Medical Legal Issues Facing the Team Physician

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Objectives

- Identify some team physician at risk activities
- Identify some helpful strategies to prevent medicolegal issues
- Discuss current legislation being proposed to Congress
Conflict of Interest

• None
Key Areas

- Preparticipation Examinations
- Determination of Eligibility
- Evaluation of On-Field Issues
- Information Disclosure
- Licensed to Practice While Traveling
Litigation

• From 1970-1985
• 25 claims were filed due to athletic related head and neck injuries
• $45.8 million was awarded, $38.7 million from 1980-85
• This was the time when the rate of head and neck injuries were at a rapid decline
Team Physician Consensus Statement

- Know the Team Physician Consensus Statement
- Use it as a practice guideline
- Helps Keep you our of Medicolegal Trouble
- Updated yearly
Preparticipation Examinations

- In 2005, 7,018,709 high school students participated in team sports.
- In 2001, 355,688 college and university sponsored athletes.
- Goal is to transfer liability from the school to the medical practitioner.
- Allows for less expensive sport liability coverage.
PPE

• Cardiac Disease is most concerning
  – No true consensus on best PPE exam
  – Can still miss silent killers
  – False positive results
  – Cost versus life saved
    • ECG, Echo, history, auscultation
PPE

- Follow a standard exam form and practice
- Office PPE are better at detecting subtle findings
- Some states provide immunity if volunteering the service
- Verify with malpractice carrier prior to performing PPE’s at office or at schools that you are covered
Eligibility

- Unclear standards
- Different amounts of risk accepted at different institutions
- Specialist input will limit liability
  - Helps to show team physician was acting in best interest of the athlete
Eligibility

- Disqualification may trigger a suit
  - Pahulu vs University of Kansas
    - Transient Quadriplegia
    - Defendants prevailed the claim of discrimination
  - Knapp vs Northwestern University
    - Implanted defibrillator
    - Cited Bethesda Guidelines and dismissed
Eligibility Gray Areas

- Concussions
- Spinal Stenosis
- Cardiac Conditions
- Heat Illness

- FOLLOW Consensus statement guidelines or be prepared to defend your decision
Documentation

- Training rooms are busy and not usually organized like a medical office
- Easy to miss documentation
- Games are worse
- Preoperative consent to include all possible variations of the procedure
- Signed waivers written in simple language may help limit liability but not completely eliminate
Negligent Content
4 elements

• Duty of care extending to those who may sustain injury by the physician’s conduct
• A breach of this duty must be shown (Standard of Care)
• The breach must cause injury to the party
• There must be some damage or harm to the injured party
Emergency Action Plan

- Kleinknecht vs Gettysburg College
  - Fatal cardiac arrest during an off season practice
  - The US Third Circuit held that the university must have an appropriate medical emergency response plan and provide reasonable emergency care to an injured athlete.
  - The birth of the Emergency Action Plan
Outline precise steps to be taken in an emergency

Responsibility of staff

First Aid/CPR

Summoning emergency personnel

Should review at least annually and practice care

Should cover all areas of athletic participation
  - Practices, events, training room
• Have signed releases to give athlete medical information
  – Athletic Trainers
  – Coaches
  – Parents
  – Staff members
  – Media
Travel

- Do you have a license to practice where you are at?
- Who is in your travel party?
- Are you transporting controlled substances?
  - (narcotic pain medications, sedatives, etc)
FDA
Transport of Controlled Substances

- Illegal activity to transport across state lines
- Current policy of Big Ten that we no longer travel with controlled substances
Medical Licensure

- **Safe Havens**
  - AR, CA, CO, CT, DE, IN, IA, KY, MN, MS, MT, NH, NC, UT, VA, WA, WY
  - Allow for coverage of sport related travel party
Stay Within The Travel Party

- Covering a travel party friend or school donor can put you at risk both from a licensure and malpractice situation
Current Legislation

- US House Bill 3722
- In review in both the House Judiciary Committee and Energy and Commerce Committee
- Would extend malpractice and other legal protections to sports medicine physicians and certified athletic trainers who are traveling across state lines with their team.
Thank You
References


References