

THE ROLE OF RISK MANAGEMENT IN DECREASING THE NUMBER OF LAWSUITS OVER SWIMMING POOLS

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Abstract

The purpose of this research is to study the risk management practices in order to decrease the number of lawsuits over public and private swimming pools in Tehran. The statistical population of the research included 310 managers of public and private swimming pools, of which 119 were selected as statistical samples by means of random sampling. The research method was descriptive and survey, and in measurement form. 2 questionnaires were used: one relating to demographic data and general information, and the other to risk management practices, and their validity was determined by alpha kronbach method. The required information was collected by personal interviews during the time acting of managers in pools gathered and the data was analyzed by using person correlation coefficient. The result of this study indicated that: significant relationship existed between incidents of accidents/injuries and lawsuits over swimming pools in Tehran. Significant relationship existed between risk management practices and accidents/injuries and lawsuits. Significant relationship existed between risk management practice and lawsuits and lawsuits.

Keywords: Risk management, accidents/injuries, lawsuits, pools

INTRODUCTION

A new era for sports began in the 1960s when a New Jersey court awarded a gymnast more than \$1 million in a negligence suit and a California court awarded a football player over \$300000. Prior to 1960, injuries sustained during participation in intercollegiate sports were considered part of the game; assuming the risk of injury was part of the play. The 1982 verdict in the landmark *Thompson v. Seattle public school District* cases attracted much attention: \$6.2 million was awarded to a high school football player who sustained a neck injury from lowering his head to ward off tacklers, yet was not warned of the inherent danger of his action. The need for ways to predict and manage exposure brought sports safety and risk management consultants into the field of recreation, as well as athletics (Girvan & Girvan, 1993).

Most aquatic center environments and hazards are highly dynamic, changing day to day, and even minute to minute. Consequently, risk management in aquatics must be regarded as an ongoing process, requiring a considerable time commitment by trained staff and a focus on a regimen involving continuous monitoring and evaluation. All aquatic activities, including instruction, competition, recreation and fitness require supervision by a teacher or coach and a certified lifeguard. Safe aquatic

supervision includes eight basic components: (1) Knowledge of Standard of Care, (2) Supervisory Competency, (3) Planning, (4) Participant Abilities, (5) Safe Environment, (6) Warnings and Instructions, (7) Emergency Management, and (8) Lifeguard Support. These eight components of aquatics supervision represent the minimum standards for an aquatic facility and program supervision.

Fletemeyer (2003) stated that aquatic liability is approaching a paradigm shift and thus requires that aquatic professionals have a certain level of understanding to practice and implement the basic principles of aquatic risk management. He also said that the needs for aquatic risk management were threats of negligence litigation, a trend for courts to impose verdicts favoring the plaintiff, the need to better educate the public about aquatic safety, a high level of awareness by the public about the dangers associated with aquatic environments, and stronger emphasis on preventative practices rather than on reactionary measures.

Most litigation involving aquatics emanates from the injury of a participant, the injured plaintiff alleging negligence on the part of the institution. Negligence, in such cases, is conduct that falls below the standard established by the law for the protection of others against unreasonable risk or harm. In order for negligence to exist, four elements must be present:

(1) the defendant must owe the plaintiff a legal duty of care, (2) the defendant must breach that duty, (3) the defendant's breach of duty must be the proximate cause of the plaintiff's injury, and (4) the plaintiff must incur actual loss or damages. If the defendant institution can demonstrate that even one of the elements does not exist, there can be no negligence. Fletemeyer (2003) provided seven steps for increasing safety in aquatic risk management: step 1-- identifying goals and objectives; step 2-- organizing an assessment team; step 3-- identifying and measuring risks; step 4-- providing effective warning; step 5-- training staff; step 6--record keeping ; and step 7-- conducting performance and safety audits. Many hazards related to aquatic environment are not easily recognizable. The above seven steps really highlight the implementation of safety in aquatics. If aquatic directors can follow all seven steps and are also willing to apply these seven steps in their aquatic centers, it will not be difficult to see major improvements and a reduction in the accident rate in the aquatic centers (Hsiao, 2005).

Risk management has been defined as a scientific approach to dealing with pure risks by anticipating possible accidental losses and designing and implementing procedures that minimize the occurrence of losses or the financial impact of the losses that do occur. The concept of risk management in recreation and sport began in the mid 1970s. The focus of risk management in recreation is on limiting exposure to danger, harm, or hazards to the facility. The most prevalent danger or harm that a facility manager would attempt to minimize is injuries to patrons at the facility that create the possibility of lawsuits (Styles, 2002).

Risk management was born of necessity – human, legal, and political. As early as the late 1800's, the American labor movement started to address the dangers of mining and factory work. Laws were passed and strikes were called as a result of existing mine and factory safety problems. While there are still dangers, the combination of federal and state safety inspections, labor demands, protective equipment, and safety laws have resulted in safer conditions in modern mining operations and factories. The owners and operators of mines and factories now are faced with expensive litigation if an accident occurs. The earliest organizations to practice risk management were insurance companies whose techniques have been modified and applied by a variety of organizations including hospitals, public schools, and universities.

Appenzeller (1998) stated that risk management has been associated with business and especially the insurance industry for many years. Loss control, exposure to loss, pre- and post- loss objectives, risk management strategies, and risk management techniques were common terms in both the business and insurance industries prior to the 1970s. In the

mid-1970s and especially in the 1980s and the 1990s, risk management became a familiar expression of a program designed to meet the sport litigation crisis head-on. In the 21st century, risk management will become a close companion to the sport business industry in its attempt to reduce losses and exposures, while increasing the desire to make the sport business industry safer (Lhotsky, 2006).

Risk management in sporting environments is not a new idea. A number of authors identified the need for adopting risk management, safety practices and policies, but few have moved beyond traditional occupational health and safety approaches. Risk management strategies have been used in a wide range of sports (Otago & Brown, 2003).

Sharp (1990) listed three compelling reasons to institute risk management programs in the physical education/athletic setting. The first reason is the American public has assumed a litigious posture relative to athletics. The climate is extremely litigation oriented and lawyers seem to always be in search of a "deep pocket" to cover costs of injury, regardless of who is at fault. The second reason often cited concerns the judicial attitude toward liability and sports. Liability has been expanded to cover those who administer these sport and recreation programs. The usual defense of assumption of risk has been severely eroded over the past few years by judicial interpretation. The third factor is the trend toward abrogation of government immunity. By providing a safe, honest, and efficient environment, a business can reduce legal liability and enhance the positive reputation of the business. Effective risk management should identify as many liabilities and risk factors as possible, present alternative solutions, and make cost-effective recommendations (Lhotsky, 2006).

The importance of risk management as to the key liability and risk management trends into the 21 century. Some of the future trends forecasted were as follows:

- 1- Liability issues will continue to manifest themselves as problems that require sound risk management plans.
- 2- Education in risk management strategies will continue to be in demand by sport/recreation managers in order to provide safer programs.
- 3- Risk management will continue to be a key element in the design of new recreational sport facilities.
- 4- Professional preparation in liability and risk management will become more important for students pursuing careers in sport management.
- 5- Risk management planning will take on increased importance to recreational sports programs.
- 6- More recreational sports programs/agencies will develop comprehensive risk management plans.
- 7- Increase in willingness of participants to engage in litigation to resolve issues related to participation in recreational sports.

8- There will be an increase demand for employee certification in specialized activity programs.

9- There will be continued growth in recreational facilities.

10- High-risk activities will become more popular in the years to come (Styles, 2002).

Although the management of liability risks for public agencies is of recent origin, the practice has been used in the private sector for many years. The earliest organizations to practice risk management were insurance companies whose techniques have been modified and applied by hospitals, public schools, and universities. These groups dealt primarily with financial risk management. However, the management of financial risks alone would not be sufficient for the unique needs of the sport, physical education and leisure industries. Therefore, the sport industry must focus on not only financial risk management but also programmatic risk management. For example, a loss in the insurance industry is financial, but a loss in the sport industry must also encompass the possibility or risk that a participant would suffer harm. It is acknowledged that a participant or employee injury could result in a financial loss to the agency or organization, but the overriding reason for risk control should be moral responsibility as related to the injury of another, as well as the legal duty to provide a safe environment for participation (Aaron, 2004).

Because of the increase in the volume of use and the types of activities performed, these facilities have a wide variety of exposure to lawsuits in their daily operations (Mulrooney & Farmer, 1995). There was a time when litigation was not a major issue for recreational sport injuries because it was accepted that participants assumed the risks of participating in a physical activity. However, in today's society, lawsuits against recreation businesses are common, as there has been an increase in litigation regarding injuries sustained in recreational activity and competition (Burnstein, 1994; Cotton, 2001a).

The focus of risk management in recreation is on limiting exposure to danger, harm, or hazards to the facility. The most prevalent danger or harm that a facility manager would attempt to minimize is injuries to patrons at the facility that create the possibility of lawsuits. Hence the goals of risk management are to enable organizations to offer the activities and services that they deem desirable in a safe environment and to reduce the possibility of a lawsuit and monetary losses while operating a recreation facility. Based on the theory and practice of risk management from the insurance industry, sport and recreation professionals have identified the following elements as being essential for success of the risk management practices: risk identification; risk assessment; risk treatment; and risk implementation and standard operating procedures (Styles, 2002).

Those who manage physical education, athletic, and recreation programs have a number of legal duties that they are expected to carry out. Among these is an obligation to take reasonable precautions to ensure safe programs and facilities. According to Hronek and Spengler (2002, p. 273), "the law recognizes a duty owed by coaches, recreation managers, and their staff to provide safe facilities for both participants and spectators". Physical education and sports facilities that are poorly planned, designed, or constructed may lead to many problems for program leaders in those facilities. A poorly designed facility may limit the programs that can be offered; make the facility harder to operate, maintain, and supervise; and significantly increase the participant's exposure to hazardous conditions. These factors can lead to a greater likelihood of injury and can increase the organizations exposure to claims of negligence (Seidler, 2006).

It has important risk management applications for physical educators and sport managers. Physical educators and sport managers must be protective in protecting their participants from unreasonable risk of harm they should schedule regular inspections of fields and other playing surfaces before participant use. In addition, equipment should be checked regularly to detect any damage or wear that would make the equipment unreasonably dangerous for participant use (Carroll & Connaughton, 2006)

METHODOLOGY

The statistical population of the research included 310 managers of public and private swimming pools, of which 119 were selected as statistical samples by means of random sampling. The research method was descriptive and survey, and in measurement form. 2 questionnaires were used, one relating to demographic data and general information and the other to risk management practices and their validity was determined by alpha kronbach method (.85). The required information was collected by personal interviews during the time acting of managers in pools gathered and the data was analyzed by using person correlation coefficient. The study was designed to investigate the risk management status, and associated legal concerns in aquatic centers in Tehran. Data were obtained through a 45-item questionnaire administered to 119 directors of aquatic facilities in Tehran.

RESULTS

Table 1 shows that the population was primarily male and only 27 or 22.7% of the 119 participants were women.

Table 1. Gender of respondents

Gender of respondents (N = 119)	
Male	92
Female	27

Table 2 presents activities most often found in the pools in Tehran were recreational (offered by 117 institutions) and basic swimming classes (offered by 79 institutions). Risk management plans existed in only 52 (43.7%) of the facilities. Nearly 42% of the institutions reported three or more accidents/injuries per year.

The majority of the incidents occurred in the locker room or the pool deck. Only 5% or 7 incidents occurred in the water (Table 2). Despite the fact that nearly half of the institutions had accidents, only 22.6% had been sued (Tables 3 and 4).

Table 2. General information: activities and risk management plan

Activities offered by the swimming pool	N
Recreational	117
Scuba diving class	5
Water aerobic class	38
Basic swimming class	79
Water polo	12
Lifeguard training course	35
CPR certificated course	17
Hydrotherapy	22
Risk management plan	
Yes	52
No	67

Table 3. General information: accidents/injuries frequency

Number of accidents/injuries in the last 12 months	Percent (N = 119)
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0	45.4
1	15.1
2	8.4
3	8.4
4	6.7
5	2.5
6 or more	13.4
Location of highest number of reported accidents/incidents	
Diving board	35.3
Locker room	23.5
Pool deck	25.1
Jacuzzi	10.1
Sauna	10.9

Table 4. General information: litigation status

Past Lawsuits	Percent (N = 119)
No	77.3
Yes	22.7
Number of times the institution has been sued	
0	77.3
1	14.3
2	5
3 or more	3.4

Results of this study show that significant relationship existed between incidents of accidents/injuries and lawsuits in swimming pools in Tehran (Table 5). From other results of this study is significant relationship existed between risk management practice and accidents/injuries and lawsuits (Table 5). Also significant relationship existed between risk management practice and lawsuits and lawsuits (Table 5).

Table 5. Pearson correlation coefficient between the accidents/injuries and lawsuits and risk management

Variable	Accidents/Injuries	Lawsuits	Risk management practice
Accidents/injuries	1	./437(**) ./000	-./269(**) ./003
Lawsuits	./437(**) ./000	1	-./234(**) ./010
Risk management practice	-./269(**) ./003	-./234(**) ./010	1

DISCUSSION AND CONCLUSION

Risk is a peril or the possibility of exposure or harm. Risk management has been defined as controlling the financial and personal injury losses from sudden, unforeseen, unusual accidents and intentional torts. Appenzeller (1998) stated that risks are inherent in sport and even the safest programs can never avoid accidents and injuries. The law expects that sport managers develop risk management and

loss programs to ensure a safe environment for all who participate in sports.

The safety of facility event attendees, patrons, spectators and event participants is of primary concern to the facility manager (Madden, 1998). If a facility manager does not keep the facility safe, injuries to attendees, patrons, spectators, and event participants are bound to occur. Although there are many areas of law that are important to a facility

manager, the greatest numbers of lawsuits brought against a provider (school, municipality, private enterprise, or non-profit association) are based in negligence liability (van der Smissen, 2001).

While lawsuits cannot be prevented they can be minimized when employees understand negligence principles and practice good management (Kaiser, 1986). Therefore, it is essential that a facility manager today understand the elements of negligence (van der Smissen, 2001). The following will briefly examine negligence liability and some law topics related to negligence.

Negligence can be defined as carelessly performing a duty or carelessly failing to perform a duty that results in injury to a participant or damage to property (Seidler, 1999). In order to be found guilty of negligence, four elements need to exist: duty, breach, cause, and harm. There are several elements of negligence. Each of the four negligence elements has to be present for a person to recover under a negligence claim. The four elements are:

1. owing someone a duty;
2. breaching that duty;
3. the breach of that duty was the proximate cause of the person's injury;
4. the person was actually injured (van der Smissen, 1990).

The increase in lawsuits in the leisure and recreational area is due to several reasons: increased participation in recreation; an increase in year round activities; new technology and more sophisticated equipment; and increased accessibility to legal services (Baley & Mathews, 1984).

The increase in litigation in recreational settings creates a need for recreational professionals to reduce risk that may lead to injuries and financial losses. Risk management and its application is form of loss control and has been identified by professionals in the recreational industry as a need within the organizational structure of a recreational facility (Giles & Gonsoulin, 1991). The most prevalent danger that a recreational facility manager needs to minimize is the number of injuries to patrons, and the concomitant lawsuits. Therefore, the obvious goal of risk management is to reduce to possible monetary losses when running a facility (Mulrooney & Ammon, 1995).

Risk management has been identified as the 'best buy' in sports injury prevention and an integral part of best-practice sport and leisure management systems (Donaldson et al, 2009). Risk management is a procedure to reduce potential legal liability. It is a proactive system which attempts to address potential problem areas before they actually lead to reactively defending legal proceedings. The aim is a safer environment and "legally safer" operational procedures. Education of all people involved, their acceptance of the importance of risk management, and open communication of ideas is vital to a risk

management plan's success. While the law now affects the conduct of sports greater than ever before, don't see this as a negative, but as a positive reason to take the initiative to implement safe practices and risk management programs. There can be a great sense of achievement in knowing that you are satisfying your legal, moral and ethical duties by providing good, safe and effective sporting services. It really is all about good business.

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LE RÔLE DE LA GESTION DES RISQUES DANS LA REDUCTION DE POURSUITES JUDICIAIRES DE PISCINES

Résumé

Le but de cette recherche est d'étudier des pratiques de gestion des risques en baisse de poursuites dans les piscines publiques et privées à Téhéran. La population statistique de la recherche comprenait 310 gestionnaires de piscines publiques et privées, dont 119 ont été sélectionnés comme échantillons

statistiques par le biais d'un échantillonnage aléatoire. La méthode de recherche était descriptive et d'enquête, et sous forme de mesure. 2 questionnaires ont été utilisés, sur les données démographiques relatives à l'information générale et l'autre à des pratiques de gestion des risques et leur validité a été déterminée par alpha kronbach méthode. Les informations requises ont été recueillies par des entretiens personnelles pendant le temps des questionnaires agissant dans les piscines se sont réunis et les données ont été analysées en utilisant le coefficient de corrélation personne. Le résultat de cette étude indiquent que: relation significative existait entre les incidents d'accidents et de blessures et de poursuites dans les piscines à Téhéran. Relation significative existait entre la pratique de gestion des risques et des accidents / blessures et des poursuites judiciaires. Relation significative existait entre la pratique de gestion des risques et des poursuites judiciaires et de poursuites.

Mots-clés: gestion des risques, accidents et blessures, les poursuites judiciaires, Piscines

THE PLACE OF GYMNASTICS IN PRIMARY EDUCATION. GENERAL CONSIDERATIONS AND METHODOLOGICAL ASPECTS

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Abstract:

Education is a long process that addresses theoretical and practical aspects. These will contribute to form future adults for the real life. Physical education is an important discipline in the process of education and the basis is set in primary school. The aim of our article is to present the importance of gymnastics as a compulsory subject in the curriculum and its role in the organizing and disciplining of students at this age. In the same time, the authors want to present the effect of practical activities on the psychological evolution of students and the possibility to realise good behavior using means from basic gymnastics.

Keywords: physical education, school gymnastics, curriculum

INTRODUCTION

The development of the young generation was always a concern of society as a whole, aiming to improve the relationship between the social command and the educational product at a rational level.

From this perspective, the physical education discipline has evolved in recent years in the school environment, being currently the appanage of specialist teachers at all levels of education.

The approach to physical education in the primary stage with specialized staff was and still is a current concern for theorists and practitioners in the field.

Physical education as part of the educational process is thus seen as a catalyst in the development of students in this level of education, helping to balance the intellectual demands with the psychomotor and ludic ones, a very important aspect for organizing activities teaching with students aged between 6 and 10 years.

By observing the general objectives of physical education, the organization of the lesson, in terms of content elements, shall take into consideration the action methodology for learning, consolidating and improving the motor skills and abilities specific to certain sports branches too (Iconomescu, 2010).