LEARNING OBJECTIVES

- To understand and evaluate the risks and consequences pertaining to the training strategies adopted by personal fitness trainers.
- To be able to use risk management strategies to control and minimize risks pertaining to the training strategies adopted by personal fitness trainers.

Key words:
Health and Fitness Industry, Risk Management, Legal Liability, No Pain-No Gain

INTRODUCTION

There are two major types of risks that today’s health and fitness facilities can face. The first is programmatic risks. Programmatic risks include, but are not limited to, the qualifications and experience of the personal fitness trainers, lack of regular inspections on the premises, improper or lack of pre-exercise screening, and failure to use emergency response procedures that can have serious consequences such as injuries or death of exercise participants. The latter includes financial risks such as high-cost liability claims or out-of-court settlements that may result from programmatic risks. Both can have serious consequences on the economic health of health and fitness service providers resulting in damage to image and reputation, loss of existing and prospective members, and loss of revenue.

An analysis of the negligence lawsuits in the United States revealed that inappropriately used high-intensity training, training outside scope of practice, and improper instruction and supervision were the major risks for increased risk of injury to clients and subsequent litigation (5). During the last decade, “tough love” that is associated with high-intensity training has become a popular training strategy among the personal fitness trainers in Australia and the United States alike, alongside the worldwide focus on military type of extreme conditioning programs such as boot camp, CrossFit, and Insanity. However, such training programs have raised concerns about an increased risk of musculoskeletal injuries and adverse health outcomes particularly for unconditioned participants (2). This article firstly describes the notion of tough love in the health and fitness industry. Secondly, the programmatic and legal risks associated with the tough love approach of...
personal fitness trainers are demonstrated via three exemplary legal cases from the United States and Australia. Finally, this article suggests risk management strategies to the health and fitness professionals to control and minimize risks pertaining to the training strategies adopted by personal fitness trainers.

TOUGH LOVE

In 1999, the National Physical Activity Guidelines for Australians was developed through an evidence-based consensus process, prompted by the U.S. Surgeon General’s report in 1996 on the same topic (4). These guidelines suggested that, for improvements in health indicators such as blood pressure, blood cholesterol, and body weight to occur, shorter amounts of moderate-intensity activities totaling a minimum of 30 minutes a day on most days of the week is sufficient. In February 2014, new Australian physical activity guidelines have been published that recommend 150–300 minutes of moderate or 75–150 minutes of vigorous intensity physical activity that gradually builds up and includes muscle strengthening activities/resistance training at least 2 days each week (1). According to the American College of Sports Medicine’s (ACSM) 2011 guidelines, adults should engage in moderate-intensity cardiorespiratory training for a minimum of 30 minutes on at least 5 days of the week with a combination of resistance, balance, agility, coordination, and flexibility exercises to improve and maintain physical fitness and health (7). ACSM also suggests that exercise should be pleasant and enjoyable to improve adoption and adherence to prescribed exercise programs. Notwithstanding these recommendations, a survey conducted in 2006 demonstrated that one in two Australians wrongly believe that he or she needs to “puff, pant, and sweat” to achieve physical activity-related health benefits and that the myth “no pain-no gain” still exists (11).

The motto no pain-no gain, as it is used in the health and fitness industry today, is a motivational training strategy that helps exercisers push themselves past the point of physical exertion to achieve desired physical fitness goals. This exerciser stereotype can be said to have emerged in the late 1970s with the movie Pumping Iron that focused on Arnold Schwarzenegger going through painful training regimens while getting ready for the 1975 Mr. Olympia bodybuilding competition. However, maybe Jane Fonda’s aerobics workout video series produced in the early 1980s was the most influential in the popularity of this catchphrase where she frequently was quoted saying “no pain-no gain” and “feel the burn” during her exercise routines.

Recently, the notion of tough love has become very popular among personal fitness trainers in Australia and worldwide as a training strategy that entails elements of the motto no pain-no gain. The Times English Dictionary describes tough love as the practice of taking a stern attitude toward a relative or friend to help him or her overcome an addiction. In the sports domain, coaches are often professed to have a task-oriented and tough-love approach to training athletes. Whereas it is accepted widely that there is no single personality profile for successful coaching, multidimensional models of leadership in sport suggest a more relationship-oriented approach to coaching that can help meet the expectations and needs of the athletes to maximize performance, positive psychological outcomes (i.e., perceived competence, self-esteem, enjoyment) and enhance involvement in physical activity and sport across the life span (9).

In a television commercial broadcast in 2010, one of the leading fitness industry education providers in Australia associated the notion of tough love with the qualifications a personal fitness trainer is professed to have. In this particular commercial, one of The Biggest Loser trainers was recorded delivering the message “...every day I am giving tough love, and I am loving it!...If you think you have got what it takes to be a personal fitness trainer, come and join the ...” The Biggest Loser is a reality television show where the contestants are chosen from sedentary obese individuals who try to lose the most percentage of body weight in the shortest period possible for a cash prize.

Despite the fact that healthy living motives underpin these competitions, the training strategies and intensity levels used by The Biggest Loser personal trainers go against the recommendations for safe, healthy, and maintained weight loss (6,7). The unconditioned contestants are being bullied and pushed over their physiological limits with boot camp-style overly vigorous exercise regimens past the point of physical exhaustion, collapse, and emotional breakdown. Hence, the contestants are not immune to injuries. For example, in seasons 5 and 7, two of the contestants were hospitalized because of multiple joint injuries, hypotension, and kidney dysfunction that forced them to leave the competition.

RISK OF LEGAL LIABILITY

In a negligence case, the plaintiff has to prove that the defendant had a duty of care, breached that duty of care, and that the breach of duty caused the injury. There usually is a contractual and close relationship between the personal fitness trainers and their clients. This suggests that a duty of care is owed by the personal fitness trainer to protect their client from exposure to unreasonable risks that may cause harm arising from the service
provider and participant relationship. Therefore, if the client sustains injuries resulting from inappropriate training strategies used by the personal fitness trainer that do not meet certain standards of care, the exercise participant can claim damages for breach of a duty of care in court.

During the last decade, the courts in the United States have witnessed numerous liability cases arising from the personal fitness trainers’ tough-love approach to training that is characterized by continuation “to push their clients to work at high-intensity levels despite their requests to stop and/or complaints of exhaustion/fatigue” (5). One of the most renowned cases is Rostai v. Neste Enterprises (10) in the California Court of Appeal, where Rostai suffered a heart attack because of the negligence of his personal fitness trainer who aggressively trained him on his very first workout, despite the fact that he was overweight and his physical condition was poor. Rostai’s personal fitness trainer put him through a workout that started with walking on a treadmill for 12 to 13 minutes, followed by a circuit type of training that included bench dumbbell presses with progressive increase of loads, and push-ups and sit-ups at an intensity level that eventually left him out of breath causing him to stop. At that point, the trainer allegedly reprimanded the plaintiff and had him lie down on a mat to do leg raises while pushing his legs toward his head. Toward the end of this particular exercise, the plaintiff apparently began to experience chest pain and told his trainer that he could not breathe. The workout at this point stopped, but after about 5 minutes, the plaintiff said, “Call 911, I think I’m having a heart attack.” The plaintiff did in fact suffer a heart attack that resulted in a negligence lawsuit against the facility and the trainer.

In Howard v. Missouri Bone and Joint Center, Inc. (8) in the U.S. Court of Appeals, a certified athletic trainer at an orthopedic and physical training clinic designed Howard a high-intensity training program that required a progressive increase of load with fewer repetitions toward the last sets. On the day Howard was performing a set of squats, he felt a pop and a sharp pain in his lower back. Howard immediately informed his trainer of this pain, however, the trainer responded with “no pain-no gain” and told Howard that he should “push through it.” As a result, Howard completed the set of squats and kept on stretching and riding a stationary bike, leaving him with a herniated disc and permanent damage in his back. Howard filed a negligence claim against the clinic for failing to conduct proper pre-exercise fitness evaluation tests, instructing Howard to continue to work out after being advised of his back pain during the workout, and failing to discontinue Howard’s workout after being advised of his back pain.

In Australia, the case of David Michael Wilson v. Nilepac Pty Ltd (3) in the New South Wales Supreme Court also illustrated how the plaintiff suffered serious injuries to his lower back resulting from the tough-love approach of his personal trainer. The plaintiff argued that when he had turned up for his workout pretty hung over, he suggested the personal fitness trainer should go easy on him that day. The personal fitness trainer, who had very recently acquired his Australian qualifications, responded to the plaintiff “There’s nothing better for a hangover than exercise. We’ll have to smash you” and increased the level of intensity of the plaintiff’s exercises that day. As a result, the personal fitness trainer’s remedy for hangover caused the plaintiff to suffer from serious injuries to his lower back and later to undergo surgery. The plaintiff filed a negligence claim against the facility based on allegations related to the exercise program delivered by the fitness facility being unsafe and unsuitable.

**CONCLUSIONS**

As the legal liability cases presented in this article clearly demonstrate, tough-love and no pain-no gain training strategies adopted by personal fitness trainers can cause serious injuries and adverse health outcomes and subsequent legal liability claims. Even though not all courts have found negligence of the personal fitness trainers (3,10), the health and fitness professionals should bear in mind that courts consider each case according to its own circumstances and statutory law that are apt to change. In this light, there are several major risk management strategies that personal fitness trainers and health and fitness facility managers should implement.

**RISK MANAGEMENT STRATEGIES**

1. All prospective clients should undergo pre-exercise screening procedures to identify any cardiac and injury risk factors before undertaking a new exercise program. If, as a result of a pre-exercise screening, a facility becomes aware that a client has a known cardiovascular, metabolic, or pulmonary disease, or any other major self-disclosed medical concern, that person must be advised to consult with a qualified health care provider before beginning a physical activity program (12).

2. All pre-exercise screening procedures must include a risk stratification system to assign individuals to low-, moderate-,
or high-risk groups to make appropriate recommendations for medical examinations, exercise testing, and physician supervision and design individualized exercise programs with the appropriate level of intensity (13).

3. The results of pre-exercise screening should be documented and interpreted by qualified staff who can use sound judgment to avoid unnecessary medical evaluation expenses, which can be a barrier to exercise participation.

4. The pre-exercise screening should be repeated among existing members at regular intervals to identify the risk of medical complications that their clients may develop at a later stage of their membership.

5. Health and fitness facility managers should only hire or contract with personal fitness trainers holding nationally accredited qualifications to minimize the risk of injuries to their clients, and which can be a very good defense in satisfying the courts that the services were delivered reasonably safe within the scope of the standard of duty of care (3).

6. Health and fitness facility managers should investigate, identify, and verify constantly the ways in which their personal fitness trainers are delivering their services. Health and fitness facility managers should never assume that, because a personal fitness trainer has appropriate qualifications and work experience, they are instructing properly. The personal fitness trainers identified in three of the legal liability cases presented in this article were holding the minimum qualifications required to become a personal fitness trainer. Nonetheless, they demonstrated a tough-love approach to training that caused serious injuries to their clients and subsequent liability claims.

The role of the health and fitness industry and its personal fitness trainers in promoting healthy living is indisputable. However, as demonstrated in this article, inappropriately used high-intensity training and instruction can put the safety of clients at risk. Therefore, personal fitness trainers need to be wary when adapting high-intensity tough-love exercise regimens and should adjust exercise intensity according to the specified needs of the individuals so as to minimize the risk of injuries, adverse health outcomes, and subsequent legal claims.

References


8. Howard v Missouri Bone and Joint Center, Inc. 09-2914 FED. 8. 2010.


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CONDENSED VERSION AND BOTTOM LINE

Tough-love and no pain—no gain approaches to personal fitness training can have serious safety risks to the clients and subsequent litigation. In this regard, health and fitness facility managers should be aware of training hype in the industry and constantly monitor and evaluate the ways in which their personal fitness trainers are delivering their services to minimize risks to the safety of their clients and the likelihood of legal liability.