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## Arranging insurance for health clubs

by James L. Foley, CPCU

*Health clubs are great for our agency's  
fiscal fitness.*

AT InterWest Insurance Services, we've found that health clubs are great for our agency's fiscal fitness. Using an insurance package geared to this niche, we've built a book of some 400 clubs. Furthermore, the outlook for our specialty is bright. Fitness-conscious baby boomers continue to be heavy users of health clubs. Meanwhile parents, aware that many schools are curbing their physical education programs, are enrolling their children in health clubs. Aware of such trends, the International Health, Racquet and Sportsclub Association (IHRSA) has a goal of getting 50 million people into its members' clubs by 2010. That would require the industry's 17,000 commercial health clubs to expand to about 25,000.

Things weren't always so rosy for this niche. When InterWest started working with health clubs back in 1984, the industry did not have the best reputation. Some clubs would open in strip malls, heavily promote the sale of annual or even lifetime memberships, then fold six months later-without refunding any of the membership fees. In California, health clubs were one of the top sources of complaints to the Better Business Bureau. As the hard market hit, clubs across the board had a difficult time getting coverage and were relegated to the surplus-lines market.

In this environment, however, our agency saw an opportunity. We knew the better clubs were competing for business by offering monthly memberships, which provided patrons with greater convenience and shielded them from the financial risk of long-term membership contracts. These tended to be owner-managed clubs that held memberships in organizations like IHRSA. Unlike the "fly-by-night" clubs, they also had a substantial investment in exercise equipment and such facilities as swimming pools and racquet-ball courts. To us, they looked like pretty good risks, and we put together a customized program for them and placed it with Industrial Indemnity Co. We called the program FitnessPak and copyrighted the name. Today, we place the program with TIG Insurance through K&K Insurance Group, which has given us an exclusive in the health-club niche in 10 Western states. We continue to write most of the business ourselves (I'm one of three producers for the program, along with Ken McKay and Steve Azevedo), although we also have a small amount of brokerage business.

Our program is quite broad. For property exposures, it includes business income,

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leasehold improvement and ordinance or law coverage. For liability, it covers premises, products, liquor, nonowned auto, employee benefits E&O and some professional liability exposures. Options include coverage for owned autos, employment practices, employee dishonesty, tanning services, and flood and earthquake. Under a separate policy, again placed through K&K insurance, we also can provide workers compensation insurance.

We have a separate program that provides professional and general liability insurance for personal trainers and fitness instructors. It is endorsed by the American Council on Exercise, the nation's leading certification body in its field. Available limits range from \$500,000 to \$5 million. Through the association, we insure some 4,500 trainers and instructors, who pay annual premiums ranging from \$124 to \$231. They receive individual certificates off a master group policy written for the program.

### Prospecting

Most of our business comes from referrals and from our involvement with associations, both the IHRSA and state health club associations in California and the Pacific Northwest. We have the endorsement of these associations and pay them a small override on business sold to their members. Each risk is individually underwritten, however, we have no obligation to insure an association member that does not meet our underwriting criteria. While we already know most of the established clubs in our marketing territory, we learn of new clubs primarily through our relationships with the associations. The associations also are our chief vehicle for promoting ourselves to clients and prospects. We exhibit at the associations' conventions and contribute articles to their publications.

When we meet with prospects, we naturally hope to obtain their business. But if we don't, we at least want to make a good impression and build our credibility, because there's always next year. Consequently, we are happy to quote and don't require the prospect to give us some sort of upfront commitment. Since we're going to only one market, quoting is not an expensive proposition for us, and we close 50% of our proposals anyway. So we don't push too hard. When prospects turn down our proposals, we invite them to call us anyway for advice on risk management or other subjects. By taking this tack, we often eventually win a prospect's business after the client experiences an uncovered claim or encounters some other problem.

When gathering information about a club, one of the first things we ask to see is its membership agreement. Such agreements typically include waivers and assumption-of-risk language that have been supported by case law in practically every state. We've had a nationally known expert in waiver language prepare a handbook on this subject for us. We mail it to all our clients and sometimes give it to prospects. While being careful to point out that we're not lawyers, we suggest that the clubs show the handbook to their counsel for possible use in drafting or strengthening a membership agreement.

While membership agreements are great for transferring risks away from health clubs, claims still arise. How we deal with them is one important way that we differentiate ourselves from competitors. We turn such incidents over to an in-house claims department staffed by two people with a combined 25 years of experience in this niche. Our claims people are excellent at getting the club owner out of the middle of slip-and-fall claims and similar incidents. They contact the injured person and review the membership agreement's waiver language with him or her. Sometimes, an injured club member who either doesn't have health insurance or has a high deductible may decide to pursue a claim despite the waiver. Depending on the facts of the case, our claims department may conclude that it makes sense to use our med pay claims settlement authority. We can settle claims up to \$1,000, which sometimes prevents a small incident from becoming a big claim.

On larger claims, particularly property losses, our claims people are good at pointing out to adjusters where coverage exists in our program's forms. On liability losses, we fight the claims that we feel should be fought, but if we feel that our insured does not have a strong case, our claims people are adept at explaining as much to the club owner and "selling the settlement."

Our claims people are key members of our team. They attend trade shows with us, where they always are greeted warmly by our clients. They help us gain accounts and are a key factor in our high retention rate.

#### Evaluating the risk

We have a comprehensive survey form that we use to gather data for a submission. In regard to property exposures, we ensure that any kitchen areas have Ansul-type fire suppressions systems and that sprinkler systems are begin checked at proper intervals. For any club situated in a building more than 25 years old, we like to see that the roofing, plumbing, wiring, etc. have been updated. Our program includes ordinance or law coverage, which means we need to take care in evaluating older buildings. While once inspecting a club in Los Angeles, we learned that the applicable ordinances could compel the club to erect a parking garage in the event of any loss that required the club to obtain a building permit. Rather than face the possibility that a \$50,000 kitchen fire could force our insurer to pay for a \$1.5 million garage, we politely ended our solicitation.

Our program covers business personal property for replacement cost. For even small health clubs, their investment in cardiovascular-fitness equipment often runs to \$250,000 or more. Sometimes we find a club owner's estimation of the value of this equipment is way off. So we ask the owner to take the time to see what the equipment cost them and insure it accordingly.

In regard to liability exposures, swimming pools and Jacuzzis are always of major concern. The pools typically are used for such activities as lap swimming and water aerobics, rather than for recreational swimming. Private clubs with adult-only membership policies normally are not required to post lifeguards at the pools, but they are required to make periodic "safety sweeps" of the pools and such other areas as locker rooms, saunas and steam rooms. We ensure that these sweeps are being properly documented.

Given that unfit people sometimes exercise too strenuously at clubs, heart attacks are not uncommon. In fact, we experience five or six fatalities per year among the clubs we insure. The waiver language in the membership agreements again helps shield the clubs from liability, but we also require club staff members to be CPR qualified. Some clubs are now purchasing automated external defibrillators. Their use in emergencies is covered by a federal "Good Samaritan" statute, so they don't present an additional liability risk to the clubs.

The nursery/daycare exposure is an important one that our program covers. Most health clubs have areas in which children are watched while their parents exercise. The clubs usually are not required to be licensed as daycare facilities, since the children generally are not kept for more than a couple of hours, and their parents are on premises. Nevertheless, we need to obtain detailed information about such matters as how many children are typically present at one time, how many staff people or volunteers are watching them, how these people have been screened, whether the attendants have CPR and first-aid training, etc.

The application is quite detailed. In addition to the information cited above, it requests specifics on the maintenance of equipment, the use of signage to indicate the proper use of equipment and off-limit areas, a breakdown of receipts for the various products and services the club sells, and the experience and qualifications of management and employees. In addition to the completed application, we obtain three-year hard copy loss runs and a copy of the club's membership agreement for the submission. Occasionally, financial statements are required if an underwriter's credit search turns up something questionable.

Once an account is written, we stay in touch to provide any services the client might need. While we don't tell clients how to run their clubs, we do often recommend that they purchase a copy of the American College of Sports Medicine's Health/Fitness Facilities Standards and Guidelines. We also distribute brief case studies drawn from our claims files. We publish this information in a newsletter, the Fitpak File, that we plan to start distributing electronically.