

Is anybody home? How to suit proof your 24 hour “key club”.

As you can probably imagine, a fitness facility that allows its members to workout anytime they choose poses a unique set of problems during those hours when there is no staff on duty. The insurance industry has struggled with this perceived increase in liability exposure and most insurance companies today will not offer protection for these types of clubs. I have listed some of the reasons why the insurance industry is concerned.

- 1) The first problem with having an unattended facility is the lack of supervision. If a member is doing something crazy on piece of exercise equipment there is no staff employee present to correct the activity or to warn the member of potential dangers to themselves and others.
- 2) Lack of supervision ultimately translates into an absence of emergency response if a member injures themselves or suffers a stroke or heart attack. We all know that accidents do happen and some injuries can be severe. Whether the member caused the injury to themselves, a process we refer to as “member malfunction”, or whether a cable has failed and the member has placed the bar of a lat pull down machine into the top of their skull, there may be a situation when someone is need of immediate medical assistance and there is no one around.
- 3) What would happen if a female member is working out at 2:00 am and another male member decides to follow her into the bathroom? Digital surveillance may pick up the fact that the pervert entered the women’s dressing room, but what happened behind closed doors? You can’t put a camera in a dressing room.
- 4) Digital surveillance may give the member a sense that someone is always watching out for them. These systems are rarely monitored by a human being. This false sense of security could translate into a problem if the member is lying on the floor with a concussion while staring into a camera lens.

All of these scenarios pose very legitimate reasons to be concerned about this type of club. However, the good news is that there are solutions to these problems and there are methods we can implement to ensure a safe workout environment even when no one is around. The first step is to inform the potential member that they will be joining a facility that may not have staff on duty during the hours that they choose to work out. By verbally informing the member that they are “on their own” and emphasizing this fact in the waiver and release document, the club has provided the first line of defense. This is known as “Assumption of Risk”. An injured member’s attorney would have a difficult time using the “no-supervision” argument when the member clearly was informed of this potential risk and even signed agreement acknowledging his or her participation in a 24 hour concept environment.

The digital surveillance systems available today are excellent tools to help control your club’s overall operation and safety issues. When members are informed that all workout areas of the club are recorded by a digital camera system, it accomplishes a couple of things. One, the member realizes that doing stupid stuff will now be recorded. You will be surprised how many members rack their weights, wipe off the sweaty equipment, and place the functional apparatus devices back in their proper storage areas. This alone, can

improve the overall safety of the club. Secondly, if there is a problem member that presents a possible liability issue, the “chat” with that member becomes very clear. When the member’s actions are recorded, there is no disputing the proximate cause of the action and the owner can then make the call to correct the member’s behavior or get rid of him.

Medical alert necklaces and/or panic hardware are also a must in a key access club. I really like the idea of allowing members the choice to use a medical alert device. Use of these devices should be available for all members, but strongly encouraged with those members that are “at risk” due to age or health related issues.

Having a 24/7 type of club requires the club owner to have clearly stated rules, policies and guidelines. The waiver must support the concept and, if the waiver wording is included in a membership agreement instead of a separate document, there should be a separate signature line below the waiver required. There can be no question that the member was not informed of potential risks and they are fully aware of how they can get help if they find themselves needing assistance. Finally, work with an insurance agent that understands these risks and can help you create the safety systems and insurance coverage necessary to protect you and your members.