

# Chapter 21

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## Legal Aspects Of Aquatic Therapy

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### OVERVIEW

The use of water, “aquatic therapy”, for rehabilitation is a mature health industry. In addition to aquatic therapy’s acceptance in the health care arena, it has become popular with the public seeking rehabilitation. Weightlessness achieved in the water enables participants to reach a high level of movement freedom. Also, the privacy of the water rids participants of the many inhibitions experienced in other exercise environments.

This chapter will identify and explain risks and liabilities that might be encountered by the aquatic therapist and will suggest methods of working successfully with them. They will be discussed under the professional’s concern for liability, the lawsuit, joint responsibility with owners of facilities and the business of aquatic therapy.

At the completion of the chapter the aquatic therapy professional will:

1. Be aware of the liability one encounters when choosing to work in an aquatic environment.
2. Be able to identify an appropriate standard of care and recognize how the standard will be treated in a court of law.
3. Understand negligence and intentional torts and the inter-relationship of the laws with the aquatic therapist’s standards of care.
4. Know how to identify federal, state and local statutes and guidelines pertaining to swimming pools and aquatic therapy environments.
5. Recognize the various forms of employment and methods of organizing a business.

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### PROFESSIONAL’S CONCERN FOR LIABILITY

The National Safety Council identified drowning as one of the seven leading causes of unintentional injury deaths in 2006 and was ranked fifth at 3,800 incidents, after motor vehicles accidents, poisoning, falls, and choking. Note should be made that the drowning figures do not include floods, disasters or boating related incidents. When we think of drowning we focus on children; however, of the 3,800 drowning incidents, 100 occurred in the 25 – 44 age population, 900 in the 45 – 64 age group and 450 among the 65+ population.<sup>1</sup> The later populations are those most significant to aquatic therapists. The National Sporting Goods Association, as reported in *Injury Facts*, 2008, found 56,500,000 persons who reported swimming six or more