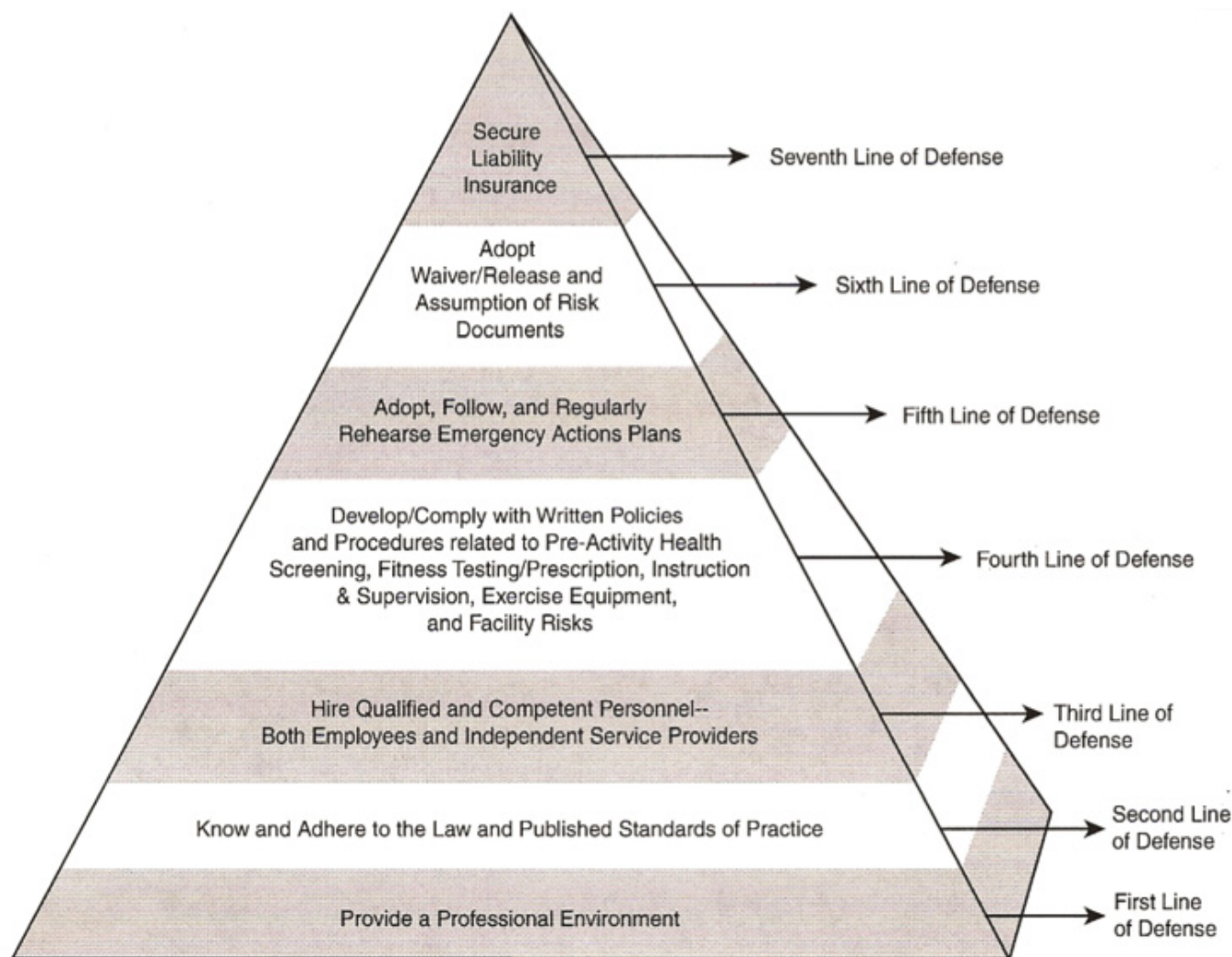


The Risk Management Pyramid

Protecting Against Negligence



First Line of Defense: Risk managers and liability insurance experts have known for many years that a genuinely friendly, caring, and professional environment will help minimize not only the occurrence of injuries that can lead to negligence claims and lawsuits, but the actual assertion of claims/lawsuits as well.

Second Line of Defense: Research has shown 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 reflect established benchmarks of expected behavior for the profession and can be used to evaluate and judge the care that is provided in the event of an injury that results in a negligence claim/lawsuit.

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 hired to deliver service.

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 of issues related to exercise equipment and the fitness facility. Compliance to these policies and procedures not only helps to prevent injuries 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 an injury 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. 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, e.g., CPR/AED and first-aid.

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 waiver/release can protect the health/fitness facility from any liability for "ordinary" negligence in most states. If it is determined that a participant's injury was due to the inherent risks (not based upon negligence or in those jurisdictions where waivers/releases are barred or not recognized), a written document such as an express assumption of risk, agreement to participate, or informed consent can help strengthen the assumption of risk defense.

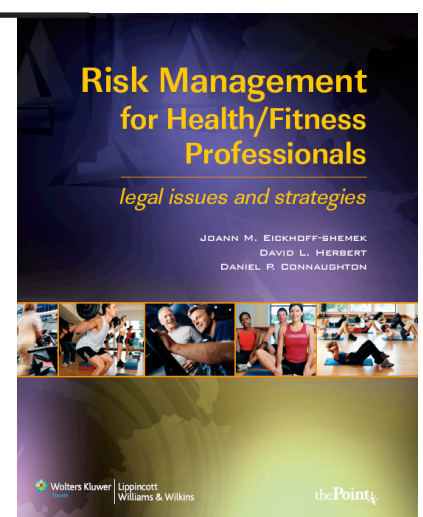
Seventh Line of Defense: If a negligence claim/lawsuit is filed, applicable liability insurance will provide a defense. In addition, if a facility is found liable for negligence, liability insurance will pay for the damages up to the amount of coverage allowed in the policy, thus protecting the financial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

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