

Legal & Risk Management

By Sean Riley, MS, JD

Are You Qualified to Work With At-Risk Clients?

Why personal fitness trainers who work with postrehab and special populations are at greater legal risk themselves.

Health clubs are becoming increasingly occupied by older clients and those who have special medical needs. This is partly due to referrals from physicians who have begun to appreciate the benefits of exercise in decreasing the risk of disease and in speeding postoperative recovery. While the benefits of exercise for at-risk populations cannot be overstressed, increased physical activity presents risks to *all* involved. As you will read below, these risks pertain not only to the clients themselves but to the supervising fitness professional as well.

The Emergence of Medical Fitness

Personal trainers who work with post-rehabilitative or special-needs populations inevitably invite legal controversy. A distinction must be made between these trainers and those who work with apparently healthy populations. Physicians increasingly refer patients to trainers and fitness facilities; this referral system is often called “medical fitness” (Morrow 2001). In effect, personal training programs are a form of supplemental, preventive health care that complements the efforts of the medical community (Morrow 2001).

Whether medical fitness is practiced in a fitness, wellness or sports facility, personal trainers must be competent in recognizing the musculoskeletal, cardio-respiratory and neurological limitations of at-risk clients; this competence is derived from advanced education and

experience. Special populations require a greater level of responsibility and, hence, a *higher legal duty* is owed to them; this means trainers will be held to a higher standard of care when it comes to negligence claims.

Again, this higher standard of care is directly based on a trainer’s education and experience. This is problematic if you knowingly or unknowingly accept at-risk clients, since some of you who regularly “train” or “treat” these clients do not possess a physiology-based degree. This is in direct violation of the policy of the American Medical Association, as stated in the “Ethical Opinion of the American Medical Association (AMA), section E-3.04 Referral of Patients” (Strive for Recovery 2002).

According to the AMA, “Certified personal trainers who have no formal education in the field of exercise physiology and biomechanics may have a general understanding of normal physiology and even some understanding of abnormal physiology, but certainly do not fully understand either; thereby placing special patients at risk. This includes those with physical education degrees, since these curriculums center around teacher pedagogy, not human or exercise physiology” (Strive for Recovery 2002). Put simply, personal trainers must not attempt to practice those acts that would be beyond their recognized scope of duty and competency.

It’s a Fine Line

Fitness facilities are blurring the line between providing medicine and recreation. According to the American Heart Association (AHA), a fitness facility is defined as

“an organization that offers exercise-based health and fitness programs as their primary or secondary service, or that promote moderate to vigorous recreational physical activity” (AHA 2002). Under this definition, a “fitness facility” is part of a large umbrella that can *broadly* range from a studio that provides an unsupervised exercise “space” to a health club that offers medically supervised physical activity.

Under this broad umbrella, a distinction must be made between personal trainers who work with apparently healthy populations versus “medical” personal trainers who work with “injured” or otherwise health-compromised populations (Morrow 2001). This distinction is necessary as the medical community becomes even more complemented or supplemented by the fitness community.

All personal trainers owe a legal duty of competence to their clients, just as all doctors owe that same duty toward their patients. However, fitness clients who are at-risk or health-compromised demand *extra* supervision, and their exercise programs will require extensive planning and preparation. Consequently, it is strongly recommended that any trainer responsible for at-risk clients should have more advanced education and experience than those who work exclusively with healthy clients. If you work primarily with increased-risk populations, like older adults, you are legally held to a higher standard of care, given your *assumed* advanced education.

What Makes a Trainer Qualified

Seniors and other clients with health-related complications must proceed cau-

tiously and slowly with any exercise regimen. It is the trainer's task to design a workout program that will provide the optimal exercise intensity, duration and frequency. Too much, or too intense a movement too soon, can put an unhealthy individual at risk for cardiac arrest or other severe pulmonary event.

It is critical that trainers who have a large senior clientele possess advanced or specialized education and experience in order to work with increased-risk populations. Each special-needs client will have unique needs that must be addressed. It is unlikely that trainers whose only qualification is having passed an entry-level fitness certification exam will have the requisite knowledge needed in such cases. In fact, a degree in exercise science or its equivalent should be the *minimal* re-

quirement for any trainer working with older and/or infirm clients. For example, someone who comes from a solely athletic environment without the benefit of formal education or a trainer who takes a weekend workshop is less likely to appreciate and understand a senior person's special needs.

The truth is that trainers working with special populations are crossing over into medical territory. While you cannot perform medical procedures or give medical advice, the use of exercise programs for rehabilitative and preventive purposes is pseudomedical. The intimate relationships of working with people recovering from injuries, surgery or chronic diseases or undergoing medical rehabilitation demand advanced training. The typical nondegreed personal trainer is not in a

position to adequately work with at-risk clients and could be vulnerable to costly legal action.

Formal Education Qualifications

Given the influx of at-risk clients in the fitness setting, certain minimum standards need to be enacted by individual facilities—at least until such time as federal or state regulations are enacted. Note that the following standards are *suggestions only* and do not form a comprehensive list. Rather, it is up to each fitness facility to evaluate how best to regulate its personal training operations when working with at-risk clients.

Most important, trainers must utilize appropriate preactivity screening practices to identify members who may need medical clearance and specialized super-

FOCUS ON PROFESSIONALISM WHEN WORKING WITH AT-RISK CLIENTS

Advanced education, training, testing, certifications, continuing education, work reviews and accreditation are all determinants of one's professionalism (Morrow 2001). Attorneys and medical doctors are held to increasingly high standards in terms of education and experience because these people must be made aware of the risks associated with their judgment calls and professional actions. In the legal and medical professions, it is recognized that lives are at stake, physically and financially.

Your work as a personal fitness trainer tends not to have this catastrophic cloud hanging over its head, but perhaps it should. After all, why shouldn't fitness professionals working with at-risk clients be held to the same, or a similar, standard of specialization, given that the risk of liability is high? The question becomes how this standard of professionalism is met and to whom it must apply.

Education is the first step. This applies whether the trainer is working with apparently healthy clients or with those who have specialized needs. However, those with special needs require specialized care, which raises the requisite level of responsibility. Such fitness professionals are involved in "an intimate [and special] relationship with people recovering from injuries, surgery and chronic disease or involved in rehabilitation" (Morrow 2001). Special relationships establish special legal duties. Consequently, the standard of care is adjusted to meet this specialization.

Personal training services are hands-on and intimate. Yet the fitness industry has no deliberate, concrete touchstone with which to distinguish experienced/qualified trainers from inexperienced/unqualified trainers or to distinguish among levels/strata of qualifications and experience (Morrow 2001). While the former is necessary for establishing legal liability and protecting the average consumer on a wide-scale level, the latter is necessary for establishing legal liability and consumer protection on a specialized level.

The law in the area of fitness would be better able to rule over these issues if there were a standardized level/duty of care. As the law stands now, there are generalities, rooted in social and economic policy, but little in the way of black-letter law (principles of law that are generally accepted as being free from doubt or dispute). Therefore, your own diligence as a personal fitness trainer is essential for quality control.

vision or instruction. Regrettably, studies have shown that more than 25% of all clubs surveyed still do not perform pre-activity screenings (Herbert 2001).

At a minimum, some restrictions should be placed on which trainers can work with which clients. It would be both wise and reasonable for most trainers to obtain college degrees, whether undergraduate or graduate. Moreover, it would be equally wise and reasonable for health clubs to employ at least a few trainers with graduate-level degrees for the training of special populations.

References & Background Checks

Personal trainers should also encourage their clients (or potential clients) to be proactive when participating in exercise programs. One way they can do that is to investigate the background and qualifications of any fitness professional, including yourself! (Unless you have something to hide, your clients should be impressed by such a professional suggestion.) Furthermore, make it a practice to offer prospective clients a list of your personal and professional references, including clients with similar health statuses, so the prospects can better determine if you are the right trainer for them. Again, this takes only a little extra homework and effort to minimize your legal risk.

Current Industry Guidelines

The American College of Sports Medicine (ACSM) has issued standards and guidelines for fitness facilities that offer a minimum standard of competency for any trainer working with clients in fitness testing, health promotion or wellness areas (Peterson & Tharrett 1992).

First, according to section 8.G8 of *ACSM's Health/Fitness Facility Standards and Guidelines*, any trainer working with a health-compromised individual should conduct fitness testing (Peterson & Tharrett 1997). This section states that "all fitness tests are administered by individuals who, at a minimum, have:

- * a college degree in health/fitness or a related exercise science field;
- * current professional certification from a nationally recognized organization in the health/fitness industry; and
- * current CPR certification."

Furthermore, section 8.G9 states that if "blood screens, maximal graded exercise tests, or similar medically oriented tests are offered, they should be supervised by a physician or another qualified health-care professional authorized by law to administer such programs" (Peterson & Tharrett 1997).

All Clients Are Not Equal

Clearly, not all trainers would be justified or qualified to work with all types of clients. A defendant's health is an interest closely guarded by the courts. The risks of potential heart attacks, strokes or even episodes of fainting are foreseeable in fitness settings, creating a legal duty on the part of you and/or your facility to prevent (and treat) such emergencies if necessary via enhanced education, experience and professionalism.

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