 16 ft. The slope of portable ramps will vary depending on depth of water in which the ramp is installed, but portable ramps should end in no more than 30 in. of water. Because of the sharp angle of entry, portable ramps should not be used by individuals in wheelchairs unless they are accompanied by aides with pool chairs.

- **Decks**—Pool decks should be uncluttered and wide enough to permit safe maneuverability. Decks on all four sides of the pool should be a minimum of 8 ft wide. A minimum of 12 ft of unobstructed deck space should be provided where diving boards or starting blocks are installed. At least 10 ft of deck space should separate the swimming pool from the wading pool, spa, or other pool in the same natatorium. The deck and all floors leading to the pool must be slip resistant and meet minimum coefficients of dynamic friction of 0.6 - 0.7. Decks must be clean, disinfected, algae free, sloped properly to drain. Deck mats, raised grid interlocking tiles, or antibactericide runners, if used, should not present a barrier to use of the facility by those in wheelchairs or needing the assistance of crutches, walkers, or canes.
- **Elevators**—An existing facility whose pool is not located at ground level is not required to retrofit to install elevators unless "readily achievable." Elevators are not required in new buildings under three stories in height or with less than 3,000 square feet per floor, unless the pool is located in a shopping mall or in a professional office of a health care provider.
- **Gutters**—Deck level rimflow gutters can be installed completely around the perimeter of the pool. They are connected to the recirculation system through an integral surge chamber. Water is maintained in line with the overflow rim of the gutters and does not create a current or turbulence regardless of the static or dynamic surge created by swimmers. The deep opening

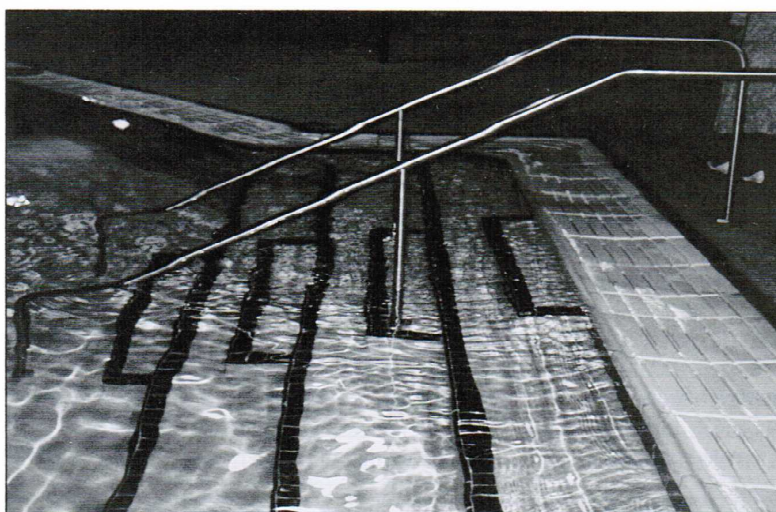
or channel in the gutters is covered by a protective grating or precast concrete stone to prevent bather entrapment. The modular perimeter overflow system permits ease of entry and exit from the water. A bather can slide into, or swim out of the pool without the need for a great deal of upper body strength.

• **Transfer Tiers, Raised Deck Edges**—

Portable tiers or raised edges constructed around the perimeter of the pool allow those with paraplegia who have some upper body strength to transfer from a wheelchair by grabbing onto the rails, sliding sideways onto the top of the tier, and lowering themselves with their arms by scooting down into the pool. A tier should be set 19 inches off the deck, allowing the option of either left or right

handed access, and should not have any sharp edges or protrusions which might cause injury.

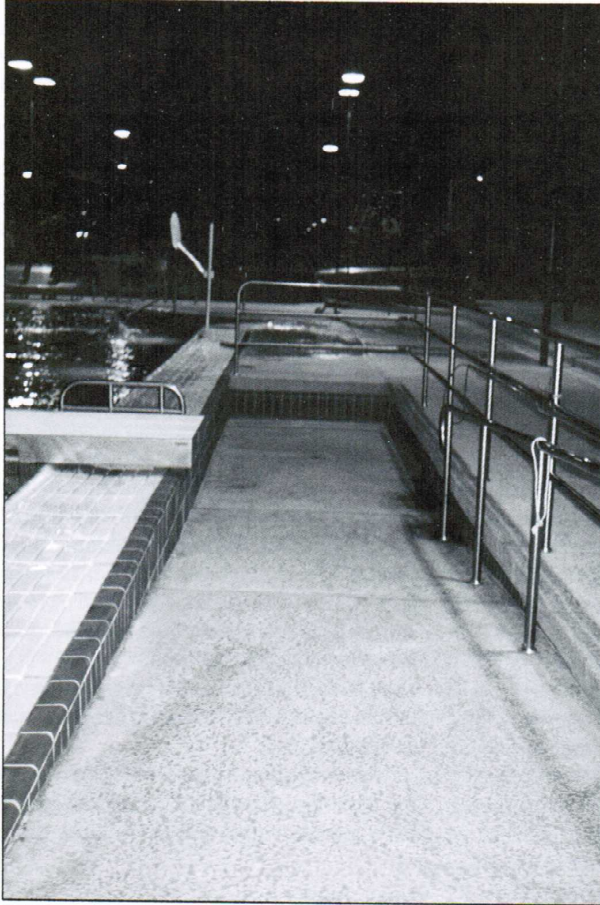
- **Railing Systems**—Therapeutic rails can be installed around the edges of ramps and steps to aid pool users with disabilities, to act as a protective physical barrier, and help prevent slip and fall accidents which often occur when entering or exiting a pool. Rail systems can be custom fabricated. A variety of different tubing bends, weights and finishes are available. Exercise bars can be mounted along the length of one pool wall. Exercise bars should be constructed of stainless steel with a satin finish, mounted horizontally, and center supported. Mounting hardware should be concealed to prevent injuries to the patron.
- **Ramps into the Pool Area**—Ramps should be constructed to connect the locker rooms to the pool deck if raised barriers exist. In many older pools, the barrier was installed purposely to provide for a 7 or 8 in. change in elevation to create a trough. The trough was used as a footbath and was designed to hold water with a disinfectant. Bathers walked through the footbath and rinsed their feet prior to entering the pool deck in an attempt to prevent the spread of disease. Footbaths were



eliminated in the 1960s when it was discovered that disease was actually spread through their use. However, many facilities have never gotten around to actually removing the trough or raised barriers.

- **Targets**—Sound targets which give off a beep or click that can be heard as an individual nears a pool wall can be installed for the blind or sight impaired. Similarly, visual targets are installed on pool walls, and backstroke flags are set on stanchions 15 ft from the pool edge to alert sighted swimmers to their approach to the end wall.
- **Signage**—Warning signs and rules may need to be translated into Braille, or the facility can provide readers to read signs to the visually impaired. If course catalogs advertising class offerings are normally mailed to patrons, a recorded telephone version of the catalog can be provided.
- **Locker Rooms**—If locker rooms cannot be made accessible to those with disabilities, a separate locker room should be provided. Family changing rooms are already provided at many pools in response to concerns about women taking their sons into women's locker rooms, and because many caregivers assisting elderly or disabled patrons are not of the same sex.

- **Wet Ramps**—Wet ramps are built into a pool, designed to slope gradually (5%) or not more than 1 ft vertically in 12 ft horizontally. Because of this, they take up a lot of space in a pool. A pool with a minimum depth of 4 ft would need a wet ramp at least 48 ft in length. Ramps are surfaced in a non-slip material and equipped with safety hand rails 1 1/2 to 2 in. in diameter. Ramps should be a minimum of 34 in. wide, and separated from the rest of the pool with rails or a bulkhead. The ramp should end in 32 in. of water and have a forward level clearance for a distance of at least 6 ft. Special wheelchairs or pool chairs must be purchased and provided by the facility for use with wet ramps.



- **Zero Depth Entry**—Some pools are designed similarly to beaches to slope gradually from deck level, or zero depth, to the bottom of the pool at a specified depth. Originally used in the design of waterpark wave pools, this has been a common and very popular design feature in new community swimming pools.

- **Dry Ramps**—Dry ramps are built into a pool deck and run along the outside of a pool. The ramps are built with a 1 ft vertical to 12 ft horizontal slope ratio. The ramps run from zero depth, or deck level at the entrance to the ramp, to a transfer point where the pool coping is 19 in. above the ramp. Because of the need to change only 19 in. in elevation, dry ramps take up a lot less space in the pool area than do wet ramps. Special wheelchairs are needed. Appropriate guard railings and transfer rails must be installed. Dry ramps work best when used in conjunction with pools designed with rimflow gutters.



"Some pools are designed similarly to beaches to slope gradually from deck level, or zero depth, to the bottom of the pool at a specified depth."

Top: ASU—
Tempe, AZ
Left: Pioneer Pool—
Phoenix, AZ

- **Lifts**—Lifts can be installed that allow an individual to sit down or transfer from wheelchair to a plastic chair or mesh sling installed 19 in. from the deck. The lifts can be operated electrically, by manual hand cranking, or through use of water pressure to lower or raise an individual into or out of the pool. When selecting a lift, look for a piece of equipment which is sturdy, made of corrosion resistant materials, light weight, and which can be securely anchored and bolted into the deck. Although some individuals with disabilities may need assistance when using a lift, the best lifts are those that can be operated by the individual with little or no assistance. As in all aquatic settings, it is of course recommended that a lifeguard or other individual capable of preventing injuries and qualified to provide rescue assistance in an emergency be present at the pool. The lift should be installed so it lowers an individual into shallow or standing depth water. The chair, mast, and lift mechanism should be swiveled out over the deck and away from the pool, except when in use. Some lifts are specially designed for use in above ground pools and spas.

- **Movable Floors**—Movable floors have been installed in European pools for the past 40 years and in U.S. pools since the mid '70s. Four of the last five pools built for the Olympics, more than 600 pools in Germany and over 100 pools in the U.S. now have movable floors which permit the reinforced concrete floor of the pool covered with an anti-slip tile finish, to be raised or lowered by stainless steel hydraulic cylinders from zero depth to the maximum depth of the pool. Water flows into PVC grill work installed around the perimeter of the floor as the floor is raised and continues to circulate both above and below the floor. The entire pool floor or just a section of the floor can be designed to move. If the floor is only constructed in part of the pool, a hinged trailing ramp, a vertical elevator wall or rolling bulkhead are used to prevent entrapment below. Pool depth can be tailored to meet specific instructional, programming, or personal needs. In addition to making the pool accessible to individuals with disabilities, movable floors allow facilities to target or cater to special audiences. If 18 in. of water is needed for ideal conditions for teaching a preschool water adjustment class, the pool depth can be adjusted to 18 in. Wheelchairs can be rolled onto the raised deck and the participants lowered to the desired water depth at a rate of approximately one foot per minute. When in the raised position, movable floors also act as safety covers, retain pool heat, and prevent evaporation of water and chemicals into the surrounding air. The covered pool can also be used for other purposes, turning a natatorium into a multi purpose room.

An assortment of pool access equipment is available in a variety of price ranges to fit every organization's budget. The ADA does not require the best or most expensive product be chosen to make the facility accessible. Several manufacturers or distributors of pool access equipment are listed at the end of this article. Contact them for assistance in selecting items which best meet your facility's requirements and patron's needs.

Enforcement

In addition to requiring that facilities be made accessible, enforcement procedures and penalties for ignoring the law have

been specified in the text of the ADA. Clear enforceable standards have been set. Compliance with the law is prioritized. All individuals must have:

- access to the facility;
- access to goods and services provided in the facility; and,
- access to auxiliary facilities.

When discussing pools, this means that individuals must be able to get into the natatorium, into and out of the swimming pool, and be able to use the locker rooms. A patron can allege discrimination which he believes is about to occur; he/she does not have to wait until after it occurs.

All facilities should have a system in place for resolution of complaints. If not settled internally, the facility will be drawn into time consuming and possibly very costly litigation or administrative proceedings. The result may be a poor perception of the organization by the public. A person has the right under the ADA to file an administrative complaint with the Department of Justice, the Equal Opportunity Employment Commission (EEOC), or the Department of the Interior.

An individual can bring a lawsuit to obtain a court order to stop discrimination, or can file a complaint with the Attorney General who will bring suit in Federal court if a pattern or practice of discrimination is alleged. If an injunction is granted, the court may order relief from discrimination and strict compliance with the law. Civil penalties up to \$50,000.00 for the first offense, and \$100,000.00 per subsequent violation may be awarded. The prevailing party in a suit or administrative proceeding brought under this Act may be awarded attorney fees, litigation expenses, and costs. Punitive damages cannot be awarded under the ADA. When awarding civil penalties, courts will give consideration to good faith efforts or attempts at compliance if they can determine that an organization was not able to reasonably anticipate a need to accommodate.

Now is the time to begin implementing changes and modifying facilities to comply with the law so that all Americans will have equal access to aquatic facilities and programming.

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