

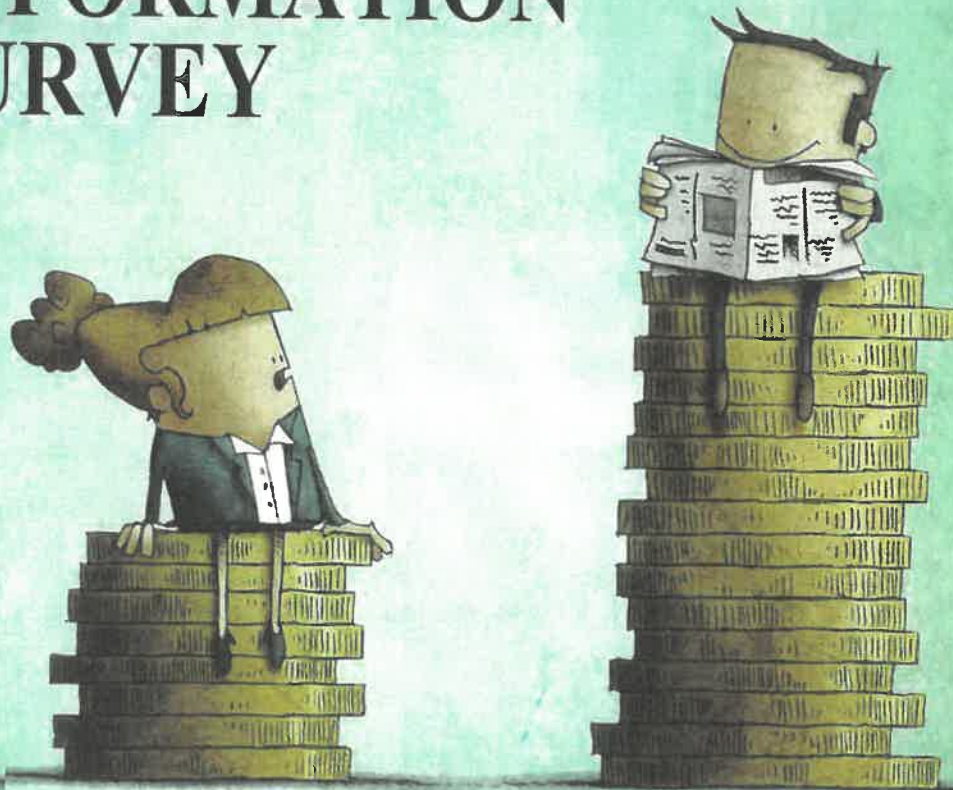
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# SALARY & INFORMATION SURVEY



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**STEERING CLEAR**  
of Pool Liability



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# Steering Clear of Swimming Pool Liability

BY ALVARO  
G. MENDOZA

**C**ondominiums and management companies are currently experiencing some of the most severe and unique challenges in terms of pool-related liability. In the past, the list of water-related issues included eye and skin irritation, slip and fall, bleached bathing suits, and green hair. Recently, more serious issues such as Legionella, cryptosporidium, and chemical burns, to name just a few, have added to the challenges of pool-related liability facing condominiums and management companies. According to one leading Florida insurance provider, they currently have more than five major lawsuits involving Legionella, all with at least a six-figure legal implication and one even resulting in the death of a patron.

However, exemplary swimming pool safety is quite achievable, and there are thousands of condominiums that have experienced a 100 percent track record of code compliance for decades, ensuring that they have never had a single liability incident.

Why the large disparity in liability avoidance track records? One reason might be the varied "standards of care" that condominiums assign to their pool operations. Some invest in people, education, and equipment to maintain their pools to high standards, while others subcontract their pools to the lowest possible three-day-per-week pool service bid, which in and of itself does not meet the minimum Florida Department of Health (FDOH) requirements for pool operations.

One of the hottest topics today for condominiums is the frequency of pool water testing to ensure the safety of patrons. FDOH code has long mandated daily testing of pool water, although some facilities only contract for pool care three or four days a week. To bridge the gap, an alarming number of pool companies and facilities have

turned to the falsification of pool logs, simply writing in code-approved numbers to fill in gaps between actual testing.

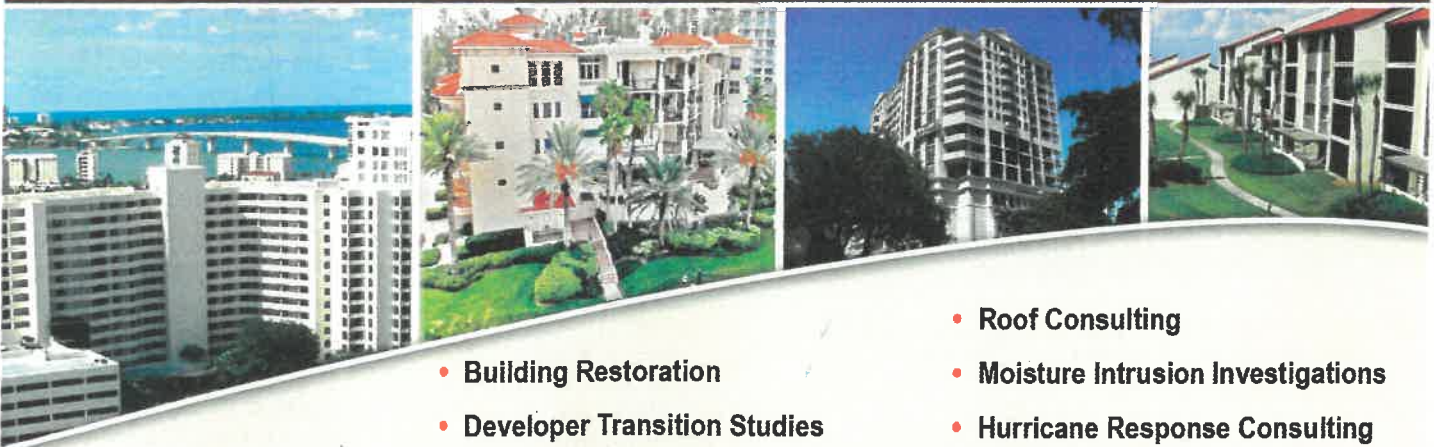
Recently, DOH inspectors in some areas of Florida have been registering violations to non-compliant condominiums for failure to test and have sent associations scrambling for a solution. There are various options available for compliance. Some condominiums ask employees or residents to test the water on off days per FDOH's allowance for "any capable body" to perform testing. Others contract with pool service companies to provide test-only services on off days, at a reported daily cost of \$75 to \$125 per visit. Only a small minority of condominiums have reportedly



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opted for seven-days-per-week outside pool service due to the high cost, documented to range from \$3,000-\$6,000 per month. However, condominiums that have a trained and certified maintenance staff performing daily testing don't need to utilize any of these alternatives.

Recently, another statewide alternative to daily testing has been introduced. A leading Florida water treatment service provider was awarded an exemption to the seven-day testing requirement by the FDOH when using an affordable package of 24/7 direct chemistry control, real-time monitoring, alert notification, minimum of three-day-per-week manual testing, and interactive test kit technologies. County FDOH agencies have been informed of this alternative program and have accepted it if all requirements have been met.

In addition to solving daily testing issues, there are a couple of ways to better steer clear of pool-related liability issues.

## CHEMISTRY CONTROLS & COMMUNICATIONS

These technologies have been pretty well publicized and are considered a baseline for any legitimate pool operation. Chemistry controls are mandated by FDOH codes on spas and wading pools and are highly recommended on all other bodies of water. A proven technology since the mid-1980s and a simple technology to implement, it has become mainstream. Some pool companies even provide automated controls as a part of their service.

It is getting much rarer to see condominium pools in which the chemicals are being hand fed or manually introduced at a

fixed rate. But missing or inoperative treatment equipment occurs with alarming frequency, and it is at the root of many of the issues that result in lawsuits.

Remote communications are a huge asset to any pool operation and are becoming much more commonplace as well. Many condominiums, large and small, are staying in touch with their equipment rooms by utilizing PC connections and no-cost apps to stay in touch with their pool operations. Many are also receiving alerts of any out-of-range parameters that might contribute to an issue or cause irritation to one of their patrons and/or guests. Alerts normally escalate until they are resolved, so the managers can let their team operate the pool but still intercede if things are not being handled in a timely manner.

Chemistry control systems with communications come in all sizes and models and are very affordable, normally starting at around \$100 per month (on a three-year ownership program) for basic models that specifically control water chemistry.

Other systems will cost double or more (depending on how much you want to monitor/control), but can also operate pool pumps, heaters, filters, water level, and tracking of water consumption (to detect pool leaks and help avoid skin irritation), etc. The additional capabilities of these systems provide huge savings in water, power, and gas that far outweigh any incremental system costs. Some condominiums track all the major mechanical parameters for multiple locations from a single flat screen or PC in their engineering or management offices, making avoidance of major issues much easier. The costs for even the



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most comprehensive system are relatively small, but the system provides a huge protection against minor and major issues alike.

### DIGITAL TEST KITS

This is a relatively new way that managers can stay on top of their water quality, and it is starting to show real promise by allowing them to know the following items:

- If and when their team took required water tests,
- What the actual pool readings were at that exact time,
- What chemical parameters were out of range at that time,
- What chemical corrections, including exact dosages, need to be made in order to keep the water safe and balanced.

How does this work? The facility invests in a special digital test kit. While digital kits can cost \$700–900, the accuracy of testing and required NSF® certification of test kits are so important that many consider this a small price to pay to ensure the overall well-being of their facilities. Some test kit models have special features that include an inexpensive subscription-based service that provides storage of readings (as well as other features described below) and are NSF® rated as Level1 (L1) accuracy—the most accurate on the NSF® L1 to L3 scale.

To begin, the operator gets a water sample from each pool using the supplied syringe, injects the water slowly into the disk, places the disk in the kit, and presses “test” to take the actual reading, which only takes 30–60 seconds. Using a smartphone and free app, the operator presses a button to transmit that reading to the subscription-based cloud portal.

The readings are stored, but of more significance, they are instantly evaluated against the desired high, low, and target parameters for the pool. These are set up proactively by those administering the program. By itself, this "proof of testing" is a huge development for those trying to bulletproof their facilities as much as possible against potential liability claims.

Additionally, any interested parties will receive an instantaneous "bounce-back" email with a recap of the readings, but, more importantly, any variations from the ideal parameters that have been set will be corrected, with specific dosages of chemicals to add to the pool water in order to correct any specific imbalance.

The kit uses pre-loaded disks for daily and/or periodic testing. One disk tests for daily FDOH parameters, but another one tests

for 11 total parameters, including those that protect pool finishes and heaters, stabilize pH and provide proper water balance, help prevent algae and staining on the pool finish, and protect the chemical budget to ensure low chemical costs. By contrast, an alarming number of inexpensive three-to-four-day-per-week pool service agreements don't even address many of these critical chemistry parameters.

## CONCLUSION

Condominiums have many amenities, but pools are considered by many to be among the most prominent. One key and often overlooked aspect of a swimming pool operation is the tremendous risk that is associated with making sure that the water is ultra-safe and free from irritants.

Traditional yet relatively minor issues such as bleached suits and green hair have been supplanted by major issues such as Legionella and cryptosporidium. Many condominiums are not equipped to handle the higher stakes.

The root of most of the swimming pool liability issues has been a breakdown in pool care strategy, a lack of investment in the pool operations including education and training, a failure to implement or maintain FDOH daily testing, or a failure to employ or maintain any form of automated pool treatment equipment.

Staying in touch with the pool via remote communications of chemistry control systems and new test kit technologies, including remote testing and reporting, provides a great set of tools that the owner/operator can use to assure water quality control while still staying within their strict budgets. ■

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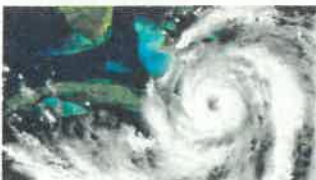
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