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Ethical Legal Feature

The Team Physician: Ethical and Legal Issues

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Feature Editor Introduction

I have asked Gayle Spill, MD, to guest edit this Ethical Legal column. Dr Spill is a physiatrist and clinical ethicist who has been in practice for more than 20 years and has written on topics including cancer prognosis disclosure and quality of life considerations. She and I invited 3 experts to respond to a general query about the ethical and legal issues surrounding the team physician. Our first columnist, Cheri Blauwet, MD, is a physiatrist at Spaulding Rehabilitation Hospital and the Brigham and Women's Hospital in Boston, a Paralympic gold medallist, and chairperson of the Medical Committee of the International Paralympic Committee. Our second columnist, Bruce Greenfield, PhD, MA (Bioethics), PT, is an associate professor in the Division of Physical Therapy of the Department of Rehabilitation and a senior fellow at the Center for Ethics at Emory University who has authored publications on ethics in sports medicine. Eldon L. Ham, Esquire, our third columnist, is a lawyer, author, and a member of the faculty at the Illinois Institute of Technology/Chicago-Kent College of Law. He was the first lawyer to challenge and change the National Football League drug policy in court (*Richard Dent v. NFL,* 1988), and his athlete disability case (*Knapp v. Northwestern University,* 1994) is featured in leading sports law textbooks. Dr Spill and I welcome your comments on this column.

Guest Editor Commentary

Gayle Spill, MD
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The decision about return to play at all levels of athletics is just one of the many issues fraught with ethical dilemmas that a team physician must negotiate. In the world of professional sports, where players are bought, sold, and traded like commodities, there are numerous stakeholders with potentially competing interests, along with huge financial risks and rewards for players, owners, and leagues. Even at the high school level (and sadly, in some cases, at even younger ages), interests other than an athlete's long-term health, such as scholarships, prestige, and bragging rights, have the potential to affect medical decision making. Whether it is letting a player compete with a "minor" injury or deciding between treatments with a quick return to sport versus better long-term outcomes, sports medicine physicians are at the center of the storm.

In their 2004 article, Bernstein et al [1] explored ethical dilemmas such as the pediatric athlete, medical advertising, and disclosure and confidentiality, concluding that the "team physician is not exempt from the concerns of medical ethics because his or her patients are healthy athletes. To the contrary, there is an entire set of distinct ethical issues when treating the athlete as patient." Not only do distinct ethical issues exist, but distinct legal issues also exist that include licensing concerns when traveling out of state with your team and understanding the limits of liability waivers and the rights of the athlete with a disability [2]. Our invited authors address some of these issues, including divided loyalties, athlete autonomy, informed consent, privacy and confidentiality, and the weighing of potential risks.

References

1. Bernstein J, Perliss C, Bartolozzi A. Normative ethics in sports medicine. Clin Orthop 2004;420:309-318.
2. Mitten MJ. Emerging legal issues in sports medicine: A synthesis, summary and analysis. St Johns Law Rev 2012;76: Article 2.

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A New Paradigm of Athlete "Informed Consent"

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One of my more memorable patients was a 35-year-old female paratriathlete with a goal to compete in an Ironman triathlon in approximately 8 weeks' time. The athlete was an active wheelchair user at baseline as a result of spina bifida, and this would be her fifth Ironman competition. Throughout her competitive career, she was having increasing shoulder pain that had not yet been evaluated. She finally presented to a sports medicine clinic when the pain had become prohibitive to both her training and daily function, causing pain with wheelchair transfers and, often, pain at night. A magnetic resonance arthrogram was obtained and revealed a superior labral tear from anterior to posterior, severe supraspinatus tendinopathy with a partial tear, and severe intra-articular long head biceps tendinopathy. Although these injuries were significant, the athlete was adamant about competing. After a discussion of the risks and benefits, she elected to proceed with a glenohumeral joint corticosteroid injection with ultrasound guidance. The intervention provided 80% pain relief and enabled her to continue training. She competed in the Ironman triathlon 7 weeks later, finishing in second place.

As sports medicine physicians, we consider it our duty to enable athletes to succeed against all odds and push themselves to the limits of their ability while balancing the associated risks innate to sport. To accomplish this goal, we mend acute wounds, nurse overuse injuries, and, importantly, work in concert with coaches, therapists, and athletic trainers to institute aggressive injury prevention programs. We take great pride in being the facilitators of epic athletic accomplishments and collaborate carefully with athletes to ensure that their autonomy is recognized and respected.

Yet, when viewed through a broader lens, our role as physicians is to preserve health and, in most respects, protect our patients. At times, the pursuit of athletic accomplishment is in direct conflict with this moral imperative. It is clear that athletes frequently leave the playing field in far worse shape then when they started, at times from a catastrophic acute injury or with the potential long-term sequelae that will remain with them for the rest of their lives. What level of personal athletic glory is enough to justify impaired health and function in the future? How does one know where that line is for each individual player? How do we determine where our responsibility as a team physician should lie? This conundrum between the autonomy of the athlete and the protection, or paternalism, of the physician presents itself in a number of ways and rings true in all realms of sport.

Within this context, a few classic examples come to mind. In American football and other collision sports, the effects of multiple concussions may put athletes at risk for chronic cognitive and emotional impairments that have an impact on both their professional and personal lives for years to come [1]. As increasing numbers of young girls and women become involved in sport, the incidence of anterior cruciate ligament tears has markedly increased, and with it, the risk of early knee osteoarthritic changes and associated functional decline [2]. Particularly important considerations arise in Paralympic and adaptive sports competition, where sports-related injury can have a dramatic impact on the athlete's day-to-day function in both the short and long term. In all of these scenarios, it is important to note that athletes often minimize these potential functional consequences of sports injury. Certainly, athletes fear a few well-known "game changers"—for example, a glenoid labral tear in a pitcher—and thus strive to prevent them. More commonly, however, athletes remain naïve to the manner in which their current competitive career may affect the quality of their life in the future. Even when armed with this knowledge, many athletes will still choose to compete after a personal assessment of the health, social, and, in the case of professional athletes, financial benefits of sport.

Adding more complexity are the varied levels of paternalism that accompany different conditions. For some athletes, our responsibility as a team physician is to stop the athlete dead in his or her tracks and prohibit competition all together—for example, in the case of cardiac anomalies that may increase the risk of sudden cardiac death. For other athletes, we may actually be facilitators for a slow, steady decline in function—for example, in the case of overuse injuries such as advanced tendinopathies. At times, the drive for empowerment of the athlete (or personal gain of the physician) crosses yet another line. In the case of performance-enhancing drugs, unscrupulous team physicians have been implicated in the facilitation of systematic doping, enhancing the likelihood of a win through the illegal use of prohibited substances or methods [3].

I competed at high levels of sport for more than a decade as a Paralympic wheelchair racer. Throughout my athletic career, I stumbled through many acute and overuse injuries, including episodic, yet persistent right shoulder pain. These symptoms never stopped me from competing, but I frequently required intensive rehabilitation. Now only 7 years out from my sports career, I experience daily "reminders" of my past athletic accomplishments, manifested as persistent shoulder pain with transfers and repetitive overhead activities. These