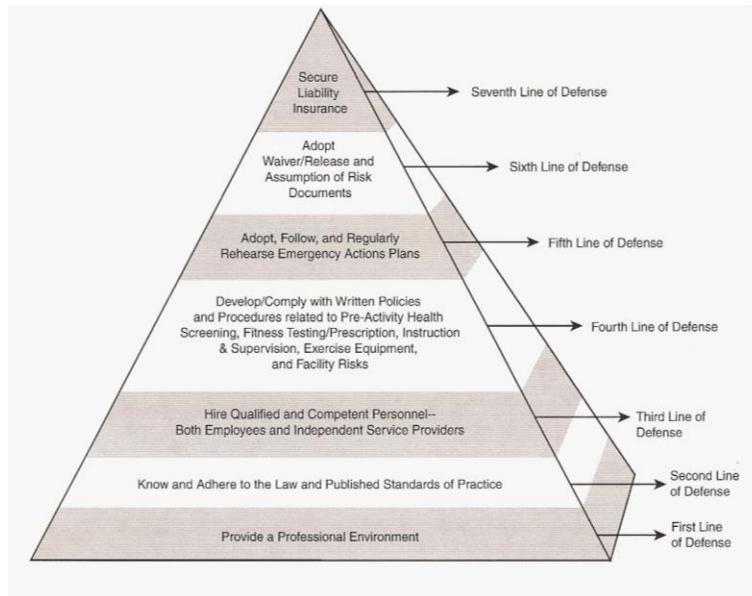


## THE RISK MANAGEMENT PYRAMID



**First Line of Defense:** Risk managers and liability insurance company executives and underwriters have known for many years that a genuinely friendly, caring, and professional environment will minimize not only the occurrence of incidents, which can lead to claims and suits, but the actual assertion of claims and suits as well! As a starting point such an environment should be created – not just for liability reasons but for business and professional reasons as well.

**Second Line of Defense:** Sadly, it appears that a significant number of health/fitness professionals do not know, understand, appreciate, or adhere to the law and published standards of practice. Health/fitness facilities must adhere to the law and should comply with published standards of practice. These standards are the established benchmarks of expected behavior for the profession and will be used to evaluate and judge the care that is provided in the event an incident may occur, which results in claim and suit. Familiarity with such standards is clearly the starting point for compliance with the standard of care.

**Third Line of Defense:** Because all programs and services in any health/fitness facility are provided through personnel, the basic core for any facility’s service delivery system will always be evaluated through those persons. Only qualified and competent personnel – be they employees or independent contractors should be permitted to deliver service. Education, training, and certification and/or “national board” testing should serve as the basic starting point for all facility personnel.

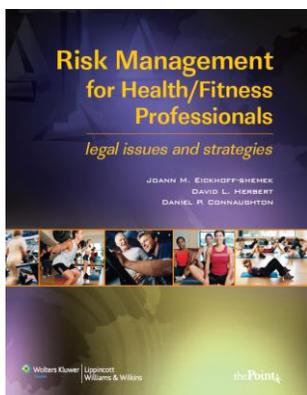
**Fourth Line of Defense:** Based upon the law and published standards of practice, all health/fitness facilities should adopt written policies and procedures dealing with pre-activity health screening, health/fitness assessment and prescription, and instruction and supervision provided to participants as well as a variety issues related to exercise equipment and the fitness facility. Compliance to these policies and procedures not only helps to prevent medical emergencies in the first place but also can help to successfully defend against any negligence claim/lawsuit by being able to demonstrate that no legal duties were breached.

**Fifth Line of Defense:** If a medical emergency does occur, it is important that a written Emergency Action Plan (EAP) be in place to be properly carried out by staff members in order to meet the standard of care. Follow-up procedures such as completing an incident report also are important. To help make sure that these steps are properly carried out, staff members should practice all aspects of the EAP periodically throughout the year and possess current certifications related to the process, *e.g.*, CPR/AED and first-aid. Written and practiced EAPs can help mitigate a medical emergency and minimize any subsequent liability that may occur.

**Sixth Line of Defense:** If a court rules that a participant’s personal injury or wrongful death was caused by the negligence of a health/fitness facility or its personnel, a properly written and administered release/waiver can protect the health/fitness facility from any liability for “ordinary” negligence in most states. If it is determined that a participant’s untoward event was due to the inherent risks of the activity (not based upon negligence or in those jurisdictions where releases/waivers are barred or not recognized), an assumption of risk document (*e.g.*, express assumption of risk, agreement to participate, informed consent) can help strengthen the assumption of risk defense for a health/fitness facility, which also helps to protect the facility from any liability.

**Seventh Line of Defense:** If a claim is filed, applicable liability insurance will provide a defense to the claim. In addition, if a facility is found liable for negligence, liability insurance will pay for the resultant damages up to the amount of coverage allowed in the policy, thus protecting the financial assets of the facility. Both general and professional liability insurance should be considered to provide this protection.

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