

PERSONAL TRAINERS – BE CAREFUL IN EXPANDING SERVICES

*By: David L. Herbert, Attorney at Law, David L. Herbert & Associates, LLC,
Attorneys & Counselors at Law, Canton, Ohio 44718; <http://www.herblaw.com/>
Editor, The Exercise, Sports and Sports Medicine Standards & Malpractice Reporter
PRC Publishing, Inc., Canton, Ohio 44735; <http://www.prcpublishing.com/>*

According to recent industry reports from IDEA, many personal trainers are expanding their client service offerings into areas apart from personal training. These expanded service offerings include exercise programs related to chronic medical conditions and lifestyle coaching both of which IDEA reports have expanded over the last six years. Personal trainers need to be aware that any expansion of their service offerings and the provision of services into those IDEA identified areas can create increased liability exposure. As a consequence, personal trainers need to appreciate the potential risks associated with their delivery of expanded services as well as the need to implement somewhat different risk management strategies to identify, eliminate, reduce or insure against those risks.

If personal trainers decide to provide service to those with chronic medical conditions such as diabetes, various cardiovascular conditions or even cancer, then such professionals first need to insure that they don't overstep their permissible scopes of practice. In this regard, personal trainers need to be aware that the diagnosis and treatment of disease conditions is reserved for provision by state licensed health care providers such as physicians, physician assistants, nurse practitioners, nurses, physical therapists and a myriad of other such licensed providers. If personal trainers determine to provide service to those suffering from chronic or other medical conditions, they need to avoid diagnostic-type activities, comments related thereto or even the use of, for example, exercise to "treat" a client's medical condition. While exercise may well benefit a client's medical condition, the prescription or use of exercise to treat medical conditions is reserved for provision by health care providers – not personal trainers. However the provision of exercise services to clients by personal trainers to carry out a health care provider's exercise prescription may fit

well into various programs such as that advocated by the American College of Sports Medicine (ACSM) in its Exercise is Medicine[®] program. Notwithstanding the role of personal trainers in such programs, the intake, evaluation and stratification considerations for each client need to be carefully and thoroughly considered prior to the development of any exercise program even with a health care provider's prescription. Moreover, if a health care provider has established parameters for exercise to be determined and supervised by a personal trainer then such exercise professionals must carry out and ensure that the prescription is followed. However, questions may also then arise as to whether a personal trainer will have a duty to interact with health care providers to help ensure that exercise prescriptions are not contrary to established exercise regimes. If, for example, a personal trainer believes a specific exercise prescription may be too intense for a particular client, does he or she then have a right or even a duty to overrule the prescription or contact the health care provider for explanation? Such situations may well arise and will impose additional legal risks to personal trainers. Elimination of these risks will require interaction with health care providers and the development of written or electronic records memorializing such contacts.

The same concerns hold true for those personal trainers entering the realm of lifestyle coaching. If coaching involves the evaluation of the health of clients and then the recommendation of techniques to deal with those issues, the scope of practice reserved to licensed health care providers may well be impermissibly invaded. In this regard, personal trainers could readily envision a client coming to them for coaching services related to the perceived management of stress which may also involve client depression in need of health care provided diagnosis and treatment. Sometimes there will be a need to refer such a client to a health care provider rather than provide service. Additional questions can also arise as to whether personal trainers – turned coaches – have a legal duty to refer clients to health care providers such as psychologists or psychiatrists. So in such situations a personal trainer turned coach must once again avoid overstepping his or her permissible scope of practice and perhaps at the same time know when to refer a client out to a licensed health care provider.

Lastly, even putting aside these very difficult issues, personal trainers need to make sure that their liability insurance policy provides them with coverage for the activities they determine to provide. Sometimes, some insurance policies don't provide coverage for services like those which can be rendered by some lifestyle coaches. The answers to such questions depend on the definitions provided within those insurance policies. As a result, a careful review of insurance coverage needs to be conducted before any decision is made by a personal trainer to expand service provision.

Specialty certifications for fitness professionals to provide services to chronically ill clients or to engage in lifestyle coaching don't provide legal authorization to do so like those credentials provided by state issued licenses. As a consequence, personal trainers should seek out professional and legal advice to help ensure that the services they may provide to the aforementioned chronically ill clients or through lifestyle coaching activities are carefully provided and that the legal risks which may arise from the provision of such services are adequately addressed. Consultation with legal counsel and a knowledgeable insurance agent like CPH & Associates is necessary in this regard.

This publication is written and published to provide accurate and authoritative information relevant to the subject matter presented. It is published with the understanding that the author and publisher are not engaged in rendering legal, medical or other professional services by reason of the authorship or publication of this work. If legal, medical or other expert assistance is required, the services of such competent professional persons should be sought. Moreover, in the field of personal fitness training, the services of such competent professionals must be obtained.

Adapted from a Declaration of Principles of the American Bar Association and Committee of Publishers and Associations