

Team Physicians, Sports Medicine, and the Law

An Update



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KEYWORDS

• Sports medicine • Team physicians • Medical malpractice • Tort law • Athletes

KEY POINTS

- The practice of sports medicine and the work of team physicians are more important now than ever before.
- Millions of children and adults engage in sports, and state and federal legislatures are taking on sports medicine issues and seeking to regulate sports safety.
- The recognition of sports medicine and promulgation of practice guidelines for team physicians will push general medical malpractice standards to evolve into a more specialized standard of care for those who practice in this area.
- The sports medicine community should continue to think beyond the construct of tort law and malpractice liability.
- Sports medicine providers should look for opportunities to use medical knowledge and expertise to work within sports organizations to seek changes to the games when necessary to protect the health and well-being of athletes.

INTRODUCTION

The medicolegal issue that many physicians and attorneys think about often is malpractice liability. In the sports medicine context, however, this issue is not always the most legally significant. Although the work of team physicians and the practice of sports medicine have expanded, there are few reported cases of malpractice liability. Moreover, tort law applied to sports medicine remains largely unchanged. The same negligence standards that apply to the practice of medicine are generally used to evaluate medical care provided to athletes within a sports setting. Thus, from the medical malpractice standpoint, acting as a team physician or sports medicine specialist has no greater legal significance today than it did more than a decade ago.

Notably, however, state legislatures have identified the practice of sports medicine and the work of team physicians as presenting important policy issues to be

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addressed. As this article explains, team physicians and sports medicine providers would be well served by familiarizing themselves not just with the standard of care for their specialty, but also any duties or obligations that are created by statute.

THE LEGAL SIGNIFICANCE OF BEING A TEAM PHYSICIAN AND PRACTICING SPORTS MEDICINE

Sports medicine is a term that applies to all those who provide health care services to athletes. Thus, sports medicine providers include athletic trainers, physical therapists, chiropractors, and physicians of varying specialties. Within the sports medicine team, the team physician takes a leadership role. Team physicians are usually primary care or family practice physicians or orthopedic surgeons who are hired by professional teams, colleges, and universities to provide medical care for their athletes. Many high schools also designate a physician to provide medical care to their athletes.¹ Team physicians may be compensated for the care they provide to athletes or render such services free of charge, a distinction that many state statutes make for purposes of granting malpractice immunity.

In general, the practice of sports medicine is not specially recognized in the context of tort law, and team physicians do not carry any special legal duties. However, given the regulation of sports, especially at the youth, interscholastic, and intercollegiate levels, there are potential areas of liability specifically concerning team physicians. Thus, team physicians must comply with applicable federal, state, and local law and regulations, as would any physician, and team physicians also must comply with any applicable school, league, or governing body guidelines.

Malpractice Liability

Given the variety of physicians who practice sports medicine and serve as team physicians, it is important that each understand his or her duties and the relevant standard of care for his or her specialty. In general, to establish a claim for medical negligence, an athlete must show that the physician had a duty of care as a result of a physician–patient relationship. The athlete must also establish that the physician breached that duty and that the physician’s breach of his or her duty caused the athlete actual harm or damage.

A legal duty is established when the athlete can show that a physician–patient relationship exists. Such a relationship may exist for the team physician in the context of preparticipation physical examinations as well as for the diagnosis and treatment of injuries and for providing an athlete with medical clearance to return to play.¹ In general, the team physician’s responsibility is to protect athletes’ health and safety. The team physician, therefore, must provide medical care and advice that is in the athlete’s best health interests.¹ The team physician must do this while navigating what may be difficult pressures from coaches, team administrators, parents, fans, and the athlete. Thus, when treating athletes, team physicians must keep in mind federal privacy laws such as the Health Insurance Portability and Accountability Act (HIPPA) and, for those treating student athletes, the Family Educational Rights and Privacy Act (FERPA), and not share an athlete’s health information unless it is legally permissible. Moreover, although the team physician must not unnecessarily restrict an athlete’s ability to play, the team physician must not allow his or her medical judgment to be affected by the team’s need for the athlete to return or the athlete’s desire to play.² Indeed, within the legal literature, the most frequently discussed issue involving team physicians and the practice of sports medicine is the potential for a conflict of interest that can corrupt a team physician’s medical judgment and put an athlete’s health at risk.^{2,3}

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