

Report on the Study of Athletic and Fitness Instruction, Exercise Facilities, Clubs and Baths

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Classification Study — Athletic and Fitness Instruction, Exercise Facilities, Clubs and Baths

8868, Colleges or Schools – private – not automobile schools – professors, teachers or academic professional employees

9101, Colleges or Schools – private – not automobile schools – all employees other than professors, teachers, or academic professional employees – including cafeterias

9053(1), Baths – N.O.C – all employees – including restaurant employees and receptionists

9053(2), Exercise or Health Institutes – all employees – including restaurant employees and receptionists

9053(3), Swimming Pools – commercial – all employees – including restaurant employees and receptionists

9053(4), Clubs – swimming – including front desk employees, lifeguards and restaurant or tavern employees

9053(5), Clubs – tennis or racquetball – including front desk employees and restaurant or taverns employees

Executive Summary

Objective

At the request of the Classification and Rating Committee, the WCIRB is conducting a comprehensive multi-year review of Classifications 8868, *Colleges or Schools – private – not automobile schools – professors, teachers or academic professional employees*, and 9101, *Colleges or Schools – private – not automobile schools – all employees other than professors, teachers, or academic professional employees – including cafeterias*. These classifications were established to apply to private colleges and schools. However, historically many employers that are not colleges or schools but provide a variety of instructional and training programs have been assigned to these classifications by analogy.

The WCIRB will be reviewing employers currently assigned to Classifications 8868 and 9101 to identify all groups of constituents currently assigned to these classifications by analogy in order to determine whether any groups constitute separate and identifiable industries that meet the criteria for establishing new classifications or should otherwise be reclassified.

As the initial phase of this multi-year study, the WCIRB reviewed the operations of employers assigned to Classification 8868 that provide athletic or fitness instructional programs, including but not limited to martial arts, gymnastics, dance, yoga and tennis. Upon initial review, the WCIRB noted similarities and a blurred line of demarcation between the athletic-based employers assigned to Classification 8868 and some employers assigned to Classification 9053(2), *Exercise or Health Institutes*. In order to address that issue, the WCIRB also evaluated whether the constituents of Classification 9053 comprise a homogenous group and whether any of the subject classifications should be revised, consolidated and/or eliminated to ensure each phraseology is reflective of current industry usage and clearly differentiated from other classifications.

Findings

Based on its review of the above matter, the WCIRB determined:

1. Employers engaged in the operation of fitness instruction programs or studios that are currently assigned to Classification 8868 comprise a homogenous, identifiable group. While the experience of this group does not develop high statistical credibility based on the employers identified thus far, the WCIRB anticipates improved credibility as additional employers, including small employers that are not experience rated and, therefore, have not been inspected by the WCIRB, are identified.

2. While operations of employers assigned to Classification 9053(2), *Exercise or Health Institutes*, are also athletic in nature, those operations differ from those of employers assigned to Classification 8868 in that employers assigned to Classification 9053(2) are engaged primarily in providing an athletic facility or gym for clients to use at-will, while employers offering athletic or fitness instructional programs assigned to Classification 8868 provide an instruction-based class.¹
3. Classification 9053(1), *Baths*, is not operationally or statistically consistent with the other constituents assigned to Classification 9053. The indicated Selected (Unlimited) Loss to Payroll Ratio for employers engaged in the operation of fitness studios is at this time significantly lower than the analogous ratio for Classification 9053, excluding 9053(1), *Baths*. Over time, those differences could narrow.
4. Operations assigned to Classifications 9053(3), *Swimming Pools*, and 9053(4), *Clubs – swimming*, are not clearly differentiated from each other. Public swimming pool and swimming club operations involve similar exposure, including but not limited to the operation of swimming pool facilities, competitive swim teams, swimming instruction and facility maintenance.

Recommendations

The WCIRB recommends the following:

1. Establishing a new classification, Classification 8870, *Fitness Instruction or Studios – all employees – including receptionists*, for employers engaged in operating fitness instruction programs or studios.
2. Revising the phraseology for Classification 9053(2), *Exercise or Health Institutes*, to better define its scope and direct how related operations shall be classified and reclassifying a number of employers from Classification 9053(2) to the proposed Classification 8870 as Classification 8870 better describes the operations of these employers.
3. Monitoring the Classification Relativities of Classifications 8870 and 9053 on an annual basis to review if these classifications should be combined for ratemaking purposes.
4. Amending Classification 9053(1), *Baths*, to establish a unique classification code and clarify its intended application for employers engaged in the operation of spa or bath facilities.
5. Consolidating the alternate wordings for Classifications 9053(3), *Swimming Pools*, and 9053(4), *Clubs – swimming*, to Classification 9053(3), *Swimming Pools or Swimming Clubs*.
6. Amending Classification 9053(5), *Clubs – tennis or racquetball*, for clarity, consistency and to provide direction as to how related operations should be classified.

¹ Staff identified about 80 employers currently reporting data in Classification 9053(2) that are engaged in providing athletic or fitness instructional programs. Data for these employers will be reclassified to group them with other employers that operate fitness instruction programs or studios.

Introduction and Background

The Classification and Rating Committee requested that the WCIRB conduct a comprehensive multi-year review of Classifications 8868, *Colleges or Schools – private – not automobile schools – professors, teachers or academic professional employees*, and 9101, *Colleges or Schools – private – not automobile schools – all employees other than professors, teachers, or academic professional employees – including cafeterias*. As the first component of that multi-year study, the WCIRB reviewed the operations of employers assigned to Classification 8868 that provide athletic or fitness instructional programs, including but not limited to martial arts, gymnastics, dance, yoga and tennis. Upon initial review, the WCIRB noted similarities and a blurred line of demarcation between the athletic-based employers assigned to Classification 8868 and some employers assigned to Classification 9053(2), *Exercise or Health Institutes*. In order to address that issue, the WCIRB also evaluated whether the constituents of Classification 9053 comprise a homogenous group and whether any of the subject classifications should be revised, consolidated and/or eliminated to ensure each phraseology is reflective of current industry usage and clearly differentiated from other classifications.

Classification History

- Classification 8868 was established prior to 1920. Prior to the establishment of Classification 8868, colleges and schools were assigned to Classifications 8860, 8861, 8862, 8863, 8864 and 8865, differentiating between agricultural, domestic science, manual training, military, veterinary and schools that were not otherwise classified. This classification was established to apply to professors, teachers and academic professional employees such as deans, principals, counselors, chief registrars, presidents of colleges and school librarians employed by private colleges or schools that instruct students in various subjects including but not limited to mathematics, language, history, liberal arts, sciences and business. However, this classification has historically also been assigned to employers providing non-academic, athletic or fitness instructional programs such as martial arts, gymnastics, dance and yoga studios. Classification 8868 and 9101 are *companion classifications*.²
- Classification 9101 is an original classification dating back to 1915. This classification was established to apply to school employees other than professors and teachers, including but not limited to cafeteria workers, drivers, janitors and maintenance employees.
- Classification 8875, *Public Colleges or Schools – all employees – including cafeteria, Clerical Office Employees and Outside Salespersons*, was established in 1960 to differentiate between private and public schools. This classification applies to all employees of public schools, colleges and charter schools.
- Classification 9064, *Baths – N.O.C.* was an original classification dating back to 1915. In 1929, the four-digit code was changed to 9053; however, the classification phraseology was not changed.
- Classification 9053, *Exercise or Health Institutes – all employees – including restaurant employees; Clerical Office employees; Drivers, Chauffeurs and Their Helpers*, was established in 1961 following a review of employers operating health clubs and the practice of assigning such employers to Classification 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services – all employees – including receptionists*. These facilities or gyms provide customers or members access to weight lifting equipment, cardiovascular equipment, fitness classes, saunas and locker rooms on a fee basis. In addition, access to swimming pools, basketball courts and additional amenities may be provided. Operations include but are not limited to providing personal

² Two classifications that together describe the operations that normally prevail in a business. Businesses that are classified using related companion classifications, as identified by the classification footnote, shall constitute a single enterprise.

training and fitness instruction classes, facility cleaning and maintenance, laundering towels and the operation of restaurants or pro-shops.

- Classification 9053(3), *Swimming Pools – commercial*, was established in 1968 to apply to the operation of swimming pools open to the general public on a fee basis. Operations include but are not limited to pool cleaning, lifeguarding, facility maintenance, water safety, swim instruction and the operation of restaurants or snack bars. This classification also applies to scuba diving instruction in pools.
- Classifications 9053(4), *Clubs – swimming*, was established in 1985 to apply to the operation of private or semi-private swim clubs that provide members access to swimming pool facilities, including but not limited to swimming pools, showers, whirlpools and locker rooms on a fee basis. Operations may also include organizing and sponsoring swim teams, providing water safety and swim instruction, lifeguarding, swim team coaching, swimming pool cleaning, facilities maintenance and restaurant operations. Swim clubs may operate their own pool, or may operate at a pool that is operated by a separate concern.
- Classification 9053(5), *Clubs – tennis or racquetball*, was established in 1985 to apply to the operation of tennis or racquetball clubs. Operations include but are not limited to providing tennis or racquetball instruction, arranging tournaments, facility cleaning and maintenance, laundering towels and the operation of restaurants or pro-shops.
- In 1991, an employer that operated an aerobic fitness center protested the WCIRB's assignment of Classification 9053(2), *Exercise or Health Institutes – all employees – including restaurant employees and receptionists*, to the Classification and Rating Committee. The employer contested that Classification 8868 should be assigned to their operation in the same manner as dance or ballet schools have been assigned to Classification 8868. The Committee sustained the WCIRB's assignment of Classification 9053(2).
- In 2004, the WCIRB conducted a comprehensive study of Classifications 8868 and 9101 that resulted in a proposal to adopt new classifications for a number of the subgroups of employers that had been assigned to Classifications 8868 and 9101. As part of the proposal, employers that provide gymnastic, dance and martial arts training were proposed to be included with employers assigned to 9053(2), *Exercise or Health Institutes*. The proposed changes related to Classification 8868 and 9101 were not adopted by the Insurance Commissioner due largely to concerns raised by non-profit organizations that provide programs and services to individuals with developmental disabilities as to the impact of the proposed changes on their organizations.

Classification Analysis

Classification 8868 was established to apply to professors, teachers and academic professional employees such as deans, principals, counselors, chief registrars, presidents of colleges and school librarians employed by private colleges or schools. Classification 9101, the companion classification to Classification 8868, applies to employees that are not academic professionals at private colleges or schools. However, these classifications have historically also been assigned by analogy to employers providing other types of non-academic instructional programs, including but not limited to fitness instruction or fitness studios providing instruction in martial arts, gymnastics, dance and yoga studios and similar disciplines.

Employers operating fitness instruction programs or studios currently assigned to Classification 8868 provide instruction (classes) to children and adults in disciplines that require physical activity. This group is composed primarily of martial arts, gymnastics, dance, yoga and tennis instruction although employers teaching spin, pilates and other exercise classes have also, in some cases, been assigned by insurers to Classification 8868. Typically, such employers offer fee-based classes that can be purchased on a per-class or unlimited monthly basis, or clients can purchase a specified number of classes. Clients attend

prescheduled classes in which they engage in a variety of instructor-led athletic and fitness activities for the duration of the class. Unlike health clubs and membership gyms, customers attending fitness or athletic instruction programs have little or no at-will access to any studio facilities or equipment outside of scheduled class times. It is common for fitness studios to retain a receptionist or front desk staff. Receptionists typically greet clients, sign clients in for classes, provide information and conduct point of sale operations such as taking payment for classes and incidental merchandise. At some fitness instructional studios, class instructors engage in reception duties before and after class. Based upon these observations, staff noted that reception duties are integral to the operation of athletic or fitness instruction programs and studios. Additionally, a portion of the employers offering athletic or instructional fitness programs do not operate facilities, as classes may be conducted at public locations or at facilities operated by separate concerns. Staff reviewed whether these athletic-based instructional programs assigned by analogy to Classification 8868 form a homogenous, identifiable group that should be assigned to a new, unique classification and thus allowed to develop their own advisory pure premium rate.

The WCIRB also reviewed the operations assigned to Classification 9053(2), *Exercise or Health Institutes*. Staff noted some operational similarities and lack of clear differentiation between employers engaged in operating fitness instruction or studios that are assigned to Classification 8868 and some employers assigned to Classification 9053(2). Employers assigned to Classification 9053(2) operate health club and gym facilities that provide clients access to cardiovascular exercise equipment, weight machines, free weights and other workout spaces primarily available for at-will use by clients during set operating hours. Some employers assigned to Classification 9053(2) provide access to specialized equipment including climbing walls and trampolines. Employers that operate health clubs and gym facilities may also offer structured fitness classes to patrons. However, club and gym members maintain access to the health club or gym facilities for the majority of operating hours, often while classes are in progress.

The primary distinction between the athletic focused employers assigned to Classification 8868 and those assigned to Classification 9053(2) is facility use. Although fitness classes are offered at many health clubs or gyms assigned to Classification 9053(2), customers at these facilities have access to the fitness facility and equipment on an at-will basis. Fitness instruction programs and fitness studios assigned to Classification 8868 provide training and participation in instructor led classes with minimal or no use of studio space or facilities on an at-will basis.

The WCIRB also reviewed if any constituents currently assigned to Classification 9053(2) should be reassigned if a new classification is established for fitness instruction or studios. The WCIRB identified about 80 employers currently reporting data in Classification 9053(2) that are engaged in fitness instruction programs or studio operation providing little to no at-will use of facilities.

The WCIRB also found that the phraseology for Classification 9053(2) is antiquated. The term *exercise or health institute* is not frequently used within the industry; facilities that provide customers or members access to various exercise equipment, trampolines, climbing walls, fitness classes, saunas and locker rooms on a fee basis are more commonly referred to as health clubs or gyms.

With respect to the remainder of Classification 9053, the WCIRB also determined that the exposure for employers that operate spa and bath facilities assigned to Classification 9053(1), *Baths*, is dissimilar from the other constituents of Classification 9053. Employers assigned to Classifications 9053(2), *Exercise or Health Institutes*, 9053(3), *Swimming Pools*, 9053(4), *Clubs – swimming*, and 9053(5), *Clubs – tennis or racquetball*, provide facilities and services that are related to sports and fitness. Although spa and bath facilities are water-based, like swimming pools and swimming clubs, the equipment used at spa and bath facilities, like soaking tubs, hydrotherapy baths, natural springs, mud baths and massage tables, is markedly different. Additionally, the primary purpose of a spa or bath facility is relaxation and beautification, whereas health clubs, swimming pools and swimming and tennis clubs are used for fitness, athletic activity and competition.

Additionally, Classifications 9053(3), *Swimming Pools*, 9053(4), *Clubs – swimming*, and 9053(5), *Clubs – tennis or racquetball*, were reviewed to ensure that each classification is clearly defined and differentiated. The WCIRB found that public swimming pool facilities and swimming clubs are operationally similar and have a similar composition of employees, including but not limited to facility managers, swim coaches and instructors, pool and facility maintenance employees and lifeguards. There is not currently a clear distinction between the two operations because many swimming pool facilities also operate competitive swim teams, and many swimming clubs also operate pool facilities. As such, staff believes that differentiating public pools and membership-based swim clubs with pool operations is unnecessary and creates confusion. The WCIRB found that Classification 9053(5) is clearly differentiated and should be updated to clarify its intended application and provide direction as to how related operations should be classified.

Athletic and Fitness Instruction Statistical Analysis

To help assess whether a new classification should be established for employers engaged in the operation of fitness instruction programs or studios assigned by analogy to Classification 8868, the WCIRB reviewed the loss to payroll ratios for the employers the WCIRB was able to identify through inspection reports, Hoover's (Dun & Bradstreet) and information from public websites. Given the nature of this industry, which includes a preponderance of very small employers many of which have presumably not been identified, the WCIRB believes the experience of the identified employers provides a reasonable representation of the experience of all employers in this industry. The WCIRB compared the loss to payroll experience of this select group of employers to the experience of all employers in Classification 8868 and Classification 9053.

Table 1 shows the Classification Relativity data for all of Classification 8868 at the policy year 2017 level.

Table 1: Classification 8868
Classification Relativity Data at Policy Year 2017 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2012	9,252,011,117	50,950,634	0.551
2013	9,703,325,749	57,808,484	0.596
Total	18,955,336,866	108,759,119	

Five-Year Average Loss to Payroll Ratio 0.574
Selected (Unlimited) Loss to Payroll Ratio 0.744

Credibility	
Indemnity	Medical
1.00	1.00

Table 2 shows the Classification Relativity data for all of Classification 9053 at the policy year 2017 level.

Table 2: Classification 9053
Classification Relativity Data at Policy Year 2017 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2012	1,051,227,463	23,414,916	2.227
2013	1,124,143,930	24,011,510	2.136
Total	2,175,371,393	47,426,426	

Five-Year Average Loss to Payroll Ratio 2.180
Selected (Unlimited) Loss to Payroll Ratio 2.775

Credibility	
Indemnity	Medical
1.00	1.00

Table 3 shows the Classification Relativity data for the selected 8868 employers identified as engaged in operating fitness instruction programs or studios at the policy year 2017 level.³

**Table 3: Based on Selected 8868 Employers (Fitness Instruction or Studios)
Classification Relativity Data at Policy Year 2017 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2009	47,735,960	166,319	0.348
2010	50,529,463	602,765	1.193
2011	56,012,247	694,223	1.239
2012	59,339,468	771,376	1.300
2013	69,015,454	1,004,957	1.456
Total	282,632,592	3,239,640	

Five-Year Average Loss to Payroll Ratio 1.146

Credibility ⁴	
Indemnity	Medical
0.36	0.34

As shown in Table 3, payroll per year for this group of constituents has increased significantly from 2009 to 2013. The loss to payroll ratio for this group of employers is significantly higher than the loss to payroll ratio for all of Classification 8868 (Table 1). While this data is not statistically credible at 36% credibility for indemnity and 34% credibility for medical, the WCIRB anticipates an increase in credibility in the future due to the growth in this industry and that not all employers in this industry have been identified by the WCIRB thus far.

Table 4 shows the Classification Relativity data for selected 9053(2) employers identified as engaged in operating fitness instruction programs or studios at policy year 2017 level. The WCIRB is proposing that these employers be reclassified from Classification 9053(2) to the proposed classification should a unique classification be established.

³ The Classification Relativities used in this study are from statewide ratemaking data from the January 1, 2017 Regulatory Filing.

⁴ The relativity for each classification in the upcoming policy year is determined based on a comparison of that classification's actual losses per \$100 of payroll and the ratio of losses per \$100 of payroll underlying the current pure premium rate. The "credibilities" assigned to a classification are the statistical weights assigned to that classification's experience as a predictor of future claim experience relative to the loss per \$100 of payroll underlying the classification's current pure premium rate. The predictability or credibilities assigned to a classification's recent historical experience depends on the volume of indemnity and medical claims incurred during the experience period. The WCIRB strives to have classifications that are fully, or 100%, statistically credible based on historical experience over five or fewer years, which means that the classification's relativity in the upcoming policy year can be best estimated using only the loss per \$100 of payroll experience from the latest two-, three-, four- or five-year periods. The WCIRB generally will not recommend the establishment of a new classification if the credibility factors are less than one-half (< 0.50).

**Table 4: Selected 9053(2) Employers (Fitness Instruction or Studios)
Classification Relativity Data at Policy Year 2017 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2009	6,233,149	43,408	0.696
2010	8,158,339	5,289	0.065
2011	12,665,777	96,313	0.760
2012	16,733,959	55,075	0.329
2013	22,619,311	112,803	0.499
Total	66,410,535	312,888	

Five-Year Average Loss to Payroll Ratio 0.471

Credibility	
Indemnity	Medical
0.32	0.32

As shown in Table 4, payroll per year for this group of selected employers has also increased significantly between 2009 and 2013. This data is not statistically credible with 32% credibility for indemnity and 32% credibility for medical, however, this group represents selected employers that are better described by the proposed new classification based on the nature of their operations. The WCIRB does not suggest that this selected group should alone be assigned to a unique classification, but notes that the loss to payroll ratio for these selected employers is significantly lower than that of Classification 9053.

Table 5 presents the Classification Relativity data for selected 8868 employers engaged in the operation of fitness instruction programs or studios combined with selected 9053(2) employers also identified as engaged in operating fitness instruction programs or studios. The WCIRB proposes that this combined data be used for ratemaking purposes if a new classification for employers engaged in the operation of fitness instruction programs or studios is adopted.

**Table 5 Based on Selected 8868 Employers (Fitness Instruction or Studios) combined with
Selected 9053(2) Employers (Fitness Instruction or Studios)⁵**

Year	Payroll	Losses	Loss to Payroll Ratio
2009	53,969,109	204,157	0.378
2010	58,687,802	607,261	1.035
2011	68,678,024	776,336	1.130
2012	76,073,427	824,321	1.084
2013	91,634,765	1,105,673	1.207
Total	349,043,127	3,517,747	

Five-Year Average Loss to Payroll Ratio 1.008

Selected (Unlimited) Loss to Payroll Ratio 1.156

⁵ To determine the credibility of the combined group, we used the average of the Expected Limited Loss to Payroll Ratios of the two separate groups weighted by their 5-year total payroll. Consequently, the Selected (Unlimited) Loss to Payroll Ratio reflects the weighted average credibilities. The weights are approximately 80% for 8868 Fitness and 20% for 9053 Fitness.

Credibility	
Indemnity	Medical
0.45	0.43

The five-year loss to payroll ratio for this group of employers of 1.008 is significantly higher (approximately 76%) than the loss to payroll ratio for Classification 8868 as a whole (Table 1) and significantly lower (approximately 54%) lower than the loss to payroll ratio for Classification 9053 as a whole (Table 2).⁶ While this data is not statistically credible with 45% credibility for indemnity and 43% credibility for medical, the WCIRB anticipates an increase in the credibility in the future due to the growth of this industry and that not all employers within this industry have been identified.

Impact Analysis

Table 6 shows the impact on affected policyholders if a separate classification⁷ is established for the selected Classification 8868 employers engaged in the operation of fitness instruction or studios.

Table 6: All Classification 8868 vs. 8868 Fitness Instruction or Studio Operations Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level

Classification 8868	8868 Fitness	Difference
0.744	1.156	+0.412 (+55.376%)

As shown above, the selected Classification 8868 employers have a Selected (Unlimited) Loss to Payroll Ratio that is 55% greater than the Loss to Payroll Ratio for Classification 8868 as a whole. The WCIRB recommends limiting the relativity change for this new classification to 25% per year.

Table 7 shows the impact on affected policyholders currently assigned to Classification 9053 that would be reassigned to the new fitness instruction classification.

Table 7: All Classification 9053 vs. 8868 Fitness Instruction or Studio Operations Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level

Classification 9053	8868 Fitness	Difference
2.775	1.156	-1.619 (-58.342%)

As shown above, the Athletics Subgroup of Classification 8868 has a Selected (Unlimited) Loss to Payroll Ratio that is 58% less than the Loss to Payroll Ratio for Classification 9053 as a whole.

In connection with the review of Classifications 8868 and 9101, the WCIRB is also conducting a study of Classification 9053. In that study, the WCIRB is recommending that Classification 9053(1), *Baths*, be eliminated and its constituents assigned to a new unique classification. Table 8 shows the impact on affected policyholders currently assigned to Classification 9053, excluding 9053(1), if a separate classification is established for the selected Classification 8868 employers engaged in operating fitness instruction programs or studios and the subject employers are reclassified from Classification 9053 to Classification 8870.

⁶ Based on the information included in Table 12, the loss to payroll ratio for this group of employers is also significantly lower (approximately 46%) than the loss to payroll ratio for Classification 9053 excluding 9053(1), *Baths*.

⁷ Data includes the reassigned constituents from Classification 9053(2).

**Table 8: All Classification 9053 minus 9053(1) vs. Fitness Instruction or Studio Operations
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level**

Classification 9053 minus 9053(1)	8868 Fitness	Difference
2.385	1.156	-1.229 (-51.530%)

As shown, the selected Classification 8868 group of employers has a Selected (Unlimited) Loss to Payroll Ratio that is 52% less than the Loss to Payroll Ratio for Classification 9053 minus Classification 9053(1) employers if the proposed changes are approved.

Table 9 estimates the impact on policyholders that will remain in Classification 8868 if a separate classification is established for selected Classification 8868 employers engaged in providing fitness instruction or studios operations and this subgroup is removed from the Classification Relativity for Classification 8868.

**Table 9: All Classification 8868 vs. Classification 8868
minus Fitness Instruction or Studio Operations
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level**

Classification 8868	8868 minus 8868 Fitness	Difference
0.744	0.737	-0.007 (-0.941%)

As shown, the remaining data in Classification 8868 should select Classification 8868 employers be removed indicates a Selected (Unlimited) Loss to Payroll Ratio that is approximately 1% lower than for Classification 8868 as a whole.

Baths Statistical Analysis

To determine whether a new classification should be established for the constituents assigned to Classification 9053(1), *Baths*, the WCIRB reviewed the loss to payroll ratios for the employers the WCIRB was able to identify as being assigned to this classification phraseology. Staff compared this data to the experience for the other constituents of Classification 9053.

Table 10 presents the classification relativity data for all alternate wordings of Classification 9053 at the policy year 2017 level.⁸

**Table 10: All Classification 9053
Classification Relativity Data at Policy Year 2017 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2012	1,051,227,463	23,414,916	2.227
2013	1,124,143,930	24,011,510	2.136
Total	2,175,371,393	47,426,426	

Two-Year Average Loss to Payroll Ratio 2.180
Selected (Unlimited) Loss to Payroll Ratio 2.775

⁸ The Classification Relativities used in this study are from statewide ratemaking data from the January 1, 2017 Regulatory Filing.

Credibility	
Indemnity	Medical
1.00	1.00

Table 11 presents the Classification Relativity data for employers operating baths and spas that have been identified by the WCIRB as being assigned to Classification 9053(1) at the policy year 2017 level:

Table 11: Classification 9053(1) (Baths)
Classification Relativity Data at Policy Year 2017 Level

Year	Payroll	Losses	Loss to Payroll Ratio
2009	61,757,404	2,367,664	3.834
2010	61,765,225	3,856,207	6.243
2011	70,277,070	2,851,769	4.058
2012	58,137,680	5,407,603	9.301
2013	70,304,507	3,751,286	5.336
Total	322,241,886	18,234,529	

Five-Year Average Loss to Payroll Ratio 5.659
Selected (Unlimited) Loss to Payroll Ratio 5.380
(prior to application of 25% limitation)

Credibility	
Indemnity	Medical
0.60	0.59

As shown in Table 11, the five-year average loss to payroll ratio for employers that operate spas or baths assigned to Classification 9053(1) is significantly higher (approximately 160%) than the average loss to payroll ratio for all of Classification 9053 (Table 10). This data is partially credible at 60% credibility for indemnity and 59% credibility for medical.

Table 12 presents the Classification Relativity data for the remaining employers assigned to Classification 9053 (excluding those assigned to Classification 9053(1)) at the policy year 2017 level.⁹

⁹ Approximately 20% of the experience of Classification 9053 could not be assigned to one of the five phraseologies that constitute the classification. However, since the WCIRB believes that most of these employers are assignable to 9053(2), 9053(3), 9053(4) or 9053(5) and the loss to payroll experience of this residual group is consistent with the experience of employers assigned to these four phraseologies, the WCIRB included this experience with that of the employers who have been identified as being assigned to 9053(2), 9053(3), 9054(4) or 9053(5).

**Table 12: Classifications 9053 excluding 9053(1) (Baths)
Classification Relativity Data at Policy Year 2017 Level**

Year	Payroll	Losses	Loss to Payroll Ratio
2012	993,089,783	18,018,528	1.814
2013	1,053,839,423	20,271,607	1.924
Total	2,046,929,206	38,290,136	

Two Year Average Loss to Payroll Ratio 1.871
Selected (Unlimited) Loss to Payroll Ratio 2.385

Credibility	
Indemnity	Medical
1.00	1.00

As shown in Table 12, the two-year average loss to payroll ratio for the remaining constituents of Classification 9053 operating exercise and health institutes, swimming pools, swimming clubs and tennis clubs is approximately 14% lower than the experience of all of Classification 9053 (Table 10) and approximately two-thirds lower than the average loss to payroll ratio for employers operating baths or spas assigned to Classification 9053(1) (Table 11). This data is fully credible in two years.

Impact Analysis

Tables 13 and 14 depict the impact on affected policyholders if a separate Classification Relativity is established for spas and bath facilities currently assigned to Classification 9053(1), *Baths*.

**Table 13: Classification 9053(1) vs. All Classification 9053
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level**

Classification 9053	Classification 9053(1)	Difference
2.775	5.380	+2.605 (+93.87%)

As shown in Table 13, Classification 9053(1) has a Selected (Unlimited) Loss to Payroll Ratio that is 94% greater than the Loss to Payroll Ratio for Classification 9053 as a whole. The WCIRB recommends annually limiting the relativity change for this new classification to 25%.

**Table 14: Classification 9053 Excluding 9053(1) vs. All Classification 9053
Comparison of Selected (Unlimited) Loss to Payroll Ratio at Policy Year 2017 Level**

Classification 9053	Classification 9053 Excluding 9053(1)	Difference
2.775	2.385	-0.390 (-14.05%)

As shown in Table 14, Classification 9053 excluding Classification 9053(1) has a Selected (Unlimited) Loss to Payroll Ratio that is 14% less than the Loss to Payroll Ratio for Classification 9053 as a whole.

Findings

Based on its review of the above matter, the WCIRB determined:

1. Employers engaged in the operation of fitness instruction programs or studios that are currently assigned to Classification 8868 comprise a homogenous, identifiable group. While the experience of this group does not develop high statistical credibility based on the employers identified thus far, the WCIRB anticipates improved credibility as additional employers, including small employers that are not experience rated and, therefore, have not been inspected by the WCIRB, are identified.
2. While operations of employers assigned to Classification 9053(2), *Exercise or Health Institutes*, are also athletic in nature, those operations differ from those of employers assigned to Classification 8868 in that employers assigned to Classification 9053(2) are engaged primarily in providing an athletic facility or gym for clients to use at-will, while employers offering athletic or fitness instructional programs assigned to Classification 8868 provide an instruction-based class.¹⁰
3. Classification 9053(1), *Baths*, is not operationally or statistically consistent with the other constituents assigned to Classification 9053. The indicated Selected (Unlimited) Loss to Payroll Ratio for employers engaged in the operation of fitness studios is at this time significantly lower than the analogous ratio for Classification 9053, excluding 9053(1), *Baths*. Over time, those differences could narrow.
4. Operations assigned to Classifications 9053(3), *Swimming Pools*, and 9053(4), *Clubs – swimming*, are not clearly differentiated from each other. Public swimming pool and swimming club operations involve similar exposure, including but not limited to the operation of swimming pool facilities, competitive swim teams, swimming instruction and facility maintenance.

Recommendations

The WCIRB recommends the following:

1. Establishing a new classification, Classification 8870, *Fitness Instruction or Studios – all employees – including receptionists*, for employers engaged in operating fitness instruction programs or studios.
2. Revising the phraseology for Classification 9053(2), *Exercise or Health Institutes*, to better define its scope and direct how related operations shall be classified and reclassifying a number of employers from Classification 9053(2) to the proposed Classification 8870 as Classification 8870 better describes the operations of these employers.
3. Monitoring the Classification Relativities of Classifications 8870 and 9053 on an annual basis to review if these classifications should be combined for ratemaking purposes.
4. Amending Classification 9053(1), *Baths*, to establish a unique classification code and clarify its intended application for employers engaged in the operation of spa or bath facilities.
5. Consolidating the alternate wordings for Classifications 9053(3), *Swimming Pools*, and 9053(4), *Clubs – swimming*, to Classification 9053(3), *Swimming Pools or Swimming Clubs*.
6. Amending Classification 9053(5), *Clubs – tennis or racquetball*, for clarity, consistency and to provide direction as to how related operations should be classified.

¹⁰ Staff identified about 80 employers currently reporting data in Classification 9053(2) that are engaged in providing athletic or fitness instructional programs. Data for these employers will be reclassified to group them with other employers that operate fitness instruction programs or studios.

Recommendation

Amend Classification 9053(1), *Baths*, to establish a unique classification code, and clarify its intended application.

PROPOSED

SPAS OR BATHS – N.O.C. – ~~all employees~~ – including restaurant employees, retail store employees and receptionists

9053(1)
9054

This classification applies to the operation of spa or bath facilities, including but not limited to saunas, steam baths, hydrotherapy baths, cryotherapy, natural springs, mud baths and soaking tubs. This classification also applies to massage or personal appearance services provided in connection with spa or bath operations.

Health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours shall be classified as 9053(2), *Health Clubs or Gyms*.

The operation of fitness studios and fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

Hair cutting, massage services, nail salons and other personal appearance services that are not performed in connection with spas or baths shall be classified as 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

* * * * *

Recommendation

Amend Classification 9053(2), *Exercise or Health Institutes*, to clarify its intended application and provide direction as to how related operations shall be classified.

PROPOSED

EXERCISE OR HEALTH INSTITUTES CLUBS OR GYMS – all employees – including restaurant employees, retail store employees and receptionists 9053(2)

This classification applies to health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for use by clients on an at-will basis for the majority of operating hours. This classification includes facilities and services provided in connection with health club or gym operations, including but not limited to swimming pools, tennis courts, child care and spa, massage and personal appearance services. This classification includes fitness class instruction when provided in connection with health club or gym operations. This classification also applies to facilities that provide climbing walls and trampolines available for use by clients on an at-will basis or for fitness programs or instruction.

The operation of fitness studios and fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

The operation of spa or bath facilities that include saunas, steam baths, hydrotherapy baths or soaking tubs, including massage or personal appearance services that are not provided in connection with a health club or gym shall be classified as 9054, *Spas or Baths*.

Hair cutting, massage services, nail salons and other personal appearance services that are not performed in connection with health clubs, gyms, spas or baths shall be classified as 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

* * * * *

Recommendation

Amend Classification 9053(3), *Swimming Pools*, to clarify its intended application and provide direction as to how related operations shall be classified.

PROPOSED

SWIMMING POOLS OR SWIMMING CLUBS – ~~commercial~~ – ~~all employees~~ – including restaurant employees, retail store employees and receptionists

9053(3)

This classification applies to the operation of public swimming pools. This classification also applies to swim clubs that operate pool facilities. This classification also applies to swimming, diving, scuba diving and water safety instruction performed in swimming pools.

Competitive swim clubs or teams that do not operate pool facilities shall be classified as 9182, *Athletic Teams or Athletic Facilities* – all employees other than players, umpires, referees or game officials.

Health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours, including swimming pool operations provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms*.

Tennis or racquetball clubs, including swimming pool operations provided in connection therewith, shall be classified as 9053(5), *Clubs – racquet sports*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

The operation of water parks shall be classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation and maintenance of amusement devices*, or 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*.

Water-based athletic or fitness instructional programs at locations other than swimming pools, including but not limited to surfing, scuba, kayaking, paddle boarding, and kite surfing lessons and tours on lakes, bays, rivers or oceans shall be classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation and maintenance of amusement devices*.

* * * * *

Recommendation

Eliminate Classification 9053(4), *Clubs – swimming*, as the operations described by this classification are assignable to Classification 9053(3), *Swimming Pools or Swimming Clubs*.

PROPOSED

~~CLUBS – swimming – all employees – including front desk employees, lifeguards and restaurant or tavern employees~~ **9053(4)**

~~This classification applies to swim clubs that provide membership and access to swimming facilities as a primary benefit of membership. This classification includes swim instruction, supervision, operation of competitive swim meets and coaching of swim teams.~~

~~The operation of commercial swimming pools that are not membership clubs shall be classified as 9053(3), *Swimming Pools*.~~

~~Exercise or health institutes including incidental swimming pool operations shall be classified as 9053(2), *Exercise or Health Institutes*.~~

~~Country or golf clubs including incidental swimming pool operations, shall be classified as 9060, *Clubs – country or golf*.~~

* * * * *

Recommendation

Amend Classification 9053(5), *Clubs – tennis or racquetball*, for clarity, consistency and to provide direction as to how related operations shall be classified.

PROPOSED

~~CLUBS – tennis or racquetball sports – all employees – including front desk restaurant employees, retail store employees and restaurant or tavern employees~~ **9053(5)**
receptionists

This classification applies to racquet clubs that provide membership and access to court facilities for playing racquet sports, including but not limited to tennis, or racquetball, badminton and squash, playing court facilities as a primary benefit of membership. This classification includes additional fitness and recreational facilities that may be operated in connection with the tennis or racquetball playing court facilities. This classification includes coaching teams and instructing, supervising, and operating competitive leagues or events ~~and coaching teams~~.

This classification also applies to the operation of clubs or facilities for handball, ~~and squash~~ pickleball, table tennis and similar racquet and paddle sports.

Golf or country clubs shall be classified as 9060, *Clubs – country or golf*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

Health clubs or gyms engaged in operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours, including tennis, racquetball, handball or squash operations provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms*.

The operation of fitness studios and fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

* * * * *

Recommendation

Establish Classification 8870, *Fitness Instruction Programs or Studios* – all employees – including receptionists, to apply to fitness instruction program or studio operations.

PROPOSED

FITNESS INSTRUCTION PROGRAMS OR STUDIOS – all employees – including receptionists

8870

This classification applies to fitness instruction programs or fitness studios that provide scheduled fitness or training classes, including but not limited to martial arts, gymnastics, dance and yoga. This classification is limited to fitness instruction where facility space and exercise equipment is not available for use by clients on an at-will basis during the majority of operating hours. This classification also applies to fitness-based classes and training sessions, including but not limited to personal training and specialized coaching by employers not engaged in any facility operations, such as independent golf and tennis instructors.

Health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours, including scheduled classes and fitness training programs provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms*.

The operation of athletic teams or athletic facilities shall be classified as 9182, *Athletic Teams or Athletic Facilities* – all employees other than players, umpires, referees and game officials.

Swimming pools or swimming clubs shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Country clubs and golf courses shall be classified as 9060, *Clubs – country or golf*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

Water-based athletic or fitness instructional programs at locations other than swimming pools, including but not limited to surfing, scuba, kayaking, paddle boarding and kite surfing lessons and tours on lakes, bays, rivers or oceans shall be classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation and maintenance of amusement devices*.

* * * * *

Amendments to Cross-References for Consistency

Recommendation

Amend Classification 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*, for consistency.

PROPOSED

BARBER SHOPS, HAIR STYLING SALONS AND PERSONAL APPEARANCE SERVICES – all employees – including receptionists 9586

This classification applies to employers that provide hair cutting ~~and~~ styling ~~services~~, massage ~~services~~ and other personal appearance services, including but not limited to manicures, pedicures, facial treatments, tattoos, piercing, tanning and hair removal.

This classification also applies to ~~the provision of~~ fee-based salon services provided by barber and cosmetology schools.

The operation of spa or bath facilities that include saunas, steam baths, hydrotherapy baths, cryotherapy, natural springs, mud baths or soaking tubs, including massage or personal appearance services provided in connection therewith, shall be classified as ~~9053(4)~~ 9054, Spas or Baths.

The operation of ~~exercise facilities~~ health clubs or gyms, including massage or personal appearance services provided in connection therewith, shall be classified as 9053(2), ~~Exercise or Health Institutes~~ Clubs or Gyms.

* * * * *

Recommendation

Amend Classification 9067(1), *Clubs – community health and wellness*, for consistency.

PROPOSED

CLUBS – community health and wellness – all employees – including front desk employees, teachers and instructors 9067(1)

This classification applies to non-profit community associations, including but not limited to YMCAs, YWCAs and Jewish Community Centers that provide exercise or aquatic facilities to promote health and physical fitness and programs for social, recreational, educational and cultural engagement.

Preschool and child day care operations shall be separately classified as 9059, *Day Care Centers*.

Residential facilities for adults needing social rehabilitation shall be separately classified as 8804(2), *Social Rehabilitation Facilities for Adults*.

Camp operations shall be separately classified as 9048(1), *Camps*.

~~Exercise or Health Institutes~~ clubs or gyms that do not operate programs non-profit community associations for social, recreational, educational and/or cultural engagement shall be classified as 9053(2), ~~Exercise or Health Institutes~~ *Clubs or Gyms*.

Fitness studios that are not non-profit community associations operating programs for social, recreational, educational or cultural engagement shall be classified as 8870, *Fitness Instruction Programs or Studios*.

Boys and girls clubs shall be classified as 9067(2), *Clubs – boys and girls*.

Non-profit community associations that do not operate physical fitness facilities shall be classified based on the operations performed.

* * * * *

Recommendation

Amend Classification 9061, *Clubs – N.O.C.*, for consistency.

PROPOSED

CLUBS – N.O.C. – all employees – including front desk employees and restaurant or tavern employees 9061

This classification applies to the operation of membership clubs that are not specifically described by another classification, including but not limited to business clubs, fraternal orders, yacht clubs, faculty clubs, professional clubs and employer-sponsored clubs. This classification also applies to the operation of retreat facilities that provide meeting space, food and lodging to participants.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

Boys and girls clubs shall be classified as 9067(2), *Clubs – boys and girls*.

Country clubs and golf clubs shall be classified as 9060, *Clubs – country or golf*.

Casinos and gaming clubs shall be classified as 9069, *Clubs – gaming*.

Equestrian clubs shall be classified as 7207(2), *Clubs – riding*.

Shooting clubs shall be classified as 9180(2), *Clubs – shooting*.

Swimming clubs shall be classified as 9053(4), *Clubs – swimming*.

Tennis and racquetball clubs shall be classified as 9053(5), *Clubs – ~~tennis or racquetball~~ sports*.

* * * * *

Recommendation

Amend Section VIII, *Abbreviated Classifications – Numeric Listing*, for consistency.

PROPOSED

Section VIII – Abbreviated Classifications – Numeric Listing

-
-
-
- 8870 Fitness Instruction Programs/Studios
-
-
-
- ~~9053(1)~~ ~~Baths~~
- 9053(2) ~~Exercise/Health Institutes~~ Clubs/Gyms
- 9053(3) Swimming Pools/Clubs
- ~~9053(4)~~ ~~Clubs – swimming~~
- 9053(5) ~~Clubs – tennis/racquetball~~ sports
- 9054 Spas/Baths
-
-
-

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