Legal and Ethical Issues in the Cardiovascular Care of Elite Athletes

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KEYWORDS

• Cardiovascular • Athletes • Legal • Ethics

KEY POINTS

- The courts generally recognize national guidelines as good medical practice; however, they are not conclusive evidence of the medical or legal standard of care.
- Temporary restriction and referral to a specialist is prudent when the suspicion of a cardiovascular condition arises.
- The ultimate decision on return to play is at the discretion of the team physician.
- The evaluation and management of a professional athlete has several distinct differences from a collegiate or high school athlete that may alter the athlete–physician relationship.

INTRODUCTION

There continues to be growing support for more specialized cardiovascular care of competitive and elite athletes. Most of this concerns the identification of an underlying, potentially asymptomatic cardiovascular condition that could place the unsuspecting athlete at risk for sudden cardiac arrest (SCA) or sudden cardiac death (SCD). Although these are rare events in athletes ranging from approximately 0.24 to 0.7 per 100,000 athlete-years[1–3] to 1 in 44,000 per athlete-year in National Collegiate Athletic Association (NCAA) athletes,[4] they are devastating to the athlete, their family, and the local community.

There are a variety of cardiac conditions responsible for SCA/SCD in athletes. These conditions differ depending on the age of the athlete with primarily unsuspected congenital cardiac conditions predominating in young athletes[2] and ischemic heart disease in older athletes.[5] The American Heart Association (AHA) 14-point preparticipation history and physical[6] and the fourth edition of the preparticipation physical evaluation (PPE) monograph[7] are the standard in the United States for screening

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athletes for underlying cardiac conditions before participating in competitive athletics. Although adding an electrocardiogram (ECG) and/or an echocardiogram is controversial, it is being performed by multiple nonprofit organizations, universities, and professional leagues in the United States. Return to play for the athlete with either symptoms of potential cardiac disease, an abnormal screen (PPE and/or ECG) or with established cardiac disease have been outlined by the 36th Bethesda Guidelines,[8] which have established legal precedence.

With the increasing presence of medical professionals in the cardiovascular care of athletes, there is a rising concern about the ethical and legal implications of screening, restricting, and disqualifying athletes. Whether this is at the youth/high school, collegiate, or professional levels, a number of considerations can be made.

UNDERSTANDING LEGAL STANDARDS

Providing health care to athletes raises the potential for liabilities and may represent a different patient population than the "average" cardiology patient. There is no national standard of care in providing professional medical services to athletes; therefore, health care providers should be aware of the standard of care applicable to them in their particular state as defined by the courts in that state and under applicable regulations and statutes. Although there exist common principles among the laws of each state, differences can arise. As a general proposition, licensed physicians are held to the standard of care of possessing and applying the knowledge ordinarily used by reasonably well-qualified physicians in providing professional services under same or similar circumstances. Additionally, individuals within a profession who specialize may be held to an even higher standard of care. Thus, professional negligence by a cardiologist may be determined by the failure to do something that a reasonably careful cardiologist would do under the same or similar circumstances. However, there is latitude in the scope of what may be reasonable under any specific set of circumstances because individualized clinical judgment plays a key role. Generally, a physician's responsibility is to conform to accepted, customary, or reasonable medical practice. Courts have recognized that guidelines established by national medical associations are evidence of good medical practice; however, they are not conclusive evidence of the medical or legal standard of care. Additionally, it is important to provide sports participation recommendations both from a short- and long-term perspective, congruent with an athlete's medical best interests.

"Good Samaritan" laws are statutes designed to protect individuals from civil liability for acting negligently while providing voluntary emergency care. From state to state, Good Samaritan laws vary greatly as to the categories of people protected and circumstances in which they apply. Most states only provide immunity for persons who render care in an emergency, at the scene of an emergency, and without compensation. Voluntarily providing medical services, such as performing ECG screening programs, probably would not meet the requisite criteria. In such cases, the physician should request coverage under an insurance policy for the voluntary services rendered.

EVIDENCE OF THE STANDARD

The determination of whether there exists a deviation from the standard of care, that is, professional negligence, will be made by the trier of fact, which could be a judge, but often is determined by a jury. The jury hears the evidence and then is given specific instructions from the judge. Generally, lay juries are instructed that they must consider the expert testimony from the professional health care witnesses on the stand in

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