

To: Construction Industry Licensing Board

From: Jennifer Hatfield on behalf of the Florida Swimming Pool Association

Date: December 19, 2016

Re: Electrical termination to pool equipment

The Florida Swimming Pool Association (FSPA) continues to support the position provided in documents previously sent to the Construction Industry Licensing Board (the Board) in regards to theirs and Mr. John Garner's petition to initiate rulemaking to define the installation and repair of pool electrical equipment. In advance of the Board's January meeting, FSPA is providing the following additional information for its consideration:

Statistics & Data

Currently there is approximately 1.4 million residential pools in Florida, along with about 37,000 public pools. It is important to recognize that FSPA believes the clarity it is seeking applies to work being done on these existing pools and not with new construction where an electrician is required and listed on each permit.

In the last month, FSPA requested confidential data from distributors and retail stores that sell pool equipment so we could provide the Board with data showing the magnitude of any change to the current approach taken when working on those existing pools & spas would have on the consumer. We asked these companies for all pool equipment that has a wiring requirement; an item that a pool contractor would disconnect and reconnect, such as pumps, replacement motors, lights, time clocks, etc. The data showed the following:

- Of the six companies that responded to our request, approximately 630,000 items of pool equipment that requires wiring is sold per year in Florida.
- This does not account for an additional three companies that did not respond to our request for data nor does it account for online sales. It has become an ever-increasing practice for a homeowner to purchase the equipment online and then have their licensed pool contractor install it. We believe at least 225,000 additional items of pool "electrical" equipment is sold per year in Florida when taking into account these four additional companies and online sales.
- This number also does not account for the percentage of those items use for new construction versus existing. For 2016, as of November 30 - 20,509 permits have been pulled to build new pools in Florida. It is estimated that between four to six items of pool

“electrical” equipment is utilized for each new pool, if we take the average of five per pool that equals approximately 100,000.

- **Therefore; after considering all the above, we believe a more realistic total is at least 750,000 of these items sold per year in Florida that are being installed on the existing pools & spas.**
- It is also reported by some of the distributors who responded to our survey that no more than 1-2% of the sales they provided to us would have been sold to an electrician and in those rare circumstances, that electrician would have needed to have a pool builder involved in the discussion.
- **Taking the 750,000 items of pool “electrical” equipment that is being installed onto the 1.4 million existing pools each year in Florida, this equates to 53.5% of pools get an electrical item installed each year.**
- If both a licensed electrician and pool contractor are required to install these items, here is what must occur: a consumer calls their licensed pool contractor to first come out and determine what needs to be addressed and to purchase the equipment, then that pool contractor would call a licensed electrician to come out, for example, to disconnect the existing pool pump motor before he can do his work. The pool contractor now comes out to install the replacement pump motor, but before it can be up and running, he must now have the electrician come back out and reconnect it.
 - The **costs** to consumer go from one service call to four and if an electrician charges at least \$150/per call, at minimum an additional \$300 to the consumer and that isn’t accounting for an additional charge the pool contractor might need to charge for coming out twice instead of once. If you apply this \$300 to the 750,000 items that is an **additional cost to the consumer of at least \$225 million dollars.**
 - Further, this doesn’t account for the massive increase in time for the replacement item to be installed, which in the case of a replacement pump or pump motor, the longer a pool or spa goes without proper circulation, the consumer will find they now have a “green” pool that can pose both a **health and safety risk**. It has also been repeatedly brought to our attention that there are simply not enough electricians available to provide this service in a timely fashion.
 - The combination of additional costs and time to replace these items, if both contractors are required, will undoubtedly increase **unlicensed activity**, a detriment to both consumers and licensed contractors.

FSPA also recognizes that life safety is of the utmost importance and we have reviewed data provided by both the Occupational Safety & Health Administration (OSHA) and the Consumer Product Safety Commission (CPSC).

OSHA provides nationwide summaries of work-related fatalities. Employers must report these incidents to OSHA within eight hours. The OSHA summaries record the name and address of the worker's employer, the date of the fatality or catastrophe, and a brief description. These summaries include only preliminary information, as reported to OSHA Area Offices or to states that operate OSHA-approved State Plans. OSHA investigates all work-related fatalities and catastrophes in all covered workplaces. Based on the October 1 – September 30 Fiscal Year Summaries for 2014, 2015 and 2016 (attached as Exhibit A) we found the following:

- In 2016 there were 81 Florida incidents, of which 13 were electrocutions not related to pool construction or maintenance. There were no pool related incidents in Florida.
- In 2015 there were 68 Florida incidents, of which 7 were electrocutions not related to pool construction or maintenance. There were no pool related incidents in Florida.
- In 2014 there were 91 Florida incidents, of which 15 were electrocutions not related to pool construction or maintenance. There were no pool related incidents provided in the report, although we are aware of an incident that occurred September 15, 2014 in the panhandle and have been working with OSHA to determine why that was not included (appears the timeframe coincided with a change in their data systems).
- **Based on this information and the fact Florida alone has over 1.4 million residential pools, one death is not cause to mandate transfer of what is the established industry norm when it comes to pool equipment replacement from pool contractors to electricians.**

On the consumer side, the last report by the CPSC on Electrocutions Associated with Consumer Products was completed in 2009; that report can be found at <https://www.cpsc.gov/s3fs-public/2009electrocutions.pdf>

- Table 5 on page 11 of the 2009 CPSC report (attached as Exhibit B) provides that from 2002-2009 there were 14 electrocutions nationwide involving pool, whirlpool and hot tub products. The report notes the average number of electrocutions for 2007-2009 were 2 incidents nationwide.
 - It is important to identify that whirlpools are a type of bathing product for purposes of this CPSC reporting and therefore outside the scope of the proposed rule and pool electrical issue being addressed by the Board.
 - Although there is no CPSC report for 2010 and beyond, we are aware of one electrocution in Florida on April 23, 2014 in North Miami Beach.
- Table 5 of the 2009 report provides data on other product categories, including items such as household wiring that accounted for 15 deaths nationwide during that same eight-year period and outdoor wiring that accounted for 7 deaths.

- **The data does not provide a disproportionate amount of deaths occurring from pool equipment over other consumer product categories. Additionally, when considering that as of 2009 there were 14.6 million pools and hot tubs nationwide (although the industry never wants to see any deaths), the percentage of these incidents are extremely low.**

In summary, the data and statistics we have compiled do not support that pool contractors are doing work that results in a large percentage of deaths of contractors or consumers. However, the data provided demonstrates that consumers will be negatively affected by increased costs if a change is made to require both electricians and a pool contractor when replacing certain pool equipment. Further, the increase in time it will take to make the needed repairs, when both an electrician and pool contractor is required, along with the fact this will undoubtedly increase unlicensed activity when a consumer would rather get the task completed than have it done legally, will adversely affect consumer health and safety.

Revisions to previously suggested proposed rule language

As previously recommended, FSPA believes the clarification requested could be addressed by adding a new definition under 61G4-12.011, F.A.C and we thank the Board for opening this rule at their August meeting. FSPA provided two suggestions for wording under this rule, but after additional feedback we now propose the following definition of installation or repair of pool/spa equipment as it pertains to electrical work in lieu of our previous submittals:

(16) Installation or repair: Pursuant to section 489.105(3)(j)(k)(l), F.S., the term “installation or repair” of pool/spa equipment, as it pertains to swimming pool and spa electrical work, is defined as inclusive of replacement, disconnection or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting means. If installation, alteration, removal, replacement, or upgrading of this circuit is necessary, the work shall be performed by a licensed electrical contractor only.

The second sentence comes directly from the wording this Board previously adopted in the solar contractor rule 61G4-15.021, F.A.C. and we hope it brings clarity to those who erroneously believe we are trying to go beyond our scope by doing work that clearly requires a licensed electrician.

CE requirements & contractor exams

As noted in our previous submittal, an applicant for any of the three pool licenses must study and bring with to the exam the National Electric Code; specifically, Article 680 addressing Swimming Pools, Fountains & Similar Installations. The exam content for each of the pool contractors was previously provided to you. When reviewing all other Division II contractor reference documents, the only other licensed contractor category besides the three pool licenses that require the NEC is a solar contractor.

Suggestion: To ensure that applicants are getting tested appropriately on pool electrical equipment on the load side of the disconnecting means and ensuring the exam includes questions that cover new technology, FSPA would suggest that the tests be reviewed and an increase in the percentage of “electrical” questions be made to each exam.

As noted in our testimony at the joint meeting on October 28, FSPA recognizes technology continues to change in all construction trades, including pools. FSPA promotes courses that review what is required by the latest edition of the NEC for pools and spas, and what work is required by an electrician versus a pool contractor. However, we recognize that does not mean all pool contractors will take these courses.

Suggestion: To ensure that all 489-pool contractor licenseholders have this education, FSPA suggests that in addition to the definition rule the Board has already opened to address this matter, you also consider opening 61G4-18.001, F.A.C., to add the following requirement:

(2) All registered contractors and certified contractors are required to complete fourteen (14) hours of continuing education each renewal cycle. Of the fourteen (14) hours, one (1) hour shall be required in each of the following topics:

(a) Specialized or advanced module course approved by the Florida Building Commission, or the Board;

(b) Workplace safety;

(c) Business practices;

(d) Workers’ compensation; and

(e) Laws and rules regulating the construction industry;

(f) Wind mitigation methodologies, if license is held in the following category: General, Building, Residential, Roofing, Speciality Structure, or Glass and Glazing.

(g) Pool electrical requirements, if license is held in the following category: Commercial pool/spa, Residential pool/spa, Swimming pool/spa servicing, or Residential pool/spa servicing speciality.

The remaining hours may include any of the aforementioned subject matter or general topics as defined hereinafter.

FSPA supports this being a two-hour course on pool electrical requirements, but due to the fact all the other required courses were one-hour, we have put forth the same for consistency.

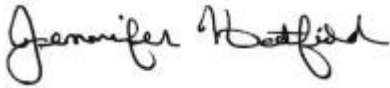
CILB Rulemaking Authority

Per s. 489.108, F.S., the legislature has provided the Board with rulemaking authority to implement the provisions of Chapter 489, F.S. This Board has in many instances used their rulemaking authority to define and provide further clarification for words and phrases found within chapter 489, F.S. That is simply all we are asking the Board to do now.

FSPA is asking for this Board to provide a rule that clarifies work its members have been doing since the beginning of licensure for pool contractors. We are not asking the Board to expand

beyond the work we believe the statute has always allowed us to do, but we also are strong proponents of an educated workforce and believe while the Board is providing clarification it is also an opportunity to ensure the proper training is occurring.

Respectfully submitted,

A handwritten signature in black ink that reads "Jennifer Hatfield". The signature is written in a cursive, flowing style.

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