

Is Your Health and Fitness Club Really Healthy and Safe? Best Risk Management Practices

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Introduction

Your boss has just requested that you perform a risk assessment survey at a chain of “stand-alone” and “business environment” health and fitness clubs concerning all lines of insurance coverage (property, general liability, and workers compensation). You have never provided this type of survey and have limited knowledge of this class of business based on your minimal time spent “working out at the local gym.” What do you do now?

This session will attempt to provide crucial foresight on operational aspects and common exposures and hazards faced by health and fitness clubs’ ownership and management, and how safety and risk management consultants can effectively eliminate and/or control associated risks. For ownership and management, this will positively impact your health and fitness club’s bottom line, thereby minimizing risk exposures to employees and club members and increasing sustainability and profitability.

Typical Operations

Typical operations found at either stand-alone or business environment health and fitness clubs can include: lobby areas, snack bar/café, tanning beds/booths, handball/racquetball courts, tennis courts, spinning rooms, free-weight areas, aerobics room, Pilates, day care, “dry/wet” saunas, hot tubs, swimming pools (both indoor/outdoor), basketball courts, playgrounds (both indoor/outdoor), yoga, tread mills, cardio/fit areas, massage rooms, indoor soccer fields, etc.

Special Exposures and Operations

Some health and fitness clubs may be involved either from the operational side or the property-management side with special exposures and operations. A thorough risk assessment survey needs to include a review of activities such as valet parking, outside vendors/contractors, law

enforcement and emergency response personnel, etc. Also, Americans with Disabilities (ADA) issues typically include access to parking lots/sidewalks, multi-stories/below-grade areas/swimming pools/hot tubs, locker rooms, and exercise areas. Best Risk Management Practices will address ADA issues later in this paper.

Additional exposures can include the use of video surveillance cameras, cell phone use, installation of vehicle key racks/lockers securement, mixed martial arts (MMA), gymnastics, birthday/retirement parties/functions, etc.

Typical Insurance Coverages, Endorsements, and “Waivers”

To help protect companies’ assets, employees, members, and property, health and fitness club owners and their tenants need to possess adequate limits of insurance. This is very important for business operations to continue and survive in any economic climate.

Typical insurance coverages and endorsements need to include: property, general liability, professional liability, auto liability (with owned/leased vehicles), directors and officer’s liability, and workers compensation. Inland marine coverage may be needed based on contractor’s mobile equipment and/or new building construction or significant building and tenants’ improvements.

Club ownership/management also needs to obtain adequate insurance certificates for general liability and workers compensation from all vendors, subcontractors, and tenants. Should property damage and/or bodily injuries arise from their operations, this may make club ownership/management susceptible to uncovered/under-insured losses and lawsuits. Your insurance agent or broker or carrier underwriter will be very helpful in reviewing insurance coverages, endorsements, and any “waivers” (to be addressed later under Best Risk Management Practices). Other contractual arrangements such as additional named insured’s will help protect club ownership/management’s financial assets from first/third party claims and lawsuits.

Loss History Analysis

Prior to performing a thorough risk assessment survey either at a “stand-alone” or “business environment” health and fitness club, an in-depth loss analysis needs to be conducted for common lines of insurance coverage—mainly property, general liability, and workers compensation.

From an extensive loss analysis review for one of InterWest Insurance Services, Inc. large Fitpak clients, leading loss drivers for general liability for a five year analysis included:

- Slips and falls on workout surfaces and/or fixed objects.
- Falls on work out areas or on equipment.

For workers compensation, a joint Sequoia Insurance Company and InterWest Insurance Services, Inc. Fitpak client loss review was performed. From tables 1 and 2 below, the clear loss indicators were as follows:

Date of Loss	Term	Nature of Injury	Body Part	Catalyst	Cause
10/22/10	2010-2011	sprain/strain	lower back	lifting/carrying	cleaning sauna with spray bottle
11/07/10	2010-2011	sprain/strain	shoulder(s)	lifting/carrying	removing pool covers from pool
11/23/10	2010-2011	sprain/strain	lower back	lifting/carrying	lifting 385lb weight off client
12/03/10	2010-2011	bruise/contusion	multiple head	slip/fall	mopping up spill on floor of locker room
12/07/10	2010-2011	sprain/strain	lower back	slip/fall	cleaning up spill on floor of locker room
01/01/11	2010-2011	sprain/strain	lower arm(s)	lifting/carrying	spotting client doing dumbbell chest press
01/10/11	2010-2011	sprain/strain	shoulder(s)	lifting/carrying	use of weights
04/05/11	2010-2011	sprain/strain	shoulder(s)	lifting/carrying	picked up crying child
07/25/11	2010-2011	sprain/strain	lower back	reaching	bent over to pick up box
08/13/11	2010-2011	sprain/strain	ankle(s)	reaching	rolled ankle teaching zumba class

Table 1.

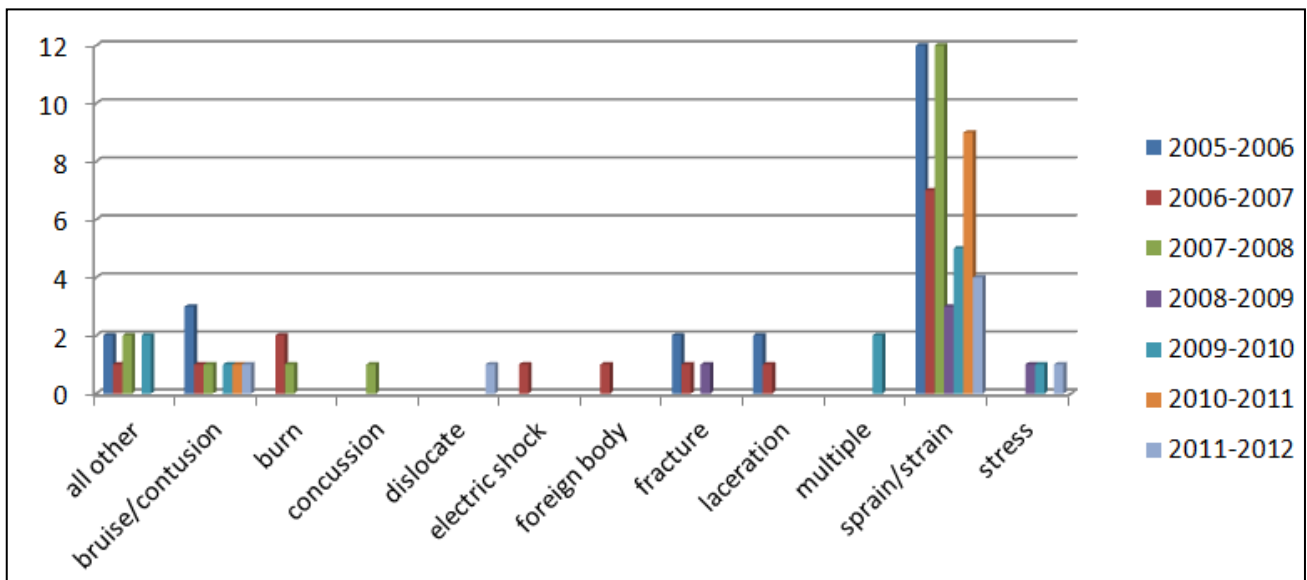


Table 2.

Clearly from analyzing losses for above, client and employee injuries predominantly occurring included sprains/strains from lifting/carrying and bruises/contusions from various causes.

Based on a “sampling” from these statistics, an in-depth analysis of member and worker injuries needs to be completed as part of a health and fitness club risk assessment survey.

Key Elements of a Written Safety and Risk Control Program

To help maintain sustainability and profitability for club owners and property managers, a formalized safety and risk control program needs to be developed and implemented. Key program elements need to include:

- Management Support and Participation
- Communication
- Hazard Assessment
- Employee Training and Re-Training
- Accident and Incident Reporting
- Accident and Incident Recordkeeping
- Hazard Identification and Correction

Each employee needs to receive a written copy of your written safety and risk control program or at least review and provide a signed acknowledgement of same kept by management indefinitely. Your program needs to be reviewed and upgraded at least annually by top management.

Best Risk Management Practices

As stated earlier, health and fitness clubs present specific exposures and operations to club members and employees that need to be evaluated and controlled. Some of these include:

- Waiver forms
- Club Manager Monthly Safety Audit
- Stability “aerobics” balls
- ADA requirements

Waiver Forms

The following “sample” waiver is just one example of a release agreement to help minimize loss to members and should be included in every health and fitness club membership form. It is also a best risk management practice to have release forms, waivers, and other contractual agreements reviewed by competent legal counsel where the club is domiciled.

General Waiver Language:

It is expressly agreed that the use of all Club facilities, without limitation and whether engaging in exercise activities or not, shall be undertaken by a member at his/her sole risk, and the Club shall not be liable for any injuries or any damages to any member, or the property of any member, or be subject to any claim, demand, damages or causes of action arising out of the use of, or occurring on, the Club’s premises regardless of whether it was caused by the active or passive negligence of the Club. It is agreed that this waiver and release agreement applies to any and all incidents occurring on any Club premises, including slip or trip and fall incidents, regardless of the cause. The member also expressly acknowledges that by initialing this paragraph and signing below he or she is relinquishing all rights he or she may have to sue the Club for injuries arising out of the use of the Club facilities or its services. _____ (initial) _____ (initial)

Club Manager Monthly Safety Audit

Every health and fitness club needs to have ownership/management complete a monthly safety audit form. This safety activity not only helps to eliminate and reduce hazards and risks but also improves the health and cleanliness of your facility. The following major areas need to be assessed:

- Safety Administration: Employee orientation/documentation, safety meetings, training, etc.
- General Safety: Safety posters, OSHA bulletins/postings, evacuation/fire plans/maps, etc.
- Fitness areas: Weights, chairs, benches, flooring, etc.
- Building and grounds: Interior/exterior walkways, parking areas, fencing, electrical outlets, trees and shrubs, etc.
- Office and break rooms: Flooring, chairs, file cabinets, bulletin boards, appliances, exit signage, etc.
- Locker rooms: Electrical outlets equipped with ground fault protection, televisions/lockers secured, mirrors/tiles non-chipped, toilets and showers operational, floor areas non-slip, etc.
- Saunas: Wet/Dry: Wood along benches splinter-free, tiles clean and in good repair, heating elements labeled as high temperature, signage for use posted, etc.
- Aquatics/Pool Areas: Proper signage as to Lifeguards (or not), life rescue equipment available and installed adequately, daily chlorine/ph tests logged, pool/hot tub depth markers provided, emergency eyewash station/deluge shower installed and tested, proper exit signage, etc.
- Basketball/racquetball courts: Bleachers properly installed and free of hazards, floors are non-slip, emergency lighting installed, eye protection recommended signage for racquetball courts, etc.
- Climbing structures: Harnesses available and properly maintained and inspected, cables and pulley systems working accordingly, posted safety rules, adequate supervision, proper training for employees and members, protective matting/cushioning material provided, etc.
- Child Care/Kidz Klub: Sign-in/out logs maintained, all unused electrical outlets protected, walls, tables, desks, toys regularly cleaned and inspected, play structures age appropriate and properly secured, adequate child/staff ratios, entry/exit doors properly secured, alarmed, and tested, etc.
- Hazardous materials and chemical storage: Written hazard communication program including education, training, and labeling; material safety data sheets obtained and on file; secondary spray bottles labeled as to contents; and any flammability/health/reactivity hazards, chemical storage/disposal areas secured; etc.
- Emergency and Fire Safety: Exit routes marked and clearly lit; emergency evacuation maps posted near main doors; emergency lighting installed and tested in areas exceeding 49 persons; fire extinguishers installed and inspected externally annually and internally monthly, exit doors unlocked and unbarred during business hours; first aid kits and Automated External Defibrillators (AED's) installed and tested monthly and logged monthly; automatic sprinkler systems and fire/burglar alarms regularly maintained/tested/logged, etc.

Stability (Aerobics) Balls

Numerous health and fitness clubs have been experiencing some injuries from aerobics balls bursting. To increase your best risk management practices, the following safety measures need to be implemented:

- Proper inflation: Each ball needs to be inflated properly. An inflating “marker” on adjacent walls can be used for proper checking. A monthly check is recommended.
- Inspection: Routine ball inspections for gouges, cracks, cuts, wearing, etc. need to be made. Monthly ball inspections, removal, and checks also need to be recorded on your Club Manager’s Monthly Safety Audit form.
- Adhere to manufacturer’s replacement guidelines: Each manufacturer has a limited timeline for all balls. As a general rule, each ball should be discarded after one year. Therefore, your respective club needs to establish a procedure for disposal. Numerous manufacturers include a space on the ball to mark an expiration date.
- Proper use: Your fitness staff needs to monitor ball use by members for intended use. A common warning by the manufacturer may state “DO NOT use heavy weights or weights that can puncture ball.”

ADA Requirements

Recent ADA laws now require recreational facilities (certainly including health and fitness clubs) be readily accessible and usable by individuals with disabilities. Furthermore, recreational facilities include swimming pools, wading pools, and spas.

The 2010 ADA accessibility regulations apply to both private recreation and public facilities. They were signed into law September 15, 2010, and become effective March 15, 2012. Not being “pro-active” can lead to violations leading to direct liability. Also, violations can adversely affect personal injury lawsuits by voiding your waiver agreement. They can also cost substantially more than a lawsuit based solely on a code violation.

Here is a brief summary of how new ADA laws can specifically affect your health and fitness clubs:

Swimming Pools

Large pools: Any pool with more than 300 linear feet of pool wall perimeter must have: one entry either automated lift or sloped entry AND either one automated lift or sloped entry OR other approved methods such as pool access stairs, transfer system resembling small portable stairs, or transfer wall-low wall with handles that assist people to lift themselves over the side of the pool.

Small pools: Must have either an automated lift or sloped entry.

Spas: Must have at least one accessible means of entry—automated lift, transfer wall, or transfer system. If spas are provided in a “cluster”, 5% of the total or at least one spa must be accessible. If more than one cluster, one spa or 5% per cluster must be accessible. Spas do not require footrests on automated lifts.

Exercise Equipment

At least one of each type of exercise equipment or machine must have clear floor space of at least 30 X 48 inches and be served by an accessible route. Most strength training equipment and machines would be considered different types—if operators provide both a biceps curl machine and free weights, both must meet the guidelines even though both can be used to strengthen biceps. Note: Exercise equipment and machines themselves do not need to comply with requirements concerning operating mechanisms and controls.

Locker Rooms

When locker rooms are provided for fitting, dressing, etc., they must have an accessible route through the door and to all elements required to be accessible in the room. If lockers are provided, a minimum of 5 % but no less than one of each type (quarter, half, full, etc.) must be accessible. Also, accessible benches are required in fitting, dressing, and locker rooms and where seating is installed in saunas and steam rooms. Accessible benches should be located next to accessible lockers.

Conclusions

It is undeniable; whether “stand-alone” or “business environment,” health and fitness are here to stay with continual growth in memberships and locations.

In order to eliminate and reduce member and employee accidents and injuries for both club ownership and management, a comprehensive risk assessment survey including review of operations, special exposures and operations, insurance coverages/endorsements/waivers, loss history analysis, and written safety and risk control program, needs to be performed.

In addition, adherence to Best Risk Management Practices including waiver forms, club manager monthly safety audits, evaluation of stability (aerobics) balls, and new ADA requirements are essential to maintain financial stability and profitability.

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