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## **8 Techniques To Keep Your Fitness Center Virtually Liability Free**

Fitness equipment is not intrinsically dangerous. Generally, problems only occur when the machines are used or maintained improperly. So a fitness amenity can be a virtually liability-free experience, if a facility exercises reasonable care and takes protective measures to make the environment safe.

To prevent lawsuits and to be prepared if a claim occurs, owners and managers should consider the following eight techniques:

### **1. Commercially-Warranted Equipment**

Home equipment in a commercial setting leaves your facility open to liability and negligence claims. Under no circumstances, should your facility install any fitness equipment that is not commercially-warranted. If an injury occurs, you must be able to show your equipment's soundness, and home equipment was not manufactured for anything but personal use.

### **2. Equipment Assembly, Maintenance, and Repair**

Any facility providing exercise equipment for individuals' use must recognize its duty to ensure that the premises and machines are reasonably safe. Under most circumstances, the facility also has a duty to warn of dangers that users may not recognize or realize.

To satisfy these duties, you must properly assemble, maintain, and repair all exercise machines according to manufacturers' recommendations and industry standards. In addition, you must keep written maintenance and repair records, which may be especially important if litigation commences.

If an incident occurs, the facility must immediately remove the machine from service, inspect the device, and take and preserve photographs of any and all conditions possibly associated with the injury. If maintenance or repair is later provided, any items removed from the machine must be preserved to assist with resolving claims stemming from the incident and to avoid suits related to "spoliation of evidence."

### **3. Incident Reports**

The facility must complete an incident report promptly, identifying who was involved, when and where the injury took place, any witnesses, and the facts relevant to the event. In the report, do not include any conclusions about the incident or admissions of liability or fault by the facility's employees or agents.

Mark the incident report "privileged and confidential" and direct it to the facility's legal department or attorney. Also include all evidence related to the injury. If matters are handled in the foregoing fashion, legal counsel may later argue, in the event of suit, that the information provided is privileged and therefore not subject to disclosure to third parties.

#### **4. Employee Training in Equipment Inspection and Maintenance**

Employees who inspect and maintain the fitness equipment must be adequately trained for these tasks. They also must learn how to complete maintenance records according to the manufacturer's written instructions and industry standards. Laminate and permanently affix the manufacturer's instructions to the equipment or keep these directions in another staff-accessible location.

#### **5. Records Retention**

Due to ever-changing law, no one can definitely say how long records related to exercise equipment should be maintained. Follow the advice of your facility's legal counsel.

#### **6. User Training in Equipment Use/Supervision**

Employees responsible for equipment set-up, inspection, and maintenance should be trained to provide instruction and supervision to users as needed. If a staff member sees someone using the equipment inappropriately (even in regularly unsupervised facilities), the employee should offer instruction on how to properly use the machines. If possible, keep records regarding the instruction in case an individual might later be injured using the equipment. In addition, post equipment usage instructions for exercisers in the fitness room.

#### **7. Emergency Response Considerations**

One of the largest potential liability areas is the emergency response provided to users injured while exercising in a fitness facility. Since many fitness rooms are unsupervised, periodic inspections must take place and a telephone must be available in the area to summon help. Post your emergency response plans in a visible location and make them known to all personnel. To be truly effective, rehearse the plans.

#### **8. Use of Prospective Releases/Waivers/Assumption of Risk**

In most jurisdictions, the use of releases, waivers, or assumption of risk documents may allow facilities to reduce the potential for successful suits. Contracts prepared by knowledgeable legal counsel and used with competent adults can be beneficial in limiting facility liability. However, never use a document without individual legal counseling about its applicability.

*By following basic protections, you can easily minimize the risks of lawsuits and enjoy the benefits a fitness amenity brings your facility.*