

Liability & duty of care

The challenge

Historically, medico-legal concerns have presented barriers to referral relationships between fitness and medical professionals. Requests to GPs for medical clearance or 'fit to exercise' certificates from fitness trainers and gyms have led to concerns that the fitness industry is attempting to shift liability onto doctors for training-related mishaps.

If a client presents to a GP with a medical clearance form, the GP is unlikely to know what exercise program is being delivered, how experienced the exercise professional delivering the program is, or whether the patient has an underlying problem that might contraindicate certain exercises. In addition, medical practitioners have expressed concerns about the lack of consistency between fitness industry clearance forms and processes, as well as vague or open-ended requests. If it is not evident what the client is being 'cleared for' the health professional may not complete the form.

The facts

The [APSS textbook](#) describes the responsibilities and legal duty of care of exercise professionals in relation to accurate pre-exercise screening and delivery of exercise services (Norton & Norton, 2011, p.5). This may include a duty of care to refer a client to a medical or allied health professional if a client has been screened as high risk or has a condition that is outside the exercise professional's scope of practice.

Pre-exercise screening and referral of high risk clients are professional standards recommended by fitness, exercise and sport peak bodies and this becomes significant in legal cases. Cases concerning client injury where screening and referral are absent or not undertaken appropriately will be assessed in relation to duty of care and negligence. Not meeting standards of reasonable care expected of providers of fitness services is a breach of duty of care.

The report: *Liability for Negligence in the Australian Fitness Industry* is also a valuable source of information for a more in depth understanding about fitness industry legal obligations, the parameters that determine who is liable and how the industry can protect itself. The report is available at www.fitness.org.au/riskmanagement.html.

The answer

Rather than sending the client to a health professional for a 'clearance' to exercise, an exercise professional's duty is to:

1. **seek guidance** from an appropriately qualified medical or allied health professional to ensure the client's condition is stabilised and managed; and
2. deliver an appropriate exercise program that will meet the client's needs and goals.

It is essential for the fitness industry to use **consistent language and communication** methods when seeking medical and allied health input.