



# **CONCUSSION STATUTES AND YOUTH SAFETY**

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# CONCUSSION SYMPTOMS

- A concussion is a traumatic brain injury that alters the way the brain functions.
  - Effects are usually temporary, but if not treated increases the likelihood of suffering a significant long-term damage.
- Although concussions usually are caused by a blow to the head, they can also occur when the head and upper body are violently shaken.
  - These injuries can cause a loss of consciousness, but most concussions do not. Because of this, some people have concussions and don't realize it.



# CONCUSSION SYMPTOMS

- The signs and symptoms of a concussion can be subtle and may not be immediately apparent.
  - The most common symptoms after a concussive traumatic brain injury are headache, amnesia, and confusion.
    - The amnesia, which may or may not be preceded by a loss of consciousness, almost always involves the loss of memory of the impact that caused the concussion.
    - Other symptoms may include: a feeling of pressure in the head, confusion or feeling as if in a fog, dizziness or “seeing stars,” ringing in the ears, nausea or vomiting, slurred speech, and fatigue.
  - Some symptoms will appear immediately, while others may appear hours, or days after the injury.

● Source, Mayo Clinic <http://www.mayoclinic.org/diseases-conditions/concussion/basics/definition/con-20019272>



## NATIONAL ACADEMY OF SCIENCE STUDY

- A study performed by the *National Academy of Science* revealed that in 2009, 250,000 children below the age of 19 were treated in American Emergency Rooms for concussions.
  - That number is up from 150,000 in 2001.
- The study was largely funded by the Center on Disease Control and in part by the National Football League, and examined a broad array of medical studies regarding concussions.
- It is estimated that roughly 300,000 youth athletes suffer concussions a year while participating in sports.



# NATIONAL ACADEMY OF SCIENCE STUDY

## ○ Football

- The report found that football caused more concussions in young athletes than any other sport.
- Further, it found that high school football players were nearly twice as likely to suffer a brain injury as collegiate players.
- The study demonstrated that football helmets, mouth guards, and facemasks offer no substantial protection against concussions.



# NATIONAL ACADEMY OF SCIENCE STUDY

- Non-Football Concussions:
  - The study went beyond just football and examined other sports as well.
  - Other sports that posed a significant risk of head injury for high school athletes include baseball, soccer, men's and women's lacrosse.
- The report called for additional research on how to diagnose and treat youth athletes that have suffered head injuries across youth sports.



# RESPONSES TO GROWING CONCUSSION CONCERNS

- Growing concerns over the risk of concussions and the frequency with which they occur in youth sports has generated a legislative response.
- To date every state legislature has passed a youth concussion statute regarding how to prevent, diagnose, and treat concussions in youth sports.
  - Mississippi, the final state to pass such a statute, passed its statute in January of 2014, but the law will not take effect until July 1, 2014.
- Additionally, many leagues, schools, and athletic associations have established their own concussion policies.



# STATE CONCUSSION LEGISLATION

- Each individual statute varies in construction, however, certain principles are common amongst the majority of states:
  - Rules regarding the dissemination of information regarding head injuries
  - Training for coaches, team doctors, and school medical professionals
  - Return to play policies



# DISSEMINATION OF INFORMATION

- Many statutes require schools and athletic associations to provide coaches, parents/guardians, and youth athletes with guidelines and information about the nature and risk of concussions and head injuries in youth athletics at the onset of each season.
- Goals:
  - Educate those involved in youth sports about the risks
  - Teach coaches, parents, and players how to identify when a possible concussion has occurred.
  - Clear up common misconceptions about head injuries.
    - *E.g.*, Many coaches/players/parents believe a concussion only occurs when an individual loses consciousness. However, the majority of concussions occur without loss of consciousness.



# CONSENT FORMS

- In addition to providing information, some statutes and youth associations require players and coaches to sign consent forms.
- These consent forms are meant to ensure that the youth athlete, parents/guardians, and coaches understand the potential risk of concussions, and the rules set in place addressing concussions.



# DISSEMINATION OF INFORMATION AND CONSENT FORMS

- Providing information about the risks of concussions to athletes and parents does not provide blanket protection from liability on the behalf of coaches, doctors, administrators, and schools.
- By adequately informing the prospective student athlete, the decision to play likely qualifies as an assumption of the risks normally related to participation in the relevant sport.
- It will not protect coaches, doctors, trainers, or schools that fail to adhere to relevant concussion policies.



# ILLUSTRATION OF LIABILITY

## ○ Example A:

- A student-athlete signs a permission slip to participate in high school football prior to the season. The coach provides proper training and instructs the team's players about proper tackling technique. During the first game the athlete is suspected of suffering a concussion. The athlete is immediately removed, and not allowed to return to play until meeting each of the requirements enumerated in the relevant concussion policy.

- The actions taken by the coach and training staff here will likely **avoid** any possible liability stemming from association bylaws and legislation should a subsequent claim be brought by the player.



# ILLUSTRATION OF LIABILITY

## ○ Example B:

- A student-athlete signs a permission slip to participate in high school football prior to the season. The coach provides improper training and does not instruct the team's players about proper tackling technique. During the first game the athlete is suspected of suffering a concussion. The athlete is immediately removed, but then allowed to return to play despite not being examined by the required medical professional.

- Clearly, Example B will trigger liability under most, if not all, association bylaws and state legislation should related injuries manifest.



# TRAINING

- Many statutes require all coaches, athletic trainers, school nurses, and school/team physicians to complete a specific concussion training program before participating.
  - Training often includes how to diagnose/recognize symptoms of potential head injuries.
- Treating a suspected concussion.
- Proper equipment use.
- *In regards to coaches*, training may include information on how to teach techniques that lessen the likelihood of concussions.



# USA FOOTBALL AND SIMILAR ORGANIZATIONS

- Some organizations offer specific training for coaches.
- Provides educational training for coaches on how to teach proper techniques, including tackling techniques, in an effort to prevent head injuries.
- Coaches can take classes to become USA Football certified.
  - Many football leagues and organizations require that a coach must be certified by USA Football to coach.
  - Leagues can become USA Football certified by fulfilling a number of steps, including creating a “player-safety coach” position. The player safety coach’s role is to educate players and parents about safety issues, and to monitor practice and games to ensure the highest level of safety is met.



# CERTIFICATION AND TRAINING NOT A WAIVER OF RESPONSIBILITY

- Receiving training or becoming certified by an organization **does not** create blanket immunity for coaches, trainers, or medical professionals.
- Individuals must apply their training properly and follow the respective league, school, and state rules regarding head injuries.
- However, it is important to understand that while coaching safe techniques and following concussion statutes and policies may diminish liability for coaches, it does not ensure the prevention of head injuries while playing sports.
  - The only way to completely prevent head injuries is not to play.
- Coaching the safest techniques and adhering to concussion policies may mitigate liability for certain individuals involved.



# RETURN TO PLAY POLICIES

- Why the need for ‘Return to Play’ policies?
  - Suffering a concussion increases the likelihood of suffering another.
  - Youth athletes are more likely to suffer a concussion and tend to take longer to recover.
  - A repeat concussion that occurs before the brain recovers from the first—usually within a short period of time (hours, days, or weeks)—can slow recovery or increase the likelihood of having long-term problems.



# ZACKERY LYSTEDT- THE DANGER OF PREMATURE RETURN

- Junior High Football player that suffered a concussion and returned to the game, three plays later.
- Lystedt suffered a significant brain injury requiring brain surgery to remove the left and right part of his skull to alleviate building pressure from his swelling brain.
- Lystedt experienced numerous strokes, spent seven days on a ventilator and three months in a coma before he awoke.
- He would spend four weeks in a nursing home, and two months in a children's hospital for rehabilitation. It was nine months before he spoke his first word, he spent over a year and a half on a feeding tube, and it was three years before he regained the ability to stand, with assistance.



# RETURN TO PLAY POLICIES

- These statutes require a player that has exhibited concussion symptoms be removed from game play or practice activities.
- Athletes are not allowed to return to practice or game play until certified trainers or physicians have cleared the athlete to return.
  - Most states require that a medical physician/trainer must be licensed to practice in that respective state.
  - Varying levels of clearance is required, for example:
    - The *Illinois High School Association* requires that a licensed trainer or physician 'clear the athlete' before he may return to competition on the same day in which the head injury occurred.
    - In Wisconsin, an athlete removed because of a suspected head injury cannot return until evaluated by a physician and receives written permission from the physician to return.



# RETURN TO PLAY POLICIES

- In most states, if a player is barred from returning to the game or practice the day she is removed, she is subject to a more stringent return to play program.
- These programs often times consist of a series of stages that measure the athlete's recovery.
  - The stages often include a period of rest and physical tests to determine when a player should be allowed to return to play.
  - These tests often take several days to complete, and require the individual to return to practice before competing in a game again.



# RISK ASSESSMENT - TEAM DOCTORS, TRAINERS, PHYSICIANS

- Return to play policies can create significant liability for coaches and physicians that allow an athlete to return to play prematurely.
  - Coaches can face personal liability if they ignore the recommendations of the trainer/team doctor, and allow the athlete to return prematurely.
  - Team doctors/trainers can face personal liability if they fail to appropriately diagnose an athlete or fail to adequately communicate with a coach that a player may not re-enter the game.
- Further, violations of return to play policies by coaches and team doctors/trainers employed by a school can create potential liability for the school.



# AVOIDING LIABILITY - TEAM DOCTORS, TRAINERS, PHYSICIANS

- Physicians/trainers/doctors must give thorough exams before allowing an athlete to return to play.
- Team physicians/trainers/doctors must alert coaches about the ability of player to return to play, and ensure that players that have not been cleared do not return.
- Team physicians/trainers/doctors must be active in monitoring the game/practice for players' potential head injuries.
- Caution should guide any decision about whether to allow an athlete to resume participation.
  - If there is any doubt about the readiness of an athlete to return to play, it is in the best interest of the athlete, coach, physician, and trainer to hold the athlete out.



# RISK ASSESSMENT - SCHOOL OFFICIALS AND ATHLETIC DIRECTORS

- Most states require individual schools participating in inter-scholastic sports to create a concussion policy.
- When drafting a concussion provision it is essential to understand the applicable standard and the rules that apply to you.
  - Complying with league rules does not guarantee compliance with state statutes or state athletic associations.
  - Additionally, athletic associations, schools, and leagues have the ability to create rules more restrictive than state statutes. In these instances, the best course of action is to comply with the most strict of the bylaws/rules/statutes.
- Coaches and athletic directors must understand how the different rules and regulations work together to create team/school policies that are in harmony with each applicable rule.
  - Requires remaining up-to-date on any changes in that statute, league, or association rules.
  - \*\*\*Also, pay attention to case law modifying/interpreting statutes



# DOCUMENTING SUSPECTED HEAD INJURY

- When a medical professional examines an athlete for a suspected concussion, it should be documented.
- As the athlete begins the process of returning to play, the athlete's progress should also be documented.
- It should be documented when an athlete has cleared each requirement before he/she can return to play.



# ENFORCING 'RETURN TO PLAY' POLICIES

- Most return to play policies enable coaches, officials, health-care professionals, parents, teammates, and, if conscious, the athlete himself; to remove the athlete suspected of suffering an injury from the game.
- The application of the rule can prove difficult:
  - Players are seldom willing to be removed, and often attempt to re-enter the game prematurely.
  - Some players may hide symptoms or mislead medical professionals in order to re-enter the game.
  - Coaches may be unwilling to remove a player if it affects the ability of the team to win the game.



# POTENTIAL FEDERAL LEGISLATION

- Additionally, two federal bills remain pending regarding concussion treatment standards.
  - ‘Protecting Student Athletes from Concussions Act’ - introduced by Sen. Dick Durbin (D-IL) would set federal requirements for preventing, detecting, and treating student-athletes who suffer concussions while competing in youth sports K-12.
    - This Bill has been endorsed by the NFL, NHL, NBA, and US Soccer.
  - Legislation co-sponsored by Rep. Charlie Dent (R-PA) and Joyce Beatty (D-OH) calls for baseline testing for all collegiate student athletes.
    - Baseline testing requires pre-season tests of each athlete, as well as tests immediately after a player suffers a potential head injury, so that the results can be compared to diagnose concussions.

