

November 24, 2020



# **Life Time and Other Minnesota Health and Fitness Operators Call for Walz Administration to Reconsider Closure of Health Clubs**

## **Anytime Fitness, Snap Fitness and Rochester Athletic Club Join Request for Change**

CHANHASSEN, Minn., Nov. 24, 2020 /PRNewswire/ -- A coalition of health and fitness companies, led by Life Time, issued an open letter today to Governor Walz and his administration, calling for the State to reconsider its complete closure of health and fitness facilities. The coalition has urged the Governor to permit health and fitness clubs to operate with enhanced COVID mitigation protocols to help Minnesotans reduce underlying health conditions that contribute to even worse COVID-19 health outcomes. The group cited the closures as counterproductive to the State's overall public health goals to reduce critical illness, hospitalizations and deaths from COVID-19. The letter is as follows:



Dear Honorable Officials:

Life Time, Inc. owns and operates 23 of the largest health clubs in the State of Minnesota, with roughly 6,000 team member employees and 120,000 members from the surrounding communities. Anytime Fitness, LLC supports 144 fitness locations in Minnesota—most of which are independently owned and operated small businesses—employing more than 800 team members to service over 197,000 members. Snap Fitness supports 98 clubs, with 74 franchisees who are small business owners employing over 300 people with over 50,000 members. The Rochester Athletic Club serves 13,000 members with 325 team members. Collectively, with thousands of team members in small, mid-sized and large facilities throughout the entire state, we are committed to helping hundreds of thousands of Minnesotans live healthy lives through exercise, nutrition, and wellness.

We truly appreciate the extraordinary governance challenges presented by the COVID-19 pandemic. The human toll of COVID-19 has been staggering—it is now adversely impacting everyone's life in Minnesota from the sickness or death of a loved one to increased anxiety,

depression and malaise to the precarious economic conditions of a lost or furloughed job. We know your administration has been regularly faced with incredibly difficult choices as you manage Minnesota's response, including whether to order certain industries to close or whether to permit them to continue to operate with required COVID mitigation protocols. It is because of those choices that we respectfully submit this letter to urge you to reconsider the State's decision to close all health and fitness facilities and swimming pools in Minnesota as provided in the Emergency Executive Order 20-99 (Implementing a Four Week Dial Back on Certain Activities to Slow the Spread of COVID-19) ("Dial Back Order"), issued by Governor Tim Walz and dated November 18, 2020.<sup>1</sup>

According to the latest empirical and scientific evidence, Minnesota's health and fitness centers—when bolstered by enhanced mitigation efforts, including **a combination of mask wearing even during exercise and increased social distance**—can in fact contribute to Minnesota's overall public health and health equity objectives during this pandemic without compromising the important COVID related aims of the Dial Back Order. In contrast to complete closure, the State can meet its main objective to reduce critical illness, hospitalizations, and death from COVID by *both* enhancing mitigation protocols for health and fitness clubs *and* permitting clubs to provide important indoor space for exercise during winter in order to help reduce comorbidities that contribute to poor COVID-19 health outcomes, enhance immune systems, and build mental health resiliency for Minnesotans struggling with this crisis. Such a balanced, surgical approach is the sound way for the State to meet its overall public health objectives. As the Governor noted last week, it is "counterintuitive" to close health and fitness clubs amidst a pandemic that more readily spares healthy people from hospitalization. We agree and, with enhanced mitigation protocols for health and fitness facilities, we believe it is also counterproductive to do so.

## **I. Health and Fitness Centers in Compliance with State Guidance Have Adopted and Enforced Strong Mitigation Protocols, Which Could Be Enhanced Short of Closure.**

We have worked diligently to comply with Minnesota's various COVID-19 orders from the outset of the pandemic. Last week, Governor Walz himself acknowledged that "fitness centers—whether they be small or large national chains—have done incredible work to try and minimize the spread." That "work" has involved development and enforcement by health and fitness clubs of incredibly robust mitigation protocols, including significant capacity limitations, mandatory masks (with an exception when exercising), ventilation and filtration enhancements, symptom and/or temperature screening, enhanced cleaning and disinfecting, no shared equipment in group classes, adequate breaks between classes, and use of a reservation system to facilitate contact tracing.

While Minnesota's recently-updated Stay Safe Plan (Phase 3) permitted gyms and fitness centers to operate at 25% capacity (not to exceed 250 people) and pools to operate at 50% capacity, the Dial Back Order fully closes gyms, fitness facilities and pools until at least December 18, 2020 at 11:59 p.m., if the Order is not extended. The Dial Back Order thus completely shuts health and fitness operations in Minnesota—both large and small, and in urban and rural areas—regardless of any mitigation measures that are in place now or could be added. Yet, numerous other businesses (with similar or even more relaxed mitigation measures) are allowed to remain open, including tattoo parlors (open, at 50% capacity), tanning salons (open, at 50%), convenience stores (open, at 100%), liquor stores (open, at 100%), airport food courts (open, at 100% capacity), and retail stores (open, at 100%). With

enhanced mitigation measures, including universal masking and increased social distance, there is no epidemiological difference between a health club and an ordinary retail store because masks and social distance are now the standard for reduction of infectious respiration that can lead to transmission. If anything, on close examination, a health club is *safer* given its capacity restrictions and its higher air exchange rate.

Therefore, on behalf of our team members, members and the broader Minnesota health and fitness community, we hereby request that the Dial Back Order be amended to permit gyms, fitness facilities and swimming pools to continue to operate with the following enhanced protocols:

- Imposing a **mandatory mask requirement at all times, even during exercise** with the only exception being while in a pool or shower;
- Requiring **advance registration**, particularly for group fitness classes;
- Implementing **enhanced social distancing requirements**, such as
  - Reducing overall club capacity from the current 25% threshold to something in the range of 10% to 20%, or
  - Imposing a per person spacing requirement in the club to something in the range of 100 square feet per person (i.e., 10' x 10') to 200 square feet per person (about 14' x 14')
- Further **partnering with the State to support public health** by pushing out the State's new COVIDaware MN exposure app to members and team members or, with appropriate state support and funding, conducting research and/or rapid testing at clubs.

This framework is an aggressive, more surgical approach that appropriately accounts for the best available public-health evidence, as well as the evident lessons learned about transmission risk mitigation over the last five months. Under the Dial Back Order, fitness centers are now included among an overinclusive grouping of settings that must completely close, even though the State's own data show that fitness centers have a low positive case rate (747 of 242,000 positive cases is a rate of **.003**) and fitness centers can effectively implement, monitor, and enforce precisely the kind of protocols—6' distance except for transient interactions (e.g., check-ins), masks at all times, capacity restrictions—required of businesses that, according to the State, have produced "relatively fewer outbreaks," such as retail outlets, or are simply permitted to operate with no stated epidemiological rationale, such as weddings (6' distance at 50% capacity, capped at 250 people).

Moreover, unlike nearly every other industry, health and fitness centers operate on the health care continuum to provide preventive health opportunities to Minnesotans. In this regard, fitness centers are uniquely positioned to help the State meet its dual commitments to improve overall public health by reducing the risk of COVID comorbidities as well as the severity of COVID cases (thereby reducing demand on health care facilities and critical frontline health care workers) and to improve health equity by providing access to a physical fitness space for Minnesotans with no or less practical ability, space or equipment to exercise at home.

To be truest to its *broad* public health principles, the State should make every effort to keep fitness centers open, particularly when it has chosen to leave liquor and convenience stores open. Allowing fitness centers to reopen under aggressive mitigation measures will not diminish or undermine the State's very real interest in slowing the spread and, ultimately,

containing and controlling the virus. Leaving them closed will be a missed opportunity to *help* the State meet its public health objectives.

## **II. Health and Fitness Centers with Mitigation Protocols Strengthen Public Health.**

### **A. Empirical Data Show that Health and Fitness Clubs Reopened with Mitigation Protocols Are Not Materially Contributing to Community Spread.**

Since the outset of the pandemic, the fitness industry has partnered closely with the State. Through regular communications with Commissioner Tarek Tomes since March, the fitness industry has developed and produced voluminous documentation of the COVID mitigation protocols they have implemented in their respective fitness facilities, helping to inform the State's published industry guidance. As noted above, these protocols universally embrace social distance, masking, touchless transactions, and improved HVAC measures wherever possible—all elements of the COVID Preparedness Plans developed in response to public health guidance from the State and the Centers for Disease Control. Last week, the Governor even lauded the fitness industry for "going so far" as to alter "air filtration systems," which was not required by the guidance. On that score, with respect to air quality, health and fitness clubs are already required to exchange air at a notably higher rate (20 CFM/person) than retail settings (7.5 CFM/person).<sup>2</sup> With occupancy already restricted to 25%, and widespread mask usage (the effect of which reduces airborne respiratory droplets), the indoor air quality of health and fitness clubs is improved above and beyond a typical retail setting. For its part, Life Time is also bringing more outside air into spaces, which further dilutes the concentration of contaminants, and has upgraded its filters from MERV 8 to MERV 13, which are designed to filter out 98% of particulate matter.<sup>3</sup>

With respect to the efficacy of the industry's mitigation protocols, health and fitness operators in Minnesota have had a very strong track record of effectively implementing and enforcing their protocols to reduce the risk of transmission. With respect to national data, the International, Health, Racquet and Sportsclub Association (IHRSA) partnered with a data firm to examine member check in data and positive case data from reopened clubs through September 2020 to determine a "visit-to-virus" ratio. Based on data collected from 2,873 health clubs from reopening through September 2020, the industry tracked 49.4 million visits against 1,155 positive cases, which was equivalent to a .0023% infection rate. Recognizing that community spread has increased since then, Life Time examined its own Minnesota data through November 18, reflecting nearly five months of operation of its 23 Minnesota clubs since reopening on June 10, 2020. Life Time has logged more than 3.17 million visits by members and team members in our Minnesota clubs. Among that group, only 352 have reported a positive test result, or **.01%**. (If those who reported symptoms but no test result are included in the count, then number increases to 692, or a virus-to-visit ratio of .021%). These data reflect reports of exposure through community transmission at a very low rate among Life Time members and team members, and none of these reported exposures appear to have definitively originated at Life Time. These numbers, on their face, strongly demonstrate that Life Time clubs are neither a source nor a location of material spread of COVID, and these data hold for other operators as well.

For its part, the State has cited "outbreak" data as a basis for its decision to close fitness centers, citing 48 "outbreaks" and 747 COVID positive cases associated with them. As a threshold matter, the State does not seem to define "outbreak," or has offered confusing and

inconsistent definitions that do not square with a common understanding of an "outbreak." On its website, the Minnesota Department of Health defines an "outbreak" as "two or more cases of illness *related by time and place* in which an epidemiologic investigation suggests either *person-to-person transmission* occurred or a vehicle other than food or water (e.g., animal contact) is identified."<sup>4</sup> But an MDH Information Officer and a county health official defined an "outbreak" with respect to COVID-19 as 7 or more cases who report visiting a given location within a 30-day window. By simply tallying 7+ independent visits to a given location over a 30-day period (but not requiring that the visits necessarily occur at the same time in the same physical space within 6'), MDH does not seem to be requiring a plausible epidemiologic linkage between cases in order to count as an "outbreak." In a true outbreak or cluster, as the State of North Carolina Health Department notes, cases must be present in the same general setting during the same time period (i.e., the same work shift, same fitness class, same physical work out area), and there must not be a more likely source of exposure for identified cases (e.g., the household or close contact to a confirmed case in another setting).<sup>5</sup> The State's use of "outbreak" thus seems to be a potentially misleading misnomer. While the public would understand an "outbreak" to be the sudden start—the cause/source—of a communicable disease transmission, the State seems to be using "outbreak" to simply catalog the presence of positive people in various settings over time.

Moreover, however its terms might be defined and calculated, the State's "outbreak" count associated with fitness centers remains objectively very small. The State has reported 242,000 positive cases. Even if the 48 "outbreaks" are correlated with 747 cases, the total cases somehow associated with health and fitness clubs constitute only **.003 of all positive cases** in the State. By comparison, using the State's own metrics, fitness centers have seen only a quarter the number of "outbreaks" associated with sports (192 outbreaks v. 48), which are closed. But fitness centers also experienced only half the number associated with weddings (106), which are permitted to go forward (albeit with no receptions) with mitigation protocols even more relaxed than those in force for fitness clubs. Even religious services, which are permitted to continue, have seen 57 outbreaks (v. 48) between church (33) and funeral (24) services. These are all obviously important milestones, but from an epidemiological standpoint the decision to allow them to go forward while health clubs are closed appears to be quite inconsistent.

Moreover, the lack of outbreaks in health clubs is being increasingly well documented across the nation:

- Colorado has identified 1,808 outbreaks to date, and **only 2—or .11%**—have been traced to a fitness club.<sup>6</sup>
- Louisiana has identified 469 outbreaks with 3,540 positive cases. **Only 11 outbreaks** occurred in the gym/fitness setting, producing only 50 cases, or **1.4% of all cases**.<sup>7</sup>
- Connecticut found **only 1 cluster** in a fitness club since August, of 69 total clusters tracked since August. More than half the Connecticut clusters were from restaurants and workplaces, including factories and retail stores, which the State of Minnesota has left open.<sup>8</sup>
- Massachusetts has **only 9 clusters** associated with "recreation"—an even broader category that includes "gyms, fitness centers and swimming pools"—**of 4,395 total clusters, or .2%**.<sup>9</sup>
- Michigan has only **7 clusters** associated with "personal services"—a category that

includes salons, barbershops and gyms in Michigan, but which is closed in Minnesota — of **983 new and ongoing clusters, or .7%**.<sup>10</sup>

- North Carolina and Hawaii do not report any outbreaks in gyms—they don't even have a category for them in their outbreak reports.<sup>11</sup>

These empirical results hold in England as well, a country with a similar health and fitness industry. The UK government recently evaluated COVID-19 exposure rates in different settings and identified similar results. In data presented to Parliament, England's Chief Medical Officer, Professor Chris Whitty, explained that the hospitality industry—drinking pubs and bars, restaurants, cafes, and other entertainment venues—were traced to nearly **30%** of the positive cases reviewed. Gyms, in contrast, were tied to just **1.7%** of the cases.<sup>12</sup> Supermarkets, department stores, hospitals, care homes, visiting friends, and even households with fewer than 5 people had higher rates of transmission than gyms in the UK.

***These data reinforce an emerging awareness, borne out in the empirical data emerging across many states, that health clubs with COVID-19 mitigation protocols are not the unavoidably immutable high-risk environments that require closure when COVID-19 cases increase in a community.*** Plainly, "outbreaks" or other exposures at fitness centers—however defined or tracked—have resulted in a low volume of cases, representing only a small fraction of the total cases discovered in the State. That strongly suggests that robust COVID mitigation protocols are effective in fitness settings.

## **B. Science Also Shows that Health and Fitness Clubs with Proper Mitigation Protocols Can Operate Without a Heightened Risk of Infection.**

In the Dial Back Order, Governor Walz argues that the "science shows us that exercise leads to higher levels of exertion and exhalation—often by individuals not wearing masks—greatly increasing the amount of airborne respiratory aerosol droplets that can carry COVID-19."<sup>13</sup> While this may be true in the abstract, it fails to account for the **actual mitigation protocols** that are, or could be, in effect at health clubs, such as **mask use even during exercise** in order to mitigate airborne respiratory droplets in the club. In other words, while the State seems to be focused generally on the "risk profile" of health clubs due to increased respiration, scientific studies have shown that COVID protocols effectively lower the "risk profile" of a health club as a setting of significant epidemiological concern, such that it is unreasonable to close gyms when masks, distance, capacity limits, and ventilation can effectively mitigate risk.

The State's focus on the risk profile of a health club may be grounded in now-dated studies that did not consider the effect of mitigation protocols, and do not fairly reflect the current state of knowledge acquired over the past 8-10 months, namely the critical value of masks, social distance and hygiene. At the outset of the pandemic, the CDC published a "research letter" from South Korea on May 15, 2020.<sup>14</sup> The researchers examined infections arising from a "nationwide fitness dance instructor workshop" held **on February 15, 2020** in South Korea. They concluded that "intense physical exercise in densely populated sports facilities could increase risk for infection. Vigorous exercise in confined spaces should be minimized during outbreaks."

What is critical to understand about the South Korea study is that the researchers were examining fitness experiences from **February 2020** with **no mitigation protocols** in place at

all. The researchers traced a positive COVID-19 case to a fitness dance instructor workshop held on February 15, 2020. At the workshop, faculty instructors taught 27 South Korean women how to be Zumba instructors in their own fitness facilities in their hometowns. Zumba is a very high intensity fitness dance exercise set to Latin rhythms, typically conducted in close proximity. The 27 instructors "trained intensely for four hours" at the workshop. (Traditional fitness clubs in Minnesota teach classes typically an hour or less.) The instructors then returned to their hometowns to teach Zumba to students in "large class sizes" in 12 facilities that were in "small rooms with bad ventilation, with students standing a few centimeters apart."<sup>15</sup> The workshop and subsequent classes also had no mitigation protocols in place at all—no shortened classes, no capacity restrictions, no physical distance (let alone 6'), poor ventilation, and all of it happening in a small room.

Similarly, researchers from Stanford and Northwestern University recently published an article in the journal *Nature*,<sup>16</sup> on November 10, 2020, which was described in news stories as finding that fitness facilities are currently a higher risk venue for COVID 19 transmission. But that is not what the study found. The study examined anonymized location data from mobile applications (cell phone data) from **March 8 to May 9, 2020**, during a time (except the first week or so of that period) when all health clubs were closed in Minnesota and in most of the United States. The authors submitted their article for publication on **June 15, 2020**, just when Minnesota was reopening health clubs with required COVID mitigation protocols, including a 25% capacity restriction. Because health clubs were closed during nearly all of the data period, in order to evaluate the relative risk of reopening different categories of businesses, the authors *simulated* the reopening of each separate category on May 1, 2020 "by returning its mobility patterns to early March levels." In early March, just as with the February fitness classes examined in the South Korea study, there were no COVID mitigation protocols in health clubs at all. The study looked only at the number of visitors to health clubs ("visit density") and the length of stay ("visit duration")—the "mobility levels" available in the cell phone data—**not** at whether those health clubs had implemented protocols to mitigate COVID risks for those visitors. The study says nothing about the efficacy of masks, touchless entry, or enhanced cleaning, and with respect to the one mitigation concept it does address—how to create greater social distance—it concludes that the very capacity limits the State has imposed on Minnesota health clubs, and could make even tighter short of closure, really do work:

Reducing maximum occupancy substantially reduced risk without sharply reducing overall mobility: capping at 20% maximum occupancy in the Chicago metro area cut down predicted new infections by more than 80%, but only lost 42% of overall visits, and we observed similar trends across metro areas...[O]ne can achieve a disproportionately large reduction in infections with a small reduction in visits. Reducing maximum occupancy always resulted in fewer predicted infections for the same number of total visits...by taking advantage of the time-varying visit density within each [club]

The reason for this is that occupancy restrictions disproportionately reduce visits riskiest "high-density periods," but leave visit counts unchanged "during less risky periods." In other words, the study proves exactly our point that the State does not need to eviscerate all economic activity in our industry in order to achieve a substantial reduction in infection risk: "Precise interventions, like reducing maximum occupancy, may be more effective than less targeted measures [e.g., closure], while incurring substantially lower economic costs."

While the Stanford and Northwestern researchers concluded that capacity restrictions work, a group of Norwegian researchers from the University of Oslo, along with the Norway's National Institute of Public Health, concluded that a suite of other mitigation protocols likewise work to reduce the risk of infection. In June 2020, they set out to examine whether the continued closure of health clubs in Norway was truly necessary or whether reopened facilities "can provide enough hygiene and social distancing to prevent virus spread."<sup>17</sup>

The researchers in the study randomized 3,764 members of five health clubs in Oslo into two groups—half of whom could use the clubs from late May to mid-June 2020, and half of whom could not. The study participants were well-balanced for gender and age as well: half were men, half were women. Most of the members were between 20 and 50 years of age, but the entire population spanned 18 to 64 years of age. Of the studied cohort, a large majority, 81.8%, used the club at least once, while 38.5% trained six times or more. The gyms provided all their ordinary services, including access to the fitness floor and group fitness classes (e.g., spinning, yoga, and other activities). After the two-week trial in the study, more than 3,000 individuals were tested for COVID-19. Only one participant returned a positive COVID-19 test, and that person was exposed at work—not at the health club. Of the 91% of the club employees who were tested, not a single study participant returned a positive test.

The researchers concluded that there is "no virus transmission or increase in COVID-19 disease related to opening of training facilities," provided "good hygiene and social distancing routines" are in place. Notably, those "routines" or protocols were even more modest than those adopted in the United States, including the strict protocols mandated in Minnesota, such as masks and a full 6' of social distance:

Protocol	Norway	United States
Access Controls/Capacity Restrictions	Yes	Yes
Masks	<b>No</b>	<b>Yes</b>
Temperature Checks/Screening	<b>No</b>	Yes
6' Distance During Intense Exercise	Yes	<b>Yes</b>
6' Distance During Other Times	<b>No</b> (only 3')	<b>Yes</b>
Disinfectants at Workout Stations	Yes	Yes
Equipment Cleaning by Members	Yes	Yes
Regular Cleaning by Staff	Yes	Yes
Instruction to Members on Hygiene	Yes	Yes

The researchers concluded that "the results of our trial shows that with these easy and simple-to-adhere mitigations, training facilities are safe and may be allowed to reopen."

Even more recently, the CDC itself found no statistically significant association between COVID-19 positive test results and visiting a health club with protocols—unlike visiting a bar or restaurant where "mask use and social distancing are difficult to maintain."<sup>18</sup> In a case-controlled study involving residents of Minnesota among other states, the CDC aimed to assess community and close contact exposures associated with COVID-19. Researchers compared 154 positive case patients to 160 negative test patients. Study participants were surveyed about settings they visited in the two weeks prior to symptom onset, and the degree of adherence to COVID protocols in such settings, including mask wearing and social distance among patrons. The study concluded that "participants with and without COVID-19 reported generally similar community exposures, with the exception of going to locations with on-site eating and drinking options." Notably, while there was no statistically significant difference between positive test results and visiting most settings other than restaurants (64



positive case patient, venue now closed) and bars (13 positives, now closed), more positive-case patients went shopping (131 people, still open in MN), worked at the office (37 people, still open), visited a salon (24 people, still open), and/or went to church (12 people, still open) compared with a health club (12 people, now closed in MN). This suggests not only that health clubs are *not* a materially greater risk than other locations, but also that fewer people are patronizing health clubs compared to other settings, likely due to the capacity restrictions already imposed by the State.

Taken together, the developing science suggests that health and fitness clubs with strict protocols, including masks during exercise and/or greater social distance, can effectively mitigate COVID transmission risk due to increased respiration.

### C. Based on Empirical and Scientific Data, Many States Have Permitted Health Clubs to Remain Open with Enhanced Protocols Even as Case Counts Increase.

In the Dial Back Order, the Governor asserts that in "dialing back on...fitness establishments, Minnesota joins an increasing number of states imposing similar measures, including California, Illinois, Michigan, New Mexico, Oregon, Washington, and Vermont." That statement is not entirely accurate. While Oregon and New Mexico opted to close all health clubs (both indoors and out), even California and Washington, which closed indoor fitness, currently permit outdoor group fitness classes, which Minnesota has banned.<sup>19</sup> Moreover, three other states identified by the Governor—Illinois, Michigan, and Vermont—have allowed health and fitness clubs to **remain open** with enhanced restrictions, as have several other states facing rising COVID-19 case pressures, such as Colorado and Missouri among numerous other states. Here is a chart reflecting these restrictions:

State	Face Coverings	Capacity	Group Classes	Reservations	Pool
California	Worn at all times	Closed (outdoor permitted)	Closed (outdoor permitted)	n/a	Outdoor only
Colorado	Worn at all times	Lesser of 10% or 10/room indoors	Lesser of 10% or 10/room indoors	Yes	Lesser of 10% or 10/room indoors
Illinois	Worn at all times	25% maximum	Prohibited	Yes	Open (50%)
Michigan	Worn at all times	25% + 12 ft. physical distance	Prohibited	No	Open (25%)
Missouri (St. Louis County)	Worn at all times	25%	Permitted	No	Open (50%)
New Mexico	Worn at all times	Closed	Closed	n/a	Closed
Oregon	Worn at all times	Closed	Closed	n/a	Closed
Washington	Worn at all times within 6 ft	Closed (outdoor permitted)	Closed (outdoor permitted)	n/a	Closed
Vermont	Worn at all times within 6 ft	Open (100%)	Permitted	n/a	Open

The State also cites "metrics developed by the White House Coronavirus Task Force ("Task Force")" showing that Minnesota is "officially in the 'Red Zone'—the most critical level of concern—for two main indicators of uncontrolled spread: test positivity rate and new COVID-19 cases." Notwithstanding the State's and the public's interest in transparency, the State has not released the Task Force's Weekly Reports which contain those "metrics." But the State of Oklahoma releases them each week.<sup>20</sup> Oklahoma is likewise in the Red Zone for precisely the same two metrics—positivity rate and new cases. The Task Force recommended to Oklahoma that it limit restaurant capacity to 25% and limit bar hours, but the Task Force made no specific recommendation at all with respect to health clubs, let alone to close them all outright. To the contrary, the Task Force suggests that Oklahoma

consider "pausing extracurricular school activities, even though athletics are not transmission risks, as the surrounding activities are where transmission is occurring."

In short, Minnesota stands in a small minority of states shuttering all commercial and non-profit exercise, other than virtual content delivered to an individual in their home. Minnesota certainly had, and still has, a less restrictive means to "dial back" fitness—one that is wholly consistent with the Task Force's recommendations—by requiring clubs to enforce masks at all times, increasing social distance, and/or limiting overall club capacity. Such a change would square with the majority of states that have worked hard to keep an essential industry open to provide the health and wellbeing services residents need now more than ever—a place for preventive health.

#### **D. Health Clubs Contribute to Health and Wellbeing of Minnesota's Citizens, Advancing the State's Goals of Public Health and Health Equity.**

Finally, while the empirical and scientific data is certainly clear enough to warrant a less restrictive governmental response than outright closure of all health and fitness clubs, Minnesota's well-regarded and long-held interest in promotion of fitness as a means to advance public health, as well as its interest in health equity, should tip the scales.

For years, the State of Minnesota has recognized the value of exercise for public health and wellbeing. MDH itself extols the virtue of exercise, including with respect to the very underlying health conditions that put them at COVID risk:

Regular physical activity helps improve your overall health and reduces your risk for heart disease, stroke, type 2 diabetes, depression and cancer. Other benefits of regular physical activity:

- Control weight
- Improve mood
- Boost energy
- Promote better sleep
- Strengthen your bones and muscles<sup>21</sup>

MDH expressly recommends that "adults should get at least 150 minutes of moderate-intensity aerobic activity every week plus muscle-strengthening activity at least two days per week," while "children and teens ages 6 to 17 should get at least 60 minutes of physical activity every day, with muscle- and bone-strengthening activities at least three days a week." The State of Minnesota even incentivizes exercise by subsidizing certain employee benefit deductibles.<sup>22</sup> Even the Governor's order cites the "positive health impacts" of sports, and characterizes at least outdoor recreation as "essential." And the Governor himself last week recognized that "we know that there is a strong connection between physical health and mental health."

The CDC similarly views using gyms or fitness centers as an activity that positively affects public health outcomes. The CDC has long recommended physical activity for everyone, including devoting an entire division to it—the Division of Nutrition, Physical Activity and Obesity. On its website, the CDC describes the "extensive" health benefits of physical activity, including reduction in the "risk for serious health problems like heart disease, type 2 diabetes, obesity, and certain cancers," all of which are underlying health conditions that

increase the risk for severe illness from COVID-19.<sup>23</sup>

Independent medical research supports the value of exercise with respect to COVID-19 factors, too. Regular cardiovascular exercise, for example, aids in prevention or reduction of the severity of a deadly coronavirus complication by increasing production of a potent antioxidant that helps protect the lungs. The CDC has estimated that anywhere from 20 to 42 percent of patients hospitalized for COVID-19 will develop acute respiratory deficiency syndrome.[24] Regular exercise also boosts the immune system, which helps fight COVID-19.<sup>25</sup>

Finally, physicians have called for health clubs to remain open. The Chicago Medical Society, representing 17,000 physicians in Chicago, urged government officials to keep health clubs remain open, as their medical professionals rely on exercise facilities to strengthen their own immunity and mental health through regular exercise. The President of the Society stated:

Data demonstrates that health clubs are safe environments right now, which is important because prioritizing health and fitness is more essential than ever. We believe that the responsibility is equally shared between the facility and its members to ensure a safe environment. Our physicians and licensed healthcare professionals would not enter an environment that they felt was unsafe and we feel that it is critical to allow them the opportunity to get back into a regular fitness routine, offering innumerable benefits to both their physical and mental health, especially as we enter the winter months.<sup>26</sup>

Likewise, a former acting U.S. Surgeon General, Dr. Kenneth P. Moritsugu, has urged policymakers to keep health clubs with transmission mitigation measures open, including as a matter of health equity:

Most individuals and families don't have the resources or space for at-home fitness equipment, so access to spacious, well-ventilated, big-box fitness facilities can play an important role in efforts to combat the virus and improve people's overall physical and mental health. Chronic health conditions impacting millions of Americans including obesity, hypertension and diabetes can cause complications and significantly increase the chances of hospitalization and death for those who contract COVID-19.<sup>27</sup>

In sum, from a public health perspective in its broadest sense, the best available—and mounting—evidence demonstrates that allowing exercise at health and fitness clubs subject to enhanced mitigation efforts, including socially-distanced exercise in masks, will not only **not** materially harm the State's efforts to mitigate the spread of COVID, but it will affirmatively **help** the State by affording residents, including all State employees, the opportunity to maintain and improve their physical and mental health at this most important time in the pandemic.

Life Time and the entire health and fitness industry thanks all the recipients of this letter for the opportunity to discuss its concerns with the Order. We genuinely hope that you review and respond to this letter and the materials cited herein, which we firmly believe compels a modest, but appropriate, change to the Dial Back Order to permit limited fitness operations

to resume, consistent with robust mitigation measures. We would appreciate a prompt response.

As we have from the outset, we stand ready to engage meaningfully with the State to identify a productive, balanced path forward that prioritizes our shared interest in protecting Minnesotans and preserving the health of our communities.

Sincerely,

**LIFE TIME, INC.**

**ANYTIME FITNESS**

**SNAP FITNESS**

**ROCHESTER ATHLETIC CLUB**

<sup>1</sup> See Emergency Executive Order 20-99 (Implementing a Four Week Dial Back on Certain Activities to Slow the Spread of COVID-19), available at: [https://mn.gov/governor/assets/EO%2020-99%20Final%20%28003%29\\_tcm1055-454294.pdf](https://mn.gov/governor/assets/EO%2020-99%20Final%20%28003%29_tcm1055-454294.pdf).

<sup>2</sup> See ASHRAE standards, available at: <https://www.ashrae.org/technical-resources/standards-and-guidelines/read-only-versions-of-ashrae-standards> (Standard 62.1 2019).

<sup>3</sup> To develop its reopening protocols, Life Time retained an expert epidemiologist (dual M.D./Ph.D. degree) with decades of public health experience and an industrial hygienist to help create operational protocols covering every aspect of its club operations. Like other operators, Life Time's mitigation measures range from club-wide enhanced cleaning protocols, symptom screening and contactless temperature checks upon entry, physical distancing across all spaces, masks at all times unless actively exercising while socially distanced, capacity restrictions, and enhanced filtration and ventilation to promote enhanced air quality.

<sup>4</sup> See Minnesota Department of Health: <https://www.health.state.mn.us/diseases/foodborne/outbreak/basics.html> (emphasis added).

<sup>5</sup> See North Carolina Department of Health and Human Services, COVID-19 Clusters in North Carolina (Updated November 16, 2020): <https://files.nc.gov/covid/documents/dashboard/COVID-19-Clusters-in-NC-Report.pdf>.

<sup>6</sup> See Colorado Outbreak Tracker: <https://covid19.colorado.gov/covid19-outbreak-data>. Data as of November 18, 2020.


<sup>7</sup> See Louisiana Outbreak Tracker: <https://ldh.la.gov/index.cfm/page/3997>. LA defines outbreak as 2 or more cases among unrelated individuals who visited a site within a 14-day period.

<sup>8</sup> See <https://www.courant.com/coronavirus/hc-news-coronavirus-contact-tracing-data-20201112-pk2ehpsxmzdztb3xjok5il4tbi-story.html>.

<sup>9</sup> See <https://www.wcvb.com/article/5-investigates-new-data-shows-households-at-center-of-most-covid-19-clusters/34524107#>.

<sup>10</sup> See Michigan Cluster Outbreak Tracker: [https://www.michigan.gov/coronavirus/0,9753,7-406-98163\\_98173\\_102057---,00.html](https://www.michigan.gov/coronavirus/0,9753,7-406-98163_98173_102057---,00.html).

- <sup>11</sup> See North Carolina Outbreak Tracker: <https://files.nc.gov/covid/documents/dashboard/COVID-19-Clusters-in-NC-Report.pdf>. NC defines outbreak as 5 or more cases with illness onsets or initial positive results within a 14-day period and plausible epidemiologic linkage between cases. Hawai'i information is located here: <https://health.hawaii.gov/coronavirusdisease2019/what-you-should-know/current-situation-in-hawaii/#cluster>
- <sup>12</sup> See <https://www.bbc.com/news/health-54477618> (publishing reported data).
- <sup>13</sup> Dial Back Order at p. 2.
- <sup>14</sup> See [https://wwwnc.cdc.gov/eid/article/26/8/20-0633\\_article](https://wwwnc.cdc.gov/eid/article/26/8/20-0633_article).
- <sup>15</sup> See <https://www.straitstimes.com/asia/east-asia/crazy-zumba-aunties-the-latest-in-s-korean-cluster-infections>.
- <sup>16</sup> See <https://www.nature.com/articles/s41586-020-2923-3> (*Mobility network models of COVID-19 explain inequities and inform reopening*, November 10, 2020)
- <sup>17</sup> See <https://www.medrxiv.org/content/10.1101/2020.06.24.20138768v2> (*Randomized Re-Opening of Training Facilities During the COVID-19 Pandemic*, June 25, 2020).
- <sup>18</sup> See <https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a5.htm> (Community and Close Contact Exposures Associated with COVID-19 Among Symptomatic Adults ≥18 Years in 11 Outpatient Health Care Facilities — United States, July 2020)
- <sup>19</sup> Dial Back Order, Sec. 6(b)(ii) (prohibiting even outdoor organized group classes).
- <sup>20</sup> See <https://coronavirus.health.ok.gov/sites/g/files/gmc786/f/oklahomawhitehousereport11152020.p>
- <sup>21</sup> See MDH, Physical Activity Basics – Taking Steps for Better Health at: <https://www.health.state.mn.us/communities/physicalactivity/pabasics.html> (citing U.S. Department of Health and Human Services. Physical Activity Guidelines for Americans, 2nd edition. Washington, DC: U.S. Department of Health and Human Services; 2018).
- <sup>22</sup> See <https://mn.gov/mmb/segip/news-and-updates.jsp?id=442817>.
- <sup>23</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.
- <sup>24</sup> See [https://www.eurekalert.org/pub\\_releases/2020-04/uovh-cem041520.php](https://www.eurekalert.org/pub_releases/2020-04/uovh-cem041520.php). See also <https://newsroom.uvahealth.com/2020/04/15/covid-19-exercise-may-help-prevent-deadly-complication/>
- <sup>25</sup> See <https://www.frontiersin.org/articles/10.3389/fimmu.2018.00648/full>.
- <sup>26</sup> [https://mcusercontent.com/df83e939b5321c852ae94ac77/files/123c3d13-6c24-48f2-9d4f-e67732235e5f/CMS\\_Letter\\_11.10.20.pdf](https://mcusercontent.com/df83e939b5321c852ae94ac77/files/123c3d13-6c24-48f2-9d4f-e67732235e5f/CMS_Letter_11.10.20.pdf)
- <sup>27</sup> <https://www.dallasnews.com/opinion/commentary/2020/11/16/its-critical-to-keep-fitness-centers-open-amid-covid/>

 View original content to download multimedia <http://www.prnewswire.com/news-releases/life-time-and-other-minnesota-health-and-fitness-operators-call-for-walz-administration-to-reconsider-closure-of-health-clubs-301180198.html>

SOURCE Life Time, Inc.