SENATE BILL 442 EFFECTIVE 1/1/2018

POOL AND SPA BARRIER DROWNING PREVENTION FEATURES

On October 11, 2017 Governor Brown signed Senate Bill 442 (SB442 Newman) into law.  The bill amends Section 7195 of the Business and Professions Code as well as Sections 115922 and 115925 of the Health and Safety Code.  Bills typically go into effect on January 1 after the bill is signed.

**Background of the bill.**
Drownings are the second leading cause of death for children in California.  Between 2010 and 2015 more than 740 children between the ages of one and four years of age were hospitalized after a near drowning incident.  The leading cause of hospitalization was brain injury due to lack of oxygen, known as asphyxiation.  Some survive but many suffer permanent brain injuries.  The intent of the bill is to help prevent the large number of such injuries.  This is similar to a bill the Governor vetoed last year.

**The bill inserts a new paragraph in section 7195 of the Business and Professions Code related to home inspections.  The new section 7195 (a) (2) states:**

In connection with the transfer, as defined in subdivision (e), of real property with a swimming pool or spa, an appropriate inspection shall include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped.

**The bill adds to the end of 7195 (c).  The revised paragraph now reads:**
A "home inspection report" is a written report prepared for a fee and issued after a home inspection. The report clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons. In a dwelling with a pool or spa, the report shall identify which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped with and shall specifically state if the pool or spa has fewer than two of the listed drowning prevention safety features.

In addition to the modifications to the Section 7195 of the Business and Professions Code the bill references changes to the Health and Professions Code.  These changes directly affect our profession.  The full text of the bill is attached:

The bill requires, when a dwelling has a pool or spa, the home inspection "report shall identify which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped with and shall specifically state if the pool or spa has fewer than two of the listed drowning prevention safety features.

**The seven listed drowning prevention safety features are:**
(1) An enclosure that meets the requirements of Section 115923 and isolates the swimming pool or spa from the private single-family home.

(2) Removable mesh fencing that meets American Society for Testing and Materials (ASTM) Specifications F2286 standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

(3) An approved safety pool cover, as defined in subdivision (d) of Section 115921.

(4) Exit alarms on the private single-family home's doors that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that "the door to the pool is open."

(5) A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on the private single-family home's doors providing direct access to the swimming pool or spa.

(6) An alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 "Standard Safety Specification for Residential Pool Alarms," which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety feature.

(7) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features set forth above and has been independently verified by an approved testing laboratory as meeting standards for those features established by the ASTM or the American Society of Mechanical Engineers (ASME).

The bill excludes hot tubs or spas with locking safety covers that comply with the American Society for Testing and Materials (ASTM F1346).